

PUBLIC RECORD

Date: 28/03/2024

Medical Practitioner's name: Dr Behzad TAVAKOLI
GMC reference number: 7025715
Primary medical qualification: MD 1994 Kermanshah University of Medical Sciences

Type of case **Outcome on impairment**
Review - Misconduct Not Impaired

Summary of outcome
Suspension revoked

Tribunal:

Legally Qualified Chair	Mrs Fiona Barnett
Lay Tribunal Member:	Ms Giovanna Palmiero
Medical Tribunal Member:	Dr Pranveer Singh
Tribunal Clerk:	Ms Angela Carney

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Gavin Dingley, Counsel, of Five Paper
GMC Representative:	Mr Lewis Kennedy, Counsel

Attendance of Press / Public

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

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 Impairment - 28/03/2024

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Tavakoli's fitness to practise is impaired by reason of misconduct.

Background

2. Dr Tavakoli qualified as a doctor in Iran in 1994 and, prior to the events which are the subject of the hearing, he worked as a mid-grade locum doctor in hospitals at various Trusts. At the time of the events, Dr Tavakoli was practising as a full time Accident and Emergency locum doctor.

3. The facts found proved at Dr Tavakoli's hearing which took place in June 2023 (The 2023 Tribunal) can be summarised as, he behaved dishonestly when completing an application form for a job in Emergency Medicine at Whittington Health NHS Trust ('the Trust'). The 2023 Tribunal found proved that Dr Tavakoli did not disclose that he was subject to a current Fitness to Practise ('FtP') investigation by the GMC, nor did he disclose that he had been issued with a warning by the GMC on 7 March 2014.

4. The initial concerns were raised with the GMC on 18 December 2018 by the Trust. Dr Tavakoli had been investigated following three separate sets of allegations that were relevant to the case.

5. Investigation 1 came about because Dr Tavakoli had accepted a caution from the Police on 19 October 2012, but did not declare this in a subsequent job application nor did he declare it to the GMC. This investigation was opened on 9 January 2013 and resulted in Dr Tavakoli being issued with a warning by the GMC, which was effective from 6 March 2014 until 5 March 2019.

6. Investigation 2 ('the East Sussex matters') was opened on 27 July 2016 and related to a patient complaint against Dr Tavakoli while he was working at East Sussex Healthcare NHS

Trust. This complaint was also initially referred to the police, however they took no further action. The GMC then sought to make contact with the complainant regarding whether they would provide a witness statement to the GMC.

7. Investigation 3 ('the Welsh matters'), was opened on 20 December 2017 and added additional concerns relating to the submission of time sheets, to the on-going investigation into the East Sussex matters. These concerns were also reported to the Crown Prosecution Service ('CPS') and Dr Tavakoli attended Merthyr Tydfil Magistrates Court on 3 December 2018 in relation to the Welsh matters. Dr Tavakoli was subsequently acquitted of the charges he faced in respect of the Welsh matters, however this is relevant background information to the declarations that Dr Tavakoli completed in the job application that he submitted to the Trust.

8. At the outset of the 2023 hearing, Dr Tavakoli admitted that answered "no" to questions about his fitness to practise history, in that he failed to declare on an application form for a job in Emergency Medicine at Whittington Health NHS Trust ('the Trust'), that he was subject to a current FtP investigation by the GMC, nor did he disclose that he had been issued with a warning by the GMC on 7 March 2014.

9. The 2023 Tribunal found proved that when Dr Tavakoli answered 'No' to these questions he knew that he was the subject of a fitness to practise investigation by the GMC and knew he had been issued with a warning by the GMC on 7 March 2014. The 2023 Tribunal found proved that Dr Tavakoli's actions in this regard were dishonest.

10. The 2023 Tribunal found that Dr Tavakoli had departed from paragraphs 1, 65, 68 and 71 of Good Medical Practice (GMP). It noted that Dr Tavakoli's warning was still active, and significantly, that the warning was for the same type of conduct which was the subject of the 2023 Tribunal.

11. The 2023 Tribunal considered that Dr Tavakoli had a duty of candour to declare issues such as his Fitness to Practice history and investigations by his regulator to any prospective employers. It considered that Dr Tavakoli's actions undermined the recruitment process, which is fundamental to doctors developing new skills and experience. It also considered that being able to trust the recruitment process and be confident in the information supplied by doctors when making applications was critical to public confidence in the profession.

12. The 2023 Tribunal had particular regard to Dr Tavakoli's prior warning for similar conduct and considered that other members of the profession would find his actions deplorable. It also found that Dr Tavakoli's actions brought the profession into disrepute and

undermined public trust and confidence in the profession and had breached a fundamental tenet of the profession.

13. The 2023 Tribunal concluded that Dr Tavakoli's conduct fell far short of the standards of conduct reasonably to be expected of a doctor and amounted to serious misconduct.

14. In relation to impairment the 2023 Tribunal considered that there was little evidence of remediation, other than the probity course he had completed. It found that Dr Tavakoli was at the start of the journey to developing insight and remediating his misconduct.

15. The 2023 Tribunal noted that over four years had passed since Dr Tavakoli's misconduct, with no further similar complaints. Nonetheless, it considered that, due to Dr Tavakoli's lack of insight and the repeated nature of his actions, there remained a significant risk of repetition.

16. The 2023 Tribunal considered that Dr Tavakoli had brought the profession into disrepute, breached fundamental tenets of the profession, and acted dishonestly. It noted that there were no clinical concerns and there was no evidence of any harm to patients as a result of the misconduct. However, the 2023 Tribunal found that it gave limited weight to the testimonial evidence because of the nature of Dr Tavakoli's misconduct being dishonesty.

17. The 2023 Tribunal considered that the need to uphold and maintain proper professional standards and the need to maintain public confidence in the profession required it to find that Dr Tavakoli's fitness to practise was impaired. The 2023 Tribunal also noted that, whilst there had been no patient safety concerns patients could be potentially placed be at risk if a doctor was dishonest on an application form. The 2023 Tribunal determined that Dr Tavakoli's fitness to practise was impaired by reason of misconduct.

18. The 2023 Tribunal determined that, in view of the serious nature of its findings on impairment, it would be neither sufficient, appropriate, proportionate, nor in the public interest to conclude Dr Tavakoli's case by taking no action.

19. The 2023 Tribunal agreed with the GMC's submission that Dr Tavakoli's case did not fit the criteria for conditions nor could it formulate a set of conditions that would adequately address the concerns of the case. The 2023 Tribunal determined that an order of conditions was not appropriate in Dr Tavakoli's case.

20. The 2023 Tribunal determined that the criteria for the imposition of suspension were applicable in Dr Tavakoli's case. The 2023 Tribunal considered that a period of suspension

would appropriately mark the seriousness with which it viewed Dr Tavakoli's misconduct, and send out a clear message to the public and the profession, that such conduct was not acceptable.

21. The 2023 Tribunal did not consider it was in the public interest to erase an otherwise competent doctor in the specific circumstances of Dr Tavakoli's case. It found that although Dr Tavakoli's behaviour was serious, it was not such that it was fundamentally incompatible with continued registration as a doctor and erasure would have been disproportionate. The 2023 Tribunal determined that a suspension for a period of 9 months would be an appropriate and proportionate sanction. It considered that 9 months would be the minimum length sufficient to address the seriousness of Dr Tavakoli's misconduct, uphold standards and maintain public confidence in the profession and allow Dr Tavakoli sufficient time to fully remediate and develop his insight further.

22. The 2023 Tribunal directed a review of Dr Tavakoli's case. It considered that the reviewing Tribunal would be assisted if Dr Tavakoli provided detailed written reflections, including his reflections on the drivers of his dishonesty and how he would act if he found himself in similar circumstances in the future, with more specific insight in relation to his probity and any other information that he considers will assist.

The Evidence

23. The Tribunal has taken into account all the evidence received, both oral and documentary.

24. Dr Tavakoli provided a document dated 9 January 2024 which included his reflections on his misconduct and also gave oral evidence at the hearing.

25. In his oral evidence, when questioned by Mr Lewis Kennedy, Counsel on behalf of the GMC, Dr Tavakoli told the Tribunal that at the time of the 2023 Tribunal, he believed that his actions were reckless. He said that following the 2023 Tribunal's finding of misconduct he accepted his dishonesty. Dr Tavakoli referred the Tribunal to his written reflections about how he would act in the future if the same situation arises. He confirmed that when completing forms if he was unsure, he would seek further information and discuss any queries with colleagues. He said that he realised that his actions would be seen as dishonest. He said that he regrets his actions and understands that his actions were not professional. He said he does not wish this to happen again in the future, and that in the last nine months he has studied probity in medicine to ensure his misconduct is not repeated. He said that four years ago he had not intended to do anything wrong, but he now understands that in the eyes of the public and in his own eyes his actions were dishonest.

26. In answer to questions from the Tribunal, Dr Tavakoli said after attending the courses on probity he realised that, when completing application forms, he should be honest. He said that if a doctor is not honest, they could put patients at risk and patients could not trust or rely upon that doctor. He also said that if doctors are not honest the public would not put their trust in the profession.

27. Dr Tavakoli confirmed that when completing the application form it was not his intention to hide anything and it was a misunderstanding that he thought his GMC warning had expired. He said that now he fully understands why the Tribunal and the public would view his actions as dishonest. He said that he has worked in the UK for a number of years and that information on warnings is available on the GMC website. He said that when applying for a job, prospective employers will check the GMC website for any warnings, so there is no point in not declaring a warning.

28. Dr Tavakoli said that he had been working full time in Iran as a GP assistant. He said that he sees patients and if he has questions about their care he speaks to another GP. He said if he is allowed to return to clinical practice, he would like to work in the UK again.

29. Dr Tavakoli said that he has learnt to try and do his best and to avoid such an incident happening again. He said that if he was unsure about anything, he would do further research or discuss the matter with colleagues. He also added that he would not do anything in haste and wait before acting. When asked by the Tribunal what “probity” means, he said that probity means moral character, and that as a member of the medical profession it is important. He said it is not enough to just have clinical knowledge as a doctor. He referred the Tribunal to Good Medical Practice and the four domains set out there.

30. The Tribunal received the following documentary evidence, which included but was not limited to:

- Record of Determination of the MPT hearing dated 5 - 12 June 2023.
- Correspondence between Dr Tavakoli and the GMC.
- Dr Tavakoli’s reflective statement, 9 January 2024.
- Dr Tavakoli’s Continuing Professional Development (CPD) log.
- Email from Dr Tavakoli to the GMC regarding clinical work in Iran, dated 19 October 2023
- Testimonial - Mr A, General Practitioner, Ireland, dated 14 December 2023
- Testimonial - Mr B, Senior Biomedical Scientist, Watford General Hospital, dated 1 December 2023
- Testimonial - Mr C, Orthopaedic Surgeon, London North West Healthcare, dated 10 December 2023
- Testimonial - Dr D, General Practitioner, Iran, dated 25 February 2024

- Feedback questionnaires dated November 2023.

Submissions

31. On behalf of the GMC, Mr Kennedy provided the background to the case. He reminded the Tribunal of the information which the 2023 Tribunal suggested Dr Tavakoli may provide to assist this Tribunal. He referred the Tribunal to the documentary evidence provided by Dr Tavakoli.

32. In his closing submissions, Mr Kennedy, submitted that in light of Dr Tavakoli's oral evidence, the GMC is neutral on the matter of impairment.

33. On behalf of Dr Tavakoli, Mr Gavin Dingley, Counsel, referred the Tribunal to Dr Tavakoli's written reflection on his misconduct. He referred the Tribunal to the Sanctions Guidance on insight and to the findings of the 2023 Tribunal on insight.

34. Mr Dingley reminded the Tribunal of the length of time since the misconduct. He submitted that the Tribunal can be satisfied that Dr Tavakoli has remediated his misconduct. He said that Dr Tavakoli has provided detailed CPD, which is enough to satisfy the Tribunal that this type of conduct will not be repeated. He reminded the Tribunal that there have never been any concerns about Dr Tavakoli's clinical practice or any risk to patients. Mr Dingley referred the Tribunal to the evidence of the support groups Dr Tavakoli has attended and the mechanisms he has put in place to ensure that there will be no repetition of his misconduct. He referred the Tribunal to the testimonials.

35. Mr Dingley said that Dr Tavakoli regrets what he did. He said that Dr Tavakoli has undertaken focussed Continuing Professional Development and integrated with a support group. He submitted that the steps Dr Tavakoli has taken demonstrate that he fully understands what he did was wrong. Mr Dingley submitted that Dr Tavakoli's misconduct it is unlikely to happen again and that his fitness to practise is not impaired by reason of his misconduct.

The Relevant Legal Principles

36. The Tribunal reminded itself that the decision on impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practice.

37. This Tribunal must determine whether Dr Tavakoli's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

38. The Tribunal took account of the documentary and oral evidence from Dr Tavakoli. It found his oral evidence to be credible and honest and found his written reflections on his misconduct to be detailed and compelling. The Tribunal was satisfied that Dr Tavakoli has carefully analysed his misconduct and reflected on it at length. It was apparent, both in the written reflections and in his oral evidence, that he now recognises that what he did would be viewed as dishonest by others, and that he accepts that what he did was wrong. The Tribunal was satisfied that he has genuine remorse for his misconduct.

39. The Tribunal found that Dr Tavakoli recognises that he should have acted differently when completing the application form. He has said, both in his written reflection and in his oral evidence, that he has now developed strategies to ensure he will not provide incorrect information in the future. Dr Tavakoli said that when completing forms, he will take more time and care and that he will seek advice and assistance if he is unsure about anything. The Tribunal accepted his evidence on this issue.

40. In addition to his reflections, Dr Tavakoli has undertaken courses which were targeted at remediating his misconduct. These included courses on Probity and Ethics in healthcare. The Tribunal was satisfied that Dr Tavakoli now fully understands the importance of ethics in his professional practice and recognises that failure to uphold high standards of probity can have far-reaching consequences for patients, colleagues, and the public. He is aware that incorrect information in an application form can ultimately impact on patient safety.

41. Dr Tavakoli also provided the Tribunal with evidence which demonstrates that he has been keeping up to date during the period of his suspension. Dr Tavakoli's CPD log showed that in addition to undertaking probity and ethics courses, he has undertaken other clinical courses and has been reading journal articles. He has provided the certificates to corroborate his CPD log.

42. The Tribunal was also provided with testimonials from current and former colleagues who confirmed that Dr Tavakoli has discussed his misconduct with them. Dr Tavakoli also

provided evidence to show that he has attended Doctors support groups. The Tribunal found that all this evidence was a strong indicator of his willingness to behave in an open and honest way, and to accept that he has behaved wrongly. It also demonstrates his willingness to seek advice and assistance from others if he is unsure about completing any forms and confirms that he is determined not to repeat his misconduct.

43. The Tribunal also had regard to 360 feedback forms from a variety of colleagues. Some of these related to Dr Tavakoli's practice some years ago, however, a number of these were from current colleagues who confirmed that he is practicing to a good standard. In particular, the Tribunal received a testimonial dated 25 February 2024 from Dr D who is a GP in Iran and who is currently employing Dr Tavakoli. Dr D attested to Dr Tavakoli's honesty, trustworthiness and competence, and confirmed that he would like Dr Tavakoli to remain as part of his medical team.

44. The Tribunal was satisfied that Dr Tavakoli has remediated his misconduct through targeted courses, in depth reflection and by seeking counsel from others. It acknowledged that he maintains that he did not intend to do anything wrong when he completed the form, however, given the evidence before the Tribunal today, it was satisfied that he has fully accepted the findings of the 2023 Tribunal, and that his insight into his misconduct has developed considerably since the 2023 Tribunal. His level of insight is now sufficient and the Tribunal decided that the risk of repetition is very low.

45. The Tribunal noted paragraph 164 of the Sanction Guidance (February 2024), which states:

'164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

- a they fully appreciate the gravity of the offence*
- b they have not reoffended*
- c they have maintained their skills and knowledge*

d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.

46. Having regard to paragraph 164, the Tribunal was satisfied that Dr Tavakoli fully appreciates the gravity of his misconduct, which has not been repeated. It was also satisfied that Dr Tavakoli has maintained his skills and knowledge and that patients will not be placed at risk if he returned to clinical practice. Consequently, the Tribunal was satisfied that Dr Tavakoli's fitness to practise is not now impaired by reason of misconduct.

47. The Tribunal noted that the order of suspension on Dr Tavakoli's registration expires on 17 April 2024.

48. The Tribunal considered that a reasonably informed member of the public, aware of Dr Tavakoli's remediation, insight and remorse, would not be concerned if the order of suspension was revoked with immediate effect. Further, the Tribunal concluded that the public should not be deprived of an otherwise competent doctor. The Tribunal considered that although the order of suspension was made on public interest grounds, it was satisfied that public confidence would not be seriously undermined if the order of suspension was revoked with immediate effect.

49. Accordingly, as the Tribunal determined that Dr Tavakoli's fitness to practise is no longer impaired by reason of misconduct, the current order of suspension on his registration, should be revoked with immediate effect.

50. That concludes this case.