

## PUBLIC RECORD

Dates: 18/08/2023

Medical Practitioner's name: Dr Desh SINGH  
GMC reference number: 2280523  
Primary medical qualification: MB BS 1973 Allahabad University

**Type of case** **Outcome on impairment**  
Review - Misconduct Consideration of impairment not reached

**Summary of outcome**

Adjourned to a new tribunal. Current sanction to remain in place.

**Tribunal:**

Legally Qualified Chair	Mr David Urpeth
Lay Tribunal Member:	Ms Hermione McEwen
Medical Tribunal Member:	Dr Fade Ibitoye

Tribunal Clerk:	Mr Fiona Johnston
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**Attendance and Representation:**

Medical Practitioner:	Not present and not represented
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.

## ANNEX A - Determination on service and proceedings – 18/08/2023

1. Dr Singh is neither present nor represented at these proceedings. The Tribunal considered whether notification of this hearing had been properly served upon Dr Singh.

### Service

2. Mr Edmund Potts, counsel on behalf of the GMC, submitted that the notice of this hearing was sent by the Medical Practitioners Tribunal Service in accordance with Rule 20(1)(a) of the Fitness to Practise Rules 2004 ('the Rules').

3. The Tribunal was provided with a service bundle, which contained:

- Screenshot of Siebel showing Dr Singh's FPD registered address and Dr Singh's validated email address;
- Email from the GMC to Dr Singh's former legal representative asking for confirmation of Dr Singh's email address for FPD correspondence, dated 15 March 2022;
- Email from Dr Singh's former legal representative to the GMC confirming Dr Singh's email address and informing that the doctor should be contacted via rep but be copied in, dated 22 March 2022;
- Email from the GMC to Dr Singh's former legal representative enclosing GMC information letter and draft hearing bundle, dated 10 July 2023;
- GMC information letter to Dr Singh dated 10 July 2023;
- Telephone note of call from the GMC to Dr Singh's former legal representative requesting confirmation of receipt of Information Letter and draft bundle, dated 13 July 2023;
- Email from the MPTS to Dr Singh enclosing Notice of Hearing letter, dated 18 July 2023;
- MPTS Notice of Hearing letter to Dr Singh, dated 18 July 2023;

- Email from the MPTS to Dr Singh chasing confirmation of receipt of Notice of Hearing letter, dated 19 July 2023;
- Email from Dr Singh's former legal representative to the MPTS confirming receipt of Notice of Hearing letter, dated 19 July 2023;
- Email from Dr Singh's former legal representative to the GMC confirming that Dr Singh will attend the review hearing, dated 11 August 2023;
- Telephone note of call from the GMC to Dr Singh, dated 17 August 2023;
- Email from the GMC to Dr Singh requesting information regarding whether he has a new legal representative and will be attending the hearing, dated 17 August 2023.

4. Mr Potts submitted that all the documents were appropriately served to Dr Singh's nominated representative in this matter. Dr Singh through his representatives were made aware of today's hearing.

5. He submitted that yesterday, following an email from Dr Singh's representatives stating that they would no longer be representing him, the GMC made a number of calls to the doctor's mobile number. They left a number of voice notes asking for the doctor to call back. He further submitted that a number of calls were made to his landline which did not connect.

6. He submitted that after the calls the GMC sent an email to Dr Singh dated 17 August 2023.

*'Dear Dr Singh,*

*I have just tried to call you but was unable to reach you.*

*I note that you are no longer being represented by Mr [A] in relation to your review hearing taking place tomorrow.*

*Please can you confirm whether you have a new legal representative for the hearing?  
Please can you also let me know whether you will attend the hearing tomorrow and whether you have any documents to submit?*

*I will be available until about 4:15pm today and then from 8:30am tomorrow if you would like to have a phone call.'*

7. Mr Potts submitted that Dr Singh is aware of today's hearing. He invited the Tribunal to conclude that all reasonable efforts have been made to serve the documents in accordance with the Rules.

8. Having considered all the evidence, the Tribunal determined that notice of this hearing had been served in accordance with Rule 40 of the Rules and paragraph 8 of Schedule 4 of the Medical Act 1983.

### Proceeding in Absence

9. The Tribunal then went on to consider whether it would be appropriate to proceed with the hearing in Dr Singh's absence pursuant to Rule 31 of the Rules.

10. Mr Potts submitted that this case involves the prolonged lack of engagement from Dr Singh and indeed it is essentially the reason why the review has been brought forward to today. He submitted that the doctor's lack of engagement with the performance assessment process, but also lack of engagement with the GMC generally, properly indicate what, if any good reasons there might be for not engaging with that process.

11. He submitted that there may be situations where the Tribunal would be hesitant to proceed in a doctor's absence, especially when only a short time has elapsed since the representatives withdrew. However, he submitted this is one of those cases where to prolong the hearing any further would simply exacerbate the issue, which is precisely the doctor's lack of engagement.

12. He submitted that there has been one XXX provided from Dr Singh in October 2022 and there has been no substantial detail provided since then as to whether the XXX which may be preventing Dr Singh's engagement in the hearing today.

### The Tribunal's decision

13. In making its determination the Tribunal noted that the decision as to whether or not the hearing should proceed in Dr Singh's absence was a matter for its independent judgement and should be exercised with great care.

14. The Tribunal is satisfied that Dr Singh has been properly served with notice of these proceedings. The Tribunal then addressed the issues arising from the withdrawal of Dr Singh's representation. It noted that an email to that effect had been sent from his representative to the GMC dated 17 August 2023 at 15.17 informing the GMC that they were no longer representing Dr Singh. The Tribunal are concerned that Dr Singh has been given less than a working day to find alternative representation or to confirm he would represent

himself. The GMC have not received any correspondence to suggest that the doctor was going to engage with them directly, having been requested to communicate with the doctor via his representative in the past.

15. The Tribunal noted that any decision to proceed in Dr Singh's absence would inevitably result in prejudice to him including that it may not necessarily have all of the information which Dr Singh would wish to advance at the hearing. In addition, the Tribunal considered that part of its role was to ensure that the hearing was fair, even in Dr Singh's absence.

16. The Tribunal was mindful that any prejudice to Dr Singh in proceeding in his absence must be balanced against other factors including the statutory overarching objective, the public interest including ensuring that hearings should take place within a reasonable time of the events to which it related and the fair, economic, expeditious and efficient disposal of the hearing.

17. In balancing the prejudice to Dr Singh in proceeding in his absence against all of the other factors, the Tribunal was not satisfied that the balance fell in favour of proceeding with the hearing in Dr Singh's absence. The Tribunal concluded that a short adjournment would allow Dr Singh to seek new representation or prepare to represent himself and enable him to engage with the GMC.

18. Accordingly, the Tribunal determined not to proceed in the absence of Dr Singh.