

PUBLIC RECORD

Date: 01/09/2023

Medical Practitioner's name: Dr Bimal SINGH
GMC reference number: 2351375
Primary medical qualification: MB BS 1974 Patna Medical College

Type of case Outcome on impairment
Review - Misconduct Not Impaired

Summary of outcome
Suspension revoked

Tribunal:

Legally Qualified Chair	Miss Rachel Birks
Medical Tribunal Member:	Dr Liz Ball
Medical Tribunal Member:	Dr Sarah Woodford
Tribunal Clerk:	Ms Angela Carney

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Wafa Shah, Counsel, instructed by the Medical Defence Shield
GMC Representative:	Mr Edmund Potts, 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 - 01/09/2023

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 Singh's fitness to practise is impaired by reason of misconduct.

Background

2. Dr Singh qualified as a doctor in India in 1974 and registered with the General Medical Council in 1976. He commenced working in the UK in 1979. Prior to the events which are the subject of this hearing he was practising Orthopaedic Surgery at Hartlepool General Hospital. He has also worked as an out of hours GP. Dr Singh was undertaking medico-legal reporting work for UK Independent Medical Limited (UKIM), a medical reporting organisation that commissions expert reports on behalf of solicitors for use in personal injury claims.

3. Dr Singh's hearing took place in March 2023 (the March 2023 Tribunal). The March 2023 Tribunal found proved that, whilst he was employed by UKIM, Dr Singh submitted reports for medico-legal purposes for Patient A and Patient B, dated 3 February 2020 and 2 March 2020 respectively, which he knew were untrue and that his actions were dishonest.

4. The March 2023 Tribunal found that Dr Singh had brought the medical profession into disrepute, breached a fundamental tenet of the profession, and acted dishonestly. It was not satisfied that Dr Singh would not, in the future, bring the medical profession into disrepute by breaching a fundamental tenet of the profession by acting dishonestly. The March 2023 Tribunal found that there was evidence of developing insight but was not satisfied that Dr Singh had properly appreciated the impact of dishonesty by a doctor. It was not confident that there was no risk of repetition at that time. The March 2023 Tribunal found that limbs two and three of the overarching objective were engaged and concluded that a finding of impairment was necessary in order to maintain public confidence in the medical profession and proper standards of conduct for members of the profession.

5. The March 2023 Tribunal determined that suspending Dr Singh's registration would be sufficient to mark the seriousness of his misconduct and would have a deterrent effect. It did not find that Dr Singh's dishonesty was fundamentally incompatible with continued registration. The March 2023 Tribunal noted that Dr Singh is a competent and hardworking doctor who had some insight into his misconduct. It considered Dr Singh's efforts to remediate indicated that he is capable of, and willing to, develop fuller insight. The March

2023 Tribunal found Dr Singh's misconduct was serious, but it did not put at risk the health, safety and wellbeing of the public. It therefore found that erasure was disproportionate at that time. The March 2023 Tribunal determined that a five-month suspension would be an appropriate and proportionate sanction which would maintain public confidence in the profession and promote and maintain proper standards of conduct and behaviour.

6. The March 2023 Tribunal directed a review of Dr Singh's case and considered that the reviewing Tribunal may be assisted if Dr Singh were to provide:

- A reflective statement that would include his reflections on the impact of his dishonesty on public confidence in the medical profession and on the need to promote and maintain proper standards for members of the profession
- Any other information that he considers will assist the reviewing Tribunal.

The Evidence

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

8. Dr Singh provided witness statements dated 6 June 2023 and 18 August 2023 and also gave oral evidence at the hearing.

Dr Singh's oral evidence

9. Following questions from the Tribunal, Dr Singh said that he had to complete the statutory and mandatory E-Learning around May 2023 in one sitting due to the deadlines as he was travelling to India very soon afterwards. This explained why he had a lot of time recorded on training within a short time span.

10. In relation to the probity and ethics courses Dr Singh completed prior to his substantive hearing, he said that he re-read the materials from those courses after the hearing in order to gain further insight.

11. Dr Singh confirmed that he stopped doing medical reporting in 2020 and has no intention of working on medical reporting again. He said that the role that he was undertaking prior to his suspension was as an out of hours doctor, speaking to patients over the telephone. He said it included history taking, providing a diagnosis and taking appropriate action. He said that it would not be necessary to write any reports as this would be done by the patient's GP.

12. In response to a question about an ethical dilemma Dr Singh explained that if he was in doubt due to insufficient information then he would have to do research into the history or seek further information before completing a report. He explained that the report has to be truthful to enable third parties to make a decision. He said if he did not have enough

information to do a report then he would not complete it without seeking further information.

13. When asked about why he is unlikely to repeat his dishonest conduct, given what happened in the past, Dr Singh said that now he understands the gravity of his dishonesty. He said that he has accepted the March 2023 Tribunal's findings and has reflected on his dishonesty. He said that he now has full insight into where he went wrong. He said that he recognises that full transparency is required for patients and third parties. He also said that any doubt can lead to questions regarding integrity. He described how an incorrect report can impact on the clinical care of patients and other parties. He said that he feels that he now understands the whole process. Dr Singh apologised for his misconduct and said that he would be very careful and vigilant in the future.

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

- List of Readings on Dishonesty
- Report Writing Certificate dated 9 May 2022
- Colleague and Patient Feedback November 2022
- Performance Review April 2022 to January 2023
- Continuing Professional Development (CPD) Certificates from March 2023 to May 2023
- Probity and Ethics Course 29-30 November 2022
- Certificate: How to Ensure a similar Mistake or Misconduct will not be repeated in Future, dated 30 November 2022
- Professional Boundaries Course for Clinicians, dated 30 November 2022
- Professionalism and the Professional Standards for Doctors, dated 30 November 2022
- Module on Remediation, dated 30 November 2022
- GMC Guidance - Openness and honesty when things go wrong: the professional duty of candour
- Dishonest behaviour by health and care professionals: Exploring the views of the general public and professionals
- Center for Health Ethics – Truth Telling
- GMC Guidance - The Reflective Practitioner
- GMC Self-Learning - The Reflective Practitioner

Submissions

15. On behalf of the GMC, Mr Potts stated that the GMC is neutral on the matter of Dr Singh's impairment. He referred the Tribunal to the documents provided by Dr Singh and

stated that they appear to have been completed before his substantive hearing in March 2023. Mr Potts acknowledged that Dr Singh has provided an additional witness statement.

16. On behalf of Dr Singh, Ms Shah, Counsel, invited the Tribunal to find that Dr Singh's fitness to practise is not impaired. She referred the Tribunal to the evidence provided by Dr Singh, including his witness statements and CPD. She reminded the Tribunal of the March 2023 Tribunal findings that, despite Dr Singh's misconduct, no patients were put at risk. She submitted that the March 2023 Tribunal findings were made on public interest grounds and referred the Tribunal to those findings on impairment:

'17...It accepted that there was evidence of developing insight, but was not satisfied that Dr Singh properly appreciated the impact of dishonesty by a doctor. It noted that the most recent witness statement was prepared following the Tribunal's finding of dishonesty. The Tribunal was concerned that, despite saying in the statement that he understood the impact of dishonesty on the public and patients, he continued to minimise his actions. In this statement he continues to refer to the misconduct as 'alleged conduct' and as 'misunderstandings and mistakes'.

18. The Tribunal accepted that there was evidence that Dr Singh was held in high regard by colleagues and patients in his current role, and that there was evidence of good patient feedback from earlier work in 2016. It further accepted that there was no evidence that Dr Singh had repeated his dishonesty from the time the allegations arose. However, the Tribunal was unable to be confident that there is no risk of repetition, as the Tribunal only has his word that he would not undertake report writing in the future, and as the Tribunal has stated, it has concerns about Dr Singh's insight.'

17. Ms Shah also reminded the Tribunal that at the substantive hearing, the GMC submitted that Dr Singh's misconduct is not fundamentally incompatible with continued medical registration but that a period of suspension would be necessary in order to uphold the overarching objective.

18. Ms Shah also referred the Tribunal to the mitigating features found by the March 2023 Tribunal at paragraph 12:

'12....Dr Singh to have acted dishonestly, but recognises that he will now need time to reflect on this finding before he can evidence insight into it. The Tribunal finds, however, that Dr Singh already has evidenced some insight into the concerns. He has desisted from writing medico-legal reports since the present concerns were raised in 2020. Dr Singh admitted omitting information from the medical reports as soon as UKIM made him aware of the complaints. He admitted the GMC allegation, apart from the dishonesty element, as soon as it was put to him. He apologised for his actions at the earliest opportunity. Dr Singh has undertaken relevant training, such as a CPD course in 2022 titled 'Ethics and Ethical Standards for Doctors' and a course titled 'Excellence in Report Writing - Written Evidence', also in 2022. He prepared reflective

statements following this training to evidence what he had learned. In addition, the Tribunal noted the many positive testimonials received on Dr Singh's behalf from colleagues and patients.

19. Ms Shah also reminded the Tribunal that the March 2023 Tribunal found that a suspension of five months was appropriate and stated that *'This sanction will uphold the statutory overarching objective, whilst allowing Dr Singh the opportunity to provide further evidence of his insight'*.

20. Ms Shah submitted that the public interest has been satisfied in this case. She stated that there has been no repetition of the misconduct. She submitted that Dr Singh's witness statements demonstrate that he has gained insight. She referred the Tribunal to paragraph 16 of Dr Singh's statement dated 6 June 2023:

'16. I am very sorry and ashamed of my conduct and how it affected the relationship between the public and the profession, as well as the patients involved. I now know the importance of professionalism and probity and ethics and have applied these principles to reflect and gain insight on the findings against me. I am truly sorry for the harm that my conduct has caused, and I now understand the standards expected of me and will continue to abide by these going forward.'

21. Ms Shah referred the Tribunal to paragraph 6 of Dr Singh's statement dated 18 August 2023:

'...6. I have reflected extensively about the impact of dishonesty on the public, patients and the profession. I understand that the relationship of trust between doctor and patient is built on full transparency and honesty to ensure that the patient acts with candour and gives all relevant information to help a diagnosis or inform a report and that the doctor gives the patient or court the correct information to make an informed decision. Dishonesty can lead the public to doubt the integrity and expertise of doctors leading to patients feeling hesitant to come to their doctor for care or provide them all of the relevant information, reflecting negatively on the whole medical profession.'

22. Ms Shah submitted that Dr Singh has reflected on the impact his dishonesty has on the profession.

23. Ms Shah referred the Tribunal to paragraph 8 of Dr Singh's statement dated 18 August 2023:

'8. In relation to my circumstances, I acknowledge that there are a number of people who were affected by the medical reports which omitted information. Namely:

- It may reflect badly on the patient and their lawyer who would be claiming in court if they allow a report which does not contain the relevant information to be submitted in evidence.*

- *It means that the defendant in the action may have to unfairly pay for a higher amount of damage than they actually caused.*
- *It means that the court would be making decisions on the wrong information, affecting the fairness of the court process, and could lead to the decision being appealed or reheard, wasting court time and money which is funded by the public.*
- *The lawyers involved in a hearing where the evidence is a dishonest report may be professionally compromised.'*

24. Ms Shah submitted that Dr Singh identified the impact that his misconduct had on others. She referred the Tribunal to paragraph 14 of Dr Singh's statement dated 18 August 2023:

'14. I am once again extremely saddened and disappointed in myself, and extremely sorry for the damage that I have caused to public trust in the medical profession. It is something I feel deep regret for, considering the importance of honesty as one of the core tenets of the profession and the importance of upkeeping this standard. I acknowledge that my misconduct was unacceptable and I believe that through my reflection and remediation I will never come to repeat this conduct again.'

25. Ms Shah submitted that Dr Singh has continued to reflect deeply on his actions and the consequences on others. She submitted that the public interest has been satisfied and there is no risk of repetition.

26. Ms Shah invited the Tribunal to find that Dr Singh's fitness to practise is not impaired. She made an alternative submission, if Dr Singh's fitness to practise is found to be impaired, that the current order of suspension should be varied to one of conditions imposing a prohibition on him writing medico legal reports.

The Relevant Legal Principles

27. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the March 2023 Tribunal set out the matters that a future Tribunal may be assisted by.

28. The Tribunal was aware of its statutory overarching objective 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 the medical profession as set out in s.1(1A) and s.1(1B) of Medical Act 1983.

29. The Tribunal noted that there is no burden or standard of proof to be applied. However, in a review case there is a persuasive burden upon the doctor to demonstrate that all the concerns which had been identified have been adequately addressed, and that he has

taken steps to remediate. If so, a Tribunal may conclude that the doctor's fitness to practise is no longer impaired.

30. The Tribunal reminded itself that it is a matter entirely for it to decide whether the Doctor's fitness is impaired in the light of its own judgment on the current circumstances and in the light of the evidence before it. In considering impairment the Tribunal had regard to:

- (i) Insight
- (ii) Remediation; and
- (iii) Risk of repetition

31. This Tribunal must determine whether Dr Singh's fitness to practise is impaired today, taking into account his conduct which led to the finding of misconduct and any relevant factors since then such as whether the matters are remediable, have been remediated and any likelihood of repetition.

The Tribunal's Determination on Impairment

Misconduct

32. In respect of misconduct, including the seriousness of the misconduct, the Tribunal adopted the reasoning and conclusions set out at paragraphs 12 to 14 of the March 2023 Tribunal's determination on impairment.

Impairment

33. The Tribunal noted the CPD activity that Dr Singh has undertaken. It specifically noted the course on probity and ethics and the additional learning and reflection that he has done since undertaking that course. The Tribunal noted the positive feedback from his colleagues and patients and also that Dr Singh's clinical practice was previously regularly audited with no concerns reported. It noted that there has been no reports of any misconduct during the period of suspension.

34. The Tribunal also noted the mandatory training and reading Dr Singh has undertaken and was satisfied that he has kept his medical skills and knowledge up to date.

35. The Tribunal noted that at Dr Singh's substantial hearing, the March 2023 Tribunal found that he had developing insight. The Tribunal noted that Dr Singh has fully engaged in these proceedings and has provided written reflective witness statements as suggested by the March 2023 Tribunal. He has also chosen to give oral evidence and to answer questions. The Tribunal was reassured by Dr Singh's oral evidence which reflected the sentiments expressed in his written statements and considered that his acceptance of wrongdoing and regret was genuine. Dr Singh expressed sincere remorse and has taken ownership of his actions. He also acknowledged how a lack of honesty and transparency can affect the

relationship between a doctor and patient. Dr Singh concluded his oral evidence by apologising and stating that he would be vigilant of his conduct in the future.

36. The Tribunal was of the view that Dr Singh now understands the impact that his misconduct has had on others, and that he has recognised the impact on the wider public interest. The Tribunal noted that in Dr Singh's most recent witness statement he fully accepted that the March 2023 Tribunal's determinations were justified.

37. Dr Singh's witness statements, oral evidence and CPD, in particular his learning on probity and ethics, demonstrate Dr Singh's remediation. Given Dr Singh's remediation and reflections the Tribunal considered that he has developed satisfactory insight into his misconduct. As such, the risk of repetition of actions which bring the profession into disrepute, breach a fundamental tenet of the profession or are dishonest, was now low.

38. The Tribunal noted that the GMC was neutral on the matter of Dr Singh's impairment.

39. The Tribunal considered that the initial suspension period of five months has marked the gravity of Dr Singh's misconduct and has allowed him to gain insight and remediate his misconduct.

40. The Tribunal considered that the need to mark Dr Singh's misconduct was addressed by the March 2023 Tribunal with a five-month suspension, in order to maintain public confidence in the profession and to maintain proper professional standards. The Tribunal considered that a well-informed member of the public, aware of the circumstances of this case, would be satisfied that that Dr Singh has remediated his misconduct. The wider public interest is now met by allowing a clinically sound doctor to return to practice.

41. This Tribunal has therefore determined that Dr Singh's fitness to practise is not impaired by reason of misconduct.

42. The Tribunal noted that Dr Singh's suspension expires on 13 September 2023. The Tribunal considered that Dr Singh's suspension was imposed to allow him further time to reflect on his misconduct, gain insight and to mark the seriousness of his misconduct. Having found Dr Singh's fitness to practise is not currently impaired, and in the light of his insight and the remediation he has undertaken, the Tribunal determined that the suspension should be revoked with immediate effect.

43. That concludes this case.