

PUBLIC RECORD

Dates: 07/09/2021 - 10/09/2021

Medical Practitioner's name: Dr Arif MAHMOOD
GMC reference number: 5172102
Primary medical qualification: MB BS 1990 Bahauddin Zakariya University

Type of case	Outcome on facts	Outcome on Impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

Erasure

Tribunal:

Legally Qualified Chair	Ms Louise Sweet
Lay Tribunal Member:	Mrs Valerie Paterson
Medical Tribunal Member:	Dr Alastair McGowan

Tribunal Clerk:	Ms Racheal Gill (7 September only) Ms Lorraine Cheetham (8-10 September) Ms Hinna Safdar (7-10 September)
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Patrick Cassidy, of BMA Law
GMC Representative:	Ms Katie Jones, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held partly in public and partly in private.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Facts - 09/09/2021

1. This determination will be read partly in private. However, as this case concerns Dr Mahmood's misconduct, a redacted version will be published at the close of the hearing with those matters relating to XXX removed.

Background

2. Dr Mahmood qualified with MB BS from Bahauddin Zakariya University in 1990 and he has been registered with the GMC since 1998. At the time of the events Dr Mahmood was in private general practice at Vitality Health and undertaking locum posts in Old Age Psychiatry.

3. The allegation that has led to Dr Mahmood's hearing can be summarised as follows. It is alleged that in three ways Dr Mahmood gave untrue and/or dishonest information about his employment and regulatory history.

His CV

4. Firstly, it is alleged that on 17 March 2019, Dr Mahmood recorded inaccurate information on his curriculum vitae when applying for employment with ATOS healthcare via a recruitment agency called SJB Medical (the Agency).

The Screening Interview

5. Secondly, it is alleged that on 20 March 2019 when being interviewed in relation to his application for employment with ATOS healthcare, Dr Mahmood failed to provide an accurate summary of his previous Fitness to Practise proceedings and the Panel's determinations, dated between 26 and 30 January 2009. Various findings were made in 2009 in relation to his fitness to practise being impaired by reason of his misconduct and following those findings having been made, Dr Mahmood's registration was suspended for three months.

The Email of 20.3.19

6. Thirdly, it is alleged that, on 20 March 2019, in response to a request for clarification by ATOS Healthcare, Dr Mahmood wrote an email which failed to provide an accurate

summary of the previous 2009 allegations. In respect of all of the above, it is alleged that Dr Mahmood's conduct was dishonest.

The Allegation and the Doctor's Response

7. The Allegations made against Dr Mahmood is as follows:
 1. On 17 March 2019 you applied for employment with ATOS via the recruitment agency SJB Medical ('the Agency') and when doing so provided the Agency with a copy of your curriculum vitae ('CV').
Admitted and found proved
 2. The CV referred to in paragraph 1 was inaccurate in that the document:
 - a. recorded that you had worked at the Tollgate Lodge Primary Care Centre, Stamford Hill, London between August 2007 to February 2008;
Admitted and found proved
 - b. did not record that you worked at the Becontree Medical Centre, Dagenham, Essex in the year 2007.
Admitted and found proved
 3. You appeared before the Fitness to Practise Panel ('the Panel') between 26 January 2009 and 30 January 2009 and a transcript of the determination in relation to the allegations is set out at Schedule 1.
Admitted and found proved
 4. On 30 January 2009 the Panel suspended your registration for a period of three months and a transcript detailing the determination in relation to sanction is set out at Schedule 2.
Admitted and found proved
 5. On 20 March 2019 when being interviewed in relation to your application for employment with ATOS you failed to provide an accurate summary of the determinations referred to in paragraphs 3 and 4 in that you:
 - a. gave the impression that the allegations related only to record keeping;
Admitted and found proved
 - b. stated that the GMC dropped the case, or words to that effect;
Admitted and found proved
 - c. suggested that the complaint arose due to inadequate training;
Admitted and found proved
 - d. answered 'no' when asked whether you had ever been under investigation by an employer or local body;
Admitted and found proved

- e. did not:
 - i. explain that the Panel found that you had behaved dishonestly;
Admitted and found proved
 - ii. explain that your registration was suspended for a period of three months;
Admitted and found proved
 - iii. provide sufficient details to adequately explain the seriousness of the proven allegations.
Admitted and found proved
- 6. On 20 March 2019, in response to a request by ATOS that you clarify details of the previous allegation, you created an email that was sent to the Agency, the contents of which are set out at Schedule 3.
Admitted and found proved
- 7. When creating the email as referred to in paragraph 6, you failed to provide an accurate summary of the determination referred to in paragraph 3 in that you:
 - a. gave the impression that the determination related only to record keeping;
Admitted and found proved
 - b. suggested that the allegations arose due to inadequate training; **Admitted and found proved**
 - c. did not explain that the Panel found that you had behaved dishonestly;
Admitted and found proved
 - d. did not provide sufficient details to adequately explain the seriousness of the proven allegations.
Admitted and found proved
- 8. You knew that the information provided at paragraph 2 was untrue.
To be determined
- 9. You knew that the information provided at paragraph 5 was untrue.
To be determined
- 10. You knew that the information provided at paragraph 7 was untrue.
To be determined
- 11. Your action as described at paragraphs 1 and 2, was dishonest by reason of paragraph 8.
To be determined
- 12. Your action as described at paragraph 5, was dishonest by reason of paragraph 9.
To be determined

13. Your action as described at paragraph 7, was dishonest by reason of paragraph 10.

To be determined

The Admitted Facts

8. At the outset of these proceedings, through his counsel, Mr Cassidy, Dr Mahmood made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

The Facts to be Determined

9. In light of Dr Mahmood's response to the Allegation made against him, the Tribunal is required to determine whether Dr Mahmood was aware that the information he was providing to his prospective employers was untrue and/or dishonest.

Witness Evidence

10. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Dr A, Responsible Officer by ATOS healthcare;
- Mr B, Recruitment Consultant at SJB Medical (the Agency).

11. Dr Mahmood provided his own witness statement dated 13 August 2021 and also gave oral evidence at the hearing.

12. Dr Mahmood provided the following testimonials:

- Professor C, MD, FRCPsych
- Dr D, MBBCh MD MRCPsych
- Dr E, Locum Speciality Doctor in Old Age Psychiatry
- Dr F, MBBS, MRCP
- Dr G, Speciality doctor in Psychiatry
- Dr H, CT2 Psychiatry trainee at EPUT
- Dr I, MBBS, Psychiatrist Associate Specialist

Documentary evidence

13. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Dr Mahmood’s CV
- Email correspondence

The Tribunal’s Approach

14. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC. Dr Mahmood does not need to prove anything. The standard of proof is that applicable to civil proceedings, on the balance of probabilities, namely, whether it is more likely than not that the events occurred as alleged.

The Tribunal’s Analysis of the Evidence and Findings

15. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

16. The Tribunal noted that all of the testimonials submitted on behalf of Dr Mahmood uniformly recorded no concerns about his integrity or honesty.

Paragraph 8: The CV

17. The Tribunal considered, whilst not condoning it, that a careless error about the dates of employment at Tollgate Lodge Primary Care Centre was possible where the author of the CV was not taking care as to dates. Dr Mahmood states he had been “sloppy” with his approach to his CV.

18. Dr Mahmood’s complete omission of his post at Becontree Medical Centre, however, was more problematic. The Tribunal considered the explanation that this was a short post hence not recalled but did not accept it. There was at least one other short post on Dr Mahmood’s CV. The Tribunal considered it unlikely that a post which had resulted in serious disciplinary finding and exclusion from the Performer’s List could be forgotten by him even after the passage of time. Especially where it has had such a huge impact on his ability to practise.

19. The Tribunal therefore, determined that, while recording incorrect dates for his time at Tollgate Lodge Primary Care Centre on his CV may have been a careless but genuine mistake, Dr Mahmood’s complete omission of his post at Becontree Medical Centre was deliberate and when omitting this information, he knew his CV was untrue.

20. The Tribunal has therefore found paragraph 8:
Not proved with regard to 2a.
Proved with regard to 2b.

Paragraph 9: The Screening Interview

21. The Tribunal considered whether by stating that the allegations against him were only related to record-keeping, that Dr Mahmood knew the information he provided was untrue. Dr Mahmood had been involved in regulatory proceedings first reported to the GMC in 2007 and heard in 2009. Dr Mahmood had fully participated in those regulatory proceedings, that ultimately led to his 3-month suspension, and thereafter a year of restricted practice with conditions.

22. Dr Mahmood had also been involved in a further appeal against his removal from the Performers List which failed. He was disqualified nationally as a General Practitioner.

23. Dr Mahmood further sought to say that he had been under time pressure when giving the answer in the interview as this was a speed typing test. The pro-forma document provided spaces for answers to set questions. Dr Mahmood sought to suggest that as the first box in the document contained the words “typing test” the whole document had been completed by him as part of the test. This was plainly at odds with Mr B, of the Agency, who was conducting the screening interview and stated in his witness statement:

“During the telephone interview with Dr Mahmood I asked him all of the questions on a template document called a pre-screening form that was previously provided to us by ATOS. I use this template when interviewing any candidates for positions with ATOS. I recorded the answers provided by Dr Mahmood precisely as he gave them on the pre-screening form”

24. Mr B’s statement had been read to the Tribunal as agreed evidence. There had never been any suggestion, prior to his evidence, that this form was completed by Dr Mahmood as part of a typing test. In cross examination, he appeared to resile a little from his account. Even if it were persisted with, the Tribunal determined that the answers were completed by Mr B as part of the telephone interview. As a matter of common sense, the typing test would have to be a “set piece” for all candidates and was clearly a separate exercise that Dr Mahmood had completed. The box merely allowed a score to be entered.

25. This late suggestion adversely affected the credibility of Dr Mahmood before the Tribunal.

26. The Tribunal further considered English not being Dr Mahmood's first language. It noted that Dr Mahmood had practised in the UK for more than 20 years. He had also been scored 9 out of 9 for communication skills by Mr B in this interview. The Tribunal also observed Dr M when giving evidence. The Tribunal accepted Dr Mahmood's counsel's submission that he retained a "heavy Pakistani accent", however, the Tribunal did not consider there was any language problem.

27. Dr Mahmood accepted that the proceedings were not related to record keeping in his evidence. He accepted that they related to allegations of misconduct related to the dishonest issue of prescriptions and dishonest explanations deployed by him in attempt to cover up his actions. This was plain to him and was clearly set out in the determination of the Tribunal, which he accepted he had a copy of.

28. The Tribunal determined Dr Mahmood could have been left in no doubt that these proceedings were not only held due to his record-keeping but were related to serious dishonesty and so when he gave his answers in the screening interview, he knew them to be untrue.

29. The Tribunal has therefore found paragraph 9 proved.

Paragraph 10: the e mail of 20.3.19

30. Dr Mahmood's accepted in his oral evidence that the email he had written was not accurate, and there was information missing. He sought to explain this as carelessness or sloppiness. The Tribunal rejected this explanation. As already stated, Dr Mahmood cannot reasonably have thought the findings made against him related to record keeping, or that the previous Tribunal accepted that his failure to record prescriptions was due to inadequate training with software. It is plain that the Tribunal accepted he may have lacked training, but this was not the reason he failed to record prescriptions. The failure was part of his attempt to hide their improper issue.

31. Dr Mahmood accepted that he failed to mention the findings of dishonesty.

32. It is plain from the face of the e mail that this was an attempt to minimise the seriousness of the previous findings of the Tribunal by seeking to suggest this was a single complaint, made by a colleague, was due to inadequate training and linking his suspension to XXX. The Tribunal was satisfied that the determination clearly showed dishonesty was at the heart of the previous Tribunal's findings. Dr Mahmood told the Tribunal in evidence that he should have been "more open, transparent and honest" when writing the email.

33. The Tribunal readily determined that Dr Mahmood provided information which he knew to be untrue.

34. The Tribunal has therefore found paragraph 10 proved.

Paragraph 11: The CV

35. The Tribunal found that when Dr Mahmood provided his CV, he knew it was not correct as he omitted his locum post at Becontree, for which he been disciplined. The Tribunal considered the only reasonable motive for doing so was to minimise his misconduct in order to avoid the impact such information would have on his potential employment.

36. The Tribunal rejected Dr Mahmood’s evidence that he was not really interested in the job and was being pressured by his wife to “get out the house for another day”. The Tribunal rejected his explanation that he had “forgotten” about this his post as it was a short post for the reasons previously set out.

37. Dr Mahmood in his evidence accepted a CV was an important document that employers were entitled to rely upon to see a full work history. It is common sense that this should include a post that led to such serious disciplinary action. A prospective employer was entitled to weigh that up when deciding to offer employment to Dr Mahmood.

38. The Tribunal also considered having gone through disciplinary proceedings and had finding of dishonesty made against him he ought to be more careful rather than take a careless approach to such an important document.

39. The Tribunal was of the view that Dr Mahmood omitted his post at Becontree in a bid to minimise his history of regulatory proceedings, rather than risk a complete denial of any history, which could be easily uncovered by his employer by simply contacting the GMC. The Tribunal therefore found that Dr Mahmood was both subjectively and objectively dishonest when he provided his CV.

40. The Tribunal has therefore found paragraph 11 proved.

Paragraph 12: The screening interview

41. The Tribunal found that Dr Mahmood made several statements when answering questions in the screening interview that were fundamentally different from the determination of the 2009 Tribunal. This Tribunal has inferred that this was an attempt to portray himself in a better light than if the truthful picture were revealed.
42. The Tribunal determined that Dr Mahmood stated falsely:
- a) There was “a complaint” when there was more than one.
 - b) It arose from “a colleague” when it arose from 2 separate medical practices,
 - c) He stated the allegation from the GMC was regarding record-keeping,
 - d) Due to him being inadequately trained on a new system,
 - e) Dr Mahmood had claimed that the GMC had dropped the case, which implied that nothing had come of the regulatory action, when in fact he had been suspended, and was dropped ultimately from the Performer’s List.
 - f) He did not mention his dishonesty.
43. The Tribunal determined that Dr Mahmood was both subjectively and objectively dishonest when he answered questions in the screening interview. The Tribunal therefore found paragraph 12 proved.

Paragraph 13: e mail 20.3.19

44. The Tribunal has already determined that Dr Mahmood provided details in this e mail that he knew to be untrue. It was apparent on the face of the email that it fails to convey the seriousness of the misconduct found in 2009. This was so serious that Dr Mahmood was suspended by his regulator and was removed from the Performers List nationally. He could no longer practise as a GP for the NHS. The key adverse finding was his found dishonesty.
45. The Tribunal noted that, on his own account, Dr Mahmood admitted in his oral evidence “I should have been more open, more transparent and honest. I failed there.” The Tribunal found this established some acceptance from Dr Mahmood that he had been, at least objectively, dishonest.
46. The Tribunal determined that that Dr Mahmood was both subjectively and objectively dishonest when he wrote the e mail.
47. The Tribunal has therefore found paragraph 13 proved.

The Tribunal's Overall Determination on the Facts

48. The Tribunal has determined the facts as follows:
14. On 17 March 2019 you applied for employment with ATOS via the recruitment agency SJB Medical ('the Agency') and when doing so provided the Agency with a copy of your curriculum vitae ('CV').
Admitted and found proved
 15. The CV referred to in paragraph 1 was inaccurate in that the document:
 - a. recorded that you had worked at the Tollgate Lodge Primary Care Centre, Stamford Hill, London between August 2007 to February 2008;
Admitted and found proved
 - b. did not record that you worked at the Becontree Medical Centre, Dagenham, Essex in the year 2007.
Admitted and found proved
 16. You appeared before the Fitness to Practise Panel ('the Panel') between 26 January 2009 and 30 January 2009 and a transcript of the determination in relation to the allegations is set out at Schedule 1.
Admitted and found proved
 17. On 30 January 2009 the Panel suspended your registration for a period of three months and a transcript detailing the determination in relation to sanction is set out at Schedule 2.
Admitted and found proved
 18. On 20 March 2019 when being interviewed in relation to your application for employment with ATOS you failed to provide an accurate summary of the determinations referred to in paragraphs 3 and 4 in that you:
 - a. gave the impression that the allegations related only to record keeping;
Admitted and found proved
 - b. stated that the GMC dropped the case, or words to that effect;
Admitted and found proved
 - c. suggested that the complaint arose due to inadequate training;
Admitted and found proved
 - d. answered 'no' when asked whether you had ever been under investigation by an employer or local body;
Admitted and found proved

- e. did not:
 - i. explain that the Panel found that you had behaved dishonestly;
Admitted and found proved
 - ii. explain that your registration was suspended for a period of three months;
Admitted and found proved
 - iii. provide sufficient details to adequately explain the seriousness of the proven allegations.
Admitted and found proved

- 19. On 20 March 2019, in response to a request by ATOS that you clarify details of the previous allegation, you created an email that was sent to the Agency, the contents of which are set out at Schedule 3.
Admitted and found proved

- 20. When creating the email as referred to in paragraph 6, you failed to provide an accurate summary of the determination referred to in paragraph 3 in that you:
 - a. gave the impression that the determination related only to record keeping;
Admitted and found proved
 - b. suggested that the allegations arose due to inadequate training;
Admitted and found proved
 - c. did not explain that the Panel found that you had behaved dishonestly;
Admitted and found proved
 - d. did not provide sufficient details to adequately explain the seriousness of the proven allegations.
Admitted and found proved

- 21. You knew that the information provided at paragraph 2 was untrue.
2a: determined and found not proved

2b: determined and found proved

- 22. You knew that the information provided at paragraph 5 was untrue.
Determined and found proved

- 23. You knew that the information provided at paragraph 7 was untrue.
Determined and found proved

24. Your action as described at paragraphs 1 and 2, was dishonest by reason of paragraph 8.
Determined and found proved
25. Your action as described at paragraph 5, was dishonest by reason of paragraph 9.
Determined and found proved
26. Your action as described at paragraph 7, was dishonest by reason of paragraph 10.
Determined and found proved

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.

To be determined

Determination on Impairment - 10/09/2021

49. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Mahmood's fitness to practise is impaired by reason of misconduct.

50. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

Submissions

51. On behalf of the GMC, Ms Jones, submitted that Dr Mahmood's actions constituted misconduct and that his fitness to practise was and is impaired.

52. Ms Jones referred the Tribunal to paragraph 65, 66 and 71 of Good Medical Practice (GMP), which are to ensure that a doctor's conduct justifies his patients trust in him and the public's trust in the profession. Ms Jones submitted that this outlines how Dr Mahmood should always be honest about his experience, qualifications, and current role; and that he must be honest and trustworthy.

'65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession

66 You must always be honest about your experience, qualifications and current role.

71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write, or sign are not false or misleading.

a. You must take reasonable steps to check the information is correct.

b. You must not deliberately leave out relevant information.'

53. Ms Jones submitted that it is Dr Mahmood's responsibility to ensure any documents he writes, or signs are not false and misleading by taking reasonable steps to check that the information is correct and not deliberately leaving out relevant information. Ms Jones submitted that the facts of this case demonstrate there are clear breaches of GMP in this case.

54. Ms Jones submitted that Dr Mahmood's misconduct was more serious as it was not an isolated incident. She submitted that there was a determined and persistent effort to be dishonest and it would be very difficult to see, in the context of this case, how this could be classed as anything other than serious misconduct.

55. Ms Jones referred to the overarching objective and submitted that Dr Mahmood has undermined public confidence in himself and the medical profession by his actions. He has brought the profession into disrepute, through his dishonest misconduct. Ms Jones reminded the Tribunal that honesty and integrity is one of the fundamental tenets of the medical profession, and Dr Mahmood's integrity could not be relied upon.

56. Ms Jones submitted Dr Mahmood has demonstrated persistent and serious dishonesty. This was against a background of a doctor who has in the past been found to be dishonest. In accordance with the overarching objective, Ms Jones submitted it would be necessary to have a finding of impairment in these circumstances.

57. Mr Cassidy, on behalf of Dr Mahmood, did not wish to make any submissions in relation to impairment. He stated a finding of impairment is a matter for the Tribunal to determine.

The Relevant Legal Principles

58. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision on impairment is a matter for the Tribunal's judgment alone.

59. In approaching the decision, the Tribunal was mindful of the decision in *Cheatle v GMC [2009] EWHC 645 (Admin)*, which sets out a two-stage process when considering whether a doctor's fitness to practise is impaired on the ground of misconduct: first whether the facts found proved amount to misconduct; and, if so, secondly, whether the doctor's fitness to practise is currently impaired as a result.

60. The Tribunal referred to the guidance provided by Collins J in the case of in *Nandiv General Medical Council [2004] EWHC 2317 (Admin)*:

'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners...'

61. The Tribunal had regard to the test for impairment set out in *CHRE v NMC and Paula Grant [2011] EWHC 927 (Admin)*:

- a. *Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and*
- b. *Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and*
- c. *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and*
- d. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

62. The Tribunal followed the guidance set out in *R (Cohen) v GMC [2008] EWHC 581 (Admin)* and acknowledged it must determine whether Dr Mahmood's fitness to practise is impaired today, considering Dr Mahmood's conduct at the time of the events and any relevant factors including whether the misconduct is easily remediable, whether it has been remedied and whether it was highly unlikely that there would be any repetition.

63. The Tribunal reminded itself of the overarching objective and was careful not to place more weight on any one limb. It also had regard to guidance set out in GMP, which would assist it in assessing the standards and behaviour expected of Dr Mahmood.

The Tribunal's Determination on Impairment

Misconduct

64. In determining whether Dr Mahmood's fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amount to misconduct. It noted that where there have been serious departures from expected standards of conduct and behaviour, this can constitute misconduct as identified by reference to GMP.

65. The Tribunal considered that the dishonesty did not take place on just one occasion but occurred multiple times. The Tribunal found that Dr Mahmood had made deliberate and untruthful representations when writing his CV, when giving answers in a screening interview for future employment and in an email, which was a response to an enquiry about previous regulatory proceedings. The Tribunal also found that Dr Mahmood was motivated to minimise serious findings made against him in 2009 and completely hide findings of dishonesty.

66. The Tribunal determined in Dr Mahmood's case, there has been a breach of a fundamental tenet of the medical profession, which requires a doctor to act with honesty and with integrity.

67. The Tribunal was of the opinion that Dr Mahmood's conduct in relation to his dishonest conduct amounted to a serious departure from GMP, in particular the paragraphs 65, 66, and 71.

68. The Tribunal determined that Dr Mahmood's actions amounted to a serious departure from GMP and that his conduct would be considered deplorable by his fellow practitioners. The Tribunal accepted Ms Jones' submissions that the failings in relation to probity amount to serious misconduct. Further, the Tribunal was satisfied that in all the circumstances, Dr Mahmood's conduct fell seriously short of the standards of conduct reasonably to be expected of a doctor and therefore amounted to serious misconduct.

Impairment

69. The Tribunal having found that the facts found proved amount to misconduct, which was serious, went on to consider whether, as a result of that misconduct, Dr Mahmood's fitness to practise is currently impaired.

70. In determining whether Dr Mahmood's fitness to practise is currently impaired, the Tribunal considered whether there was any evidence of insight or remediation on the part of

Dr Mahmood and whether there was a likelihood of him repeating his misconduct in the future.

71. The Tribunal acknowledged there was a passage of time of more than 10 years since his findings of misconduct in 2009 with no matters in the intervening period. None the less the Tribunal found that Dr Mahmood's conduct was particularly serious. He was for the second time appearing before his regulator regarding matters relating to serious dishonesty.

72. Bearing in mind his previous disciplinary matter and the expected lessons to have been learned, the Tribunal determined Dr Mahmood should have taken the greatest care to ensure any documents such as his CV, emails he wrote and answers he gave in the screening interview for employment should be accurate and not false or misleading.

73. The Tribunal determined that Dr Mahmood had already caused damage to the reputation of the medical profession as a whole when he first appeared before his regulator in 2009 and the public would now take a very negative view of a doctor appearing for a second time, again, for allegations relating to serious dishonesty.

74. The Tribunal found no admissions as to his dishonesty from Dr Mahmood. He admitted to making misrepresentations but denied knowing that any of the information he presented was knowingly untrue or dishonest. He maintained in evidence he was merely "sloppy" or "careless". The Tribunal determined this showed a clear and continued lack of insight into his misconduct and demonstrated no remediation.

75. Taking all matters into consideration, the Tribunal determined that a finding of impairment was necessary to protect patients, promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the profession. In the Tribunal's judgment, the need to uphold proper professional standards and public confidence in the medical profession would be undermined if a finding of impairment were not made in relation to the misconduct proved in this case.

76. Accordingly, the Tribunal determined that Dr Mahmood's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 10/09/2021

77. Having determined that Dr Mahmood’s fitness to practise is impaired by reason of his misconduct, the Tribunal has considered what action, if any, it should take with regard to his registration, in accordance with Rule 17(2)(n) of the Rules.

The Evidence

78. The Tribunal had regard to all of the evidence, both oral and documentary, adduced during the course of these proceedings.

Submissions

79. The following is a summary of submissions at the close of the sanction stage.

Submissions on behalf of the GMC

80. On behalf of the GMC, Ms Jones, submitted that that the only appropriate and proportionate sanction on the facts of this case is Dr Mahmood’s erasure from the Medical Register. She directed the Tribunal’s attention to the Sanctions Guidance (November 2020 edition) (‘SG’) when making its determination.

81. Ms Jones submitted that there is a clear lack of insight because Dr Mahmood has refused to accept his mistakes. He’s not undergone any remediation and there has been no development of insight into his failings. She referred the Tribunal to paragraph 45 and 46 of the SC:

“45. Expressing insight involves demonstrating reflection and remediation.

46. A doctor is likely to have insight if they:

a. accept they should have behaved differently (showing empathy and understanding)

b. take timely steps to remediate (see paragraphs 31–33) and apologise at an early stage before the hearing

c. demonstrate the timely development of insight during the investigation and hearing.”

82. Ms Jones submitted the concerns in this case are simply too serious for any of the sanctions below erasure to be appropriate to meet the overarching objective to protect the public. She submitted this is a serious case of dishonesty against a backdrop of previous dishonest findings. She invited the Tribunal to conclude that the only sanction that is proportionate to meet the level of misconduct and the concerns raised is erasure from the medical register. Ms Jones referred to paragraphs 107, and 108 of the SG:

*107. The tribunal may erase a doctor from the medical register in any case – except one that relates solely to the doctor’s health and/or knowledge of English – where this is the **only means of protecting the public.***

*108. Erasure may be appropriate even where the doctor does not present a risk to patient safety, but **where this action is necessary to maintain public confidence in the profession.** For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.*

83. Ms Jones accepted this is not a case where the doctor presents a risk to patient safety, but stated the facts revealed a disregard for GMP and the essential tenet of the medical profession with regard to honesty and probity. This was not one instance of deliberately misleading a prospective employer as to the facts of the 2009 regulatory findings but determined over three episodes: the CV, the interview and then the email sent. Erasure is necessary to maintain public confidence in the profession. She submitted that the dishonest conduct was so serious that it was fundamentally incompatible with continued registration.

84. Ms Jones submitted it is the duty of the regulatory body to protect the public interest, which could only be served by making an order of erasure.

Submissions on behalf of Dr Mahmood

85. Mr Cassidy, on behalf of Dr Mahmood, submitted the Tribunal must consider whether erasure is a proportionate response when considering the public interest as well as maintaining public confidence in the profession and maintaining standards. He submitted to the Tribunal there is public interest in retaining the services for the public of a GP who is otherwise a competent doctor.

86. Mr Cassidy acknowledged that there is no doubt that there has been a breach of a fundamental tenet of the profession. He urged that the Tribunal should give proper weight to the testimonials assessing Dr Mahmood’s character and how he is always found to be fully open, honest, and trustworthy and never had cause to doubt his reliability or integrity. He had made a determined effort since the 2009 findings and had moved past them to be a useful member of the medical profession.

87. Mr Cassidy submitted that the facts of the dishonesty and the context over a short time, namely two days as opposed to many days or months was of relevance to seriousness.

88. Mr Cassidy drew the attention of the Tribunal to the Responsible Officer’s statement dated 21 July 2021, which confirmed that Dr Mahmood had undertaken a probity and ethics course by way of remediation.

89. Mr Cassidy referred the Tribunal to paragraph 91 and 92 of the SG:

“91. Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

92. Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).”

90. Mr Cassidy submitted that that the proportionate response to the Tribunal’s findings of Dr Mahmood’s impairment would be suspension, as it would maintain public confidence in the profession, in that it is a serious penalty to the doctor, which marks and sets out the displeasure and disapproval of his serious misconduct but does not lead to the loss of a doctor who is, clearly in other ways, making a significant contribution to the care of his patients.

The Relevant Legal Principles

91. The Tribunal took into account its earlier findings, Counsel’s submissions and the evidence adduced during the course of these proceedings.

92. The decision as to the appropriate sanction is a matter for this Tribunal’s own independent judgment. The sanction must be proportionate and tailored to the specific circumstances of the case. In reaching its decision, the Tribunal also took into account the SG (in particular, those paragraphs that relate to dishonesty, paragraphs 120-128) and the statutory overarching objective, which includes the need to:

- a. Protect, promote and maintain the health, safety and well-being of the public,
- b. Promote and maintain public confidence in the medical profession, and
- c. Promote and maintain proper professional standards and conduct for members of that profession.

93. The Tribunal recognised that the purpose of a sanction is not to be punitive, although it may have a punitive effect. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Mahmood’s interests with the public interest.

The Tribunal’s Determination on Sanction

94. The Tribunal has already determined that Dr Mahmood’s dishonesty did not take place on just one occasion but represented a course of conduct. The Tribunal found that Dr Mahmood had made deliberate and untruthful representations when writing his CV, when giving answers in a screening interview for future medical employment and in an email, which was a response to an enquiry about previous regulatory proceedings. The Tribunal also found that Dr Mahmood was motivated to minimise serious findings made against him in 2009 and completely hide findings of dishonesty. He wholly misrepresented the facts by stating “the case was dropped” when he well knew he had been suspended for 3 months for his dishonesty at two medical practices.

Mitigating and Aggravating Factors

Mitigating Factors

95. The Tribunal had regard to the following mitigating factors present in Dr Mahmood's case:

- a) There has been a passage of more than 10 years since the 2009 findings although of less mitigation as Dr Mahmood, in the instant case, was being dishonest about the outcome of those proceedings.
- b) In the intervening years, Dr Mahmood has made a serious and sustained effort to rebuild his career.
- c) Testimonials demonstrate that Dr Mahmood clearly has been a valuable contributor to the care of his patient in London where he works.
- d) Dr Mahmood's misconduct occurred over a short period, of 2 days.
- e) Dr Mahmood has completed a course in Probity and Ethics towards his remediation.

Aggravating Factors

96. The Tribunal balanced the above mitigating factors with the aggravating factors present in Dr Mahmood's case. It had regard to the following aggravating factors in the case:

- a) Dr Mahmood demonstrated persistent and determined dishonesty over the drafting of his CV, answers he gave in his screening interview, and the email he sent to Mr B with an intention to obtain further employment.
- b) Dr Mahmood had previous adverse findings in front of his regulator in 2007 and had been removed from the Performer's List.
- c) Dr Mahmood's previous appearance before the regulator concerned his dishonesty.
- d) Dr Mahmood has demonstrated little to no evidence of insight; he mischaracterised his misrepresentations as a result of being "careless" or "sloppy". In his oral evidence, Dr Mahmood pursued an implausible explanation that his errors were due to being rushed due to being given in a speed typing test.
- e) Dr Mahmood has breached a fundamental tenet of the medical profession, relating to honesty and probity.
- f) Dr Mahmood's misconduct has led to clear breaches of Good Medical Practice (GMP).
- g) Dr Mahmood showed a reckless attitude to his obligations under GMP as to his duties to make accurate statements and records.

The Tribunal's Decision

97. In deciding what sanction, if any, to impose, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, to establish which is appropriate and proportionate in this case.

No Action

98. The Tribunal first considered whether to conclude the case by taking no action. The Tribunal noted paragraphs 68 to 70 of SG.

99. The Tribunal was satisfied that there were no exceptional circumstances in Dr Mahmood's case which could justify it taking no action. It determined that, given the serious nature of the Allegation, taking no action would be wholly inappropriate, inadequate and would not be in the public interest.

Conditions

100. The Tribunal then considered whether imposing an order of conditions on Dr Mahmood's registration would be appropriate. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable. The Tribunal had regard to paragraphs 80, 81 and 82 of the SG.

101. The Tribunal concluded that a period of conditional registration would not be appropriate because of the seriousness of Dr Mahmood's misconduct. Conditions would not sufficiently mark the gravity of the findings made by the Tribunal. It also considered that it could not formulate practicable and workable conditions that would address those findings.

102. In all the circumstances, the Tribunal concluded that imposing conditions on Dr Mahmood's registration would not be sufficient to protect patients, maintain public confidence in the medical profession or uphold proper professional standards for members of the profession.

Suspension

103. The Tribunal went on to consider whether a period of suspension would be an appropriate and proportionate sanction to impose on Dr Mahmood's registration. The Tribunal noted the SG, specifically paragraphs 92 and 97(f) of the SG, which it considered relevant in this case:

92 'Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for

which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession)’.

97(f) *‘Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

[...]

f. No evidence of repetition of similar behaviour since incident’.

104. The Tribunal applied these guidelines to the facts found proved.

105. The Tribunal considered that Dr Mahmood’s misconduct was a serious breach of GMP and breached a fundamental tenet of the medical profession as to probity. He appeared before a Tribunal in 2007, for findings of dishonesty. He made full admissions at that time and the Tribunal determined suspension was sufficient to meet public safety concerns. However, Dr Mahmood is before a Tribunal again. The Tribunal determined the previous suspension was not effective in preventing a repetition of his dishonesty.

106. The Tribunal had regard to the likelihood of repetition in this case. It considered Paragraph 93:

“93. Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.”

107. The Tribunal determined it could not be satisfied that the misconduct is unlikely to be repeated, as Dr Mahmood has repeated the dishonesty that led him to appear in front of a regulator previously. The Tribunal noted Dr Mahmood’s failure to be candid and his failure to tell the truth.

108. The Tribunal considered that Dr Mahmood showed a lack of insight repeating his misconduct. He also did not acknowledge the seriousness of dishonesty when he attempted to characterise it as “sloppy” or “careless” words or drafting.

109. The Tribunal had regard to those paragraphs of SG which demand more serious sanction, in particular, cases involving dishonesty.

“120. Good medical practice states that registered doctors must be honest and trustworthy and must make sure that their conduct justifies their patients’ trust in them and the public’s trust in the profession’.

110. The Tribunal considered public confidence in the profession as a result of Dr Mahmood’s misconduct to be the chief concern. Referring to paragraph 124 of the SG, the Tribunal found that Dr Mahmood’s dishonesty was particularly serious as making false statements undermines the public’s trust in the medical profession, and additionally undermines any employers’ trust in the integrity of doctors.

111. The Tribunal concluded that Dr Mahmood’s misconduct went to the heart of patient trust. The public must be able to rely on doctors to act with honesty and integrity undertaking their role as a medical professional and in all aspect of their life. A medical employer must be able to trust a doctor not to misrepresent his employment history.

112. Accordingly, the Tribunal determined that suspension would not be sufficient or proportionate to promote and maintain public confidence in the medical profession or uphold proper professional standards for members of the profession. Further, it concluded that the imposition of even the maximum period of 12 months’ suspension would not sufficiently meet the statutory overarching objective.

Erasure

113. The Tribunal went on to consider erasure. In considering its determination, the Tribunal had regard to paragraphs 108 and 109(a)(b)(h) of the SG, which state:

108 *‘Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor’.*

109 *‘Any of the following factors being present may indicate erasure is appropriate*

a. A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor

b. A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.

[...]

h. Dishonesty, especially where persistent and/or covered up[...]

114. The Tribunal considered and applied these paragraphs as relevant to the facts of this case. As much as the Tribunal appreciated erasure would mean the removal from the register of a practising doctor, the impact of his dishonesty upon public confidence was too great to be met by a lesser sanction than erasure.

115. The Tribunal determined that this was the second occurrence of Dr Mahmood's dishonesty that brought him before a Tribunal, he was in breach of fundamental tenet of the medical profession, had shown little sign of remediation and demonstrated no insight. The Tribunal considered the overwhelming negative impact this misconduct would have on his own reputation, that of his fellow professionals and the reputation of the medical profession as a whole in the eyes of the public. The Tribunal also recognized the risk to public safety if a doctor could not be trusted to be honest.

116. The Tribunal concluded that Dr Mahmood's misconduct is fundamentally incompatible with continued registration and that no lesser sanction than erasure would protect the public, and promote and maintain public confidence in the medical profession.

Determination on Immediate Order - 10/09/2021

117. Having determined to erase Dr Mahmood's registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

Submissions

118. Ms Jones, on behalf of the GMC, submitted that she would not be seeking an immediate order, as it might only be particularly appropriate in cases where the doctor poses a risk to patient safety. As this was not the case here, Ms Jones stated the GMC were satisfied this would not be necessary.

119. Ms Jones further submitted there had been no direct patient safety issues raised. Dr Mahmood therefore had been practising unrestricted since 2019, when this matter was first reported. The GMC have no immediate patient safety concerns.

120. On behalf of Dr Mahmood, Mr Cassidy submitted that he agrees with the submissions made by Ms Jones. In the absence of an immediate risk to patient safety, Mr Cassidy stated Dr Mahmood should be permitted to facilitate a handover in the period of time which is given prior to his erasure taking effect.

The Tribunal's Determination

121. In making its determination on whether an immediate order should be imposed, the Tribunal had regard to paragraph 172 to 174 of the SG which state:

'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.'

173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.'

'174 Doctors and their representatives sometimes argue that no immediate order should be made as the doctor needs time to make arrangements for the care of their patients before the substantive order for suspension or erasure takes effect.'

122. The Tribunal considered that these allegations against Dr Mahmood dated back to 2019 and received evidence he has been working unrestricted since without issue. The Tribunal noted that aside from this misconduct and the misconduct found in 2009, there have been no issues of patient safety raised, and there is no evidence of any direct threat to patient safety in a clinical context.

123. The Tribunal acknowledge that it is not every case of erasure that should result in an immediate order.

124. The Tribunal concluded that, although the matters which led to Dr Mahmood's erasure were undoubtedly serious, it did not consider an immediate order was necessary to protect members of the public. The Tribunal noted there were no issues in respect of patient care or Dr Mahmood's clinical ability. It was of the view that the substantive order of erasure was sufficient to satisfy the public interest.

125. As the Tribunal has not imposed an immediate order, this means that Dr Mahmood's registration will be erased from the Medical Register 28 days from when notice of this decision is deemed to have been served upon him unless he lodges an appeal. If Dr Mahmood does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

126. There is no interim order to revoke.

127. That concludes the case.

Confirmed

Date 13 September 2021

Ms Louise Sweet, Chair

Schedule 1

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Schedule 2

XXX

Schedule 3

In 2007 there was a complaint against me about record keeping. During my 6 months job in that practice, I gave diazepam injection to a couple of patients for some clinical reasons. Due to not being trained on new software, I could not keep the record of these injections. GMC's fitness to practice panel investigated the matter and accepted my argument of not being trained with this new and complicated software but during this time period, I XXX therefore on XXX I was suspended for 3 months. I have been working for the past 8/9 years in Psychiatry in the same Trust and as a private GP since 2013 without any issues and my patients have rated me as a 5 star GP.