PUBLIC RECORD

Dates: 24/04/2023 - 28/04/2023

Medical Practitioner's name:	Dr Elizabeth RAJAN
GMC reference number:	7453596
Primary medical qualification:	MB BS 2017 University of East Anglia

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

Summary of outcome

Suspension

Tribunal:

Legally Qualified Chair	Mrs Ruth Curtis
Lay Tribunal Member:	Mrs Carol Jackson
Medical Tribunal Member:	Dr Louise Crabtree

Tribunal Clerk:	Ms Fiona Johnston

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Michael Rawlinson, Counsel, instructed by Medical Protection
GMC Representative:	Ms Jade Bucklow, 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 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 Impairment - 26/04/2023

1. FACTS

Background

1. Dr Rajan qualified in 2017 from the University of East Anglia. At the relevant time of the events which are the subject matter of the hearing Dr Rajan was on an out of programme career break.

2. It is alleged that on 11 May 2021, whilst sitting a Royal College of Physicians (UK) Part 1 online written examination. Dr Rajan failed to declare that she had a mobile phone in her possession. It is also alleged that Dr Rajan used her mobile phone to research, check or amend answers, knowing that she was not permitted to do so, and that this was dishonest conduct.

3. The initial concerns were raised with the GMC on 16 August 2021 by Mr A, who works as a Quality and Policy Manager for the Royal College of Physicians of the United Kingdom ('the RCP') and is involved in the administering of the Membership of the Royal College of Physicians ('MRCP')(UK) examinations. His role includes dealing with misconduct. The referral to the GMC was further to an investigation by the RCP, in which Dr Rajan admitted being in possession of a mobile phone during the Examination and that this was dishonest.

The Allegation and the Doctor's Response

4. The Allegation made against Dr Rajan is as follows:

That being registered under the Medical Act 1983 (as amended):

1. On 11 May 2021, you undertook Paper 2 of the Membership of the Royal College of Physicians (UK) Part 1 online written Examination ('the Examination'), and:

    a. you failed to declare that you had a mobile phone in your possession; Admitted and found proved

    b. during the Examination, you used your mobile phone, in order to:

        i. research Examination questions; Admitted and found proved

        ii. check and/or amend your answers to the Examination questions. Admitted and found proved

2. You knew that:

    a. you were not permitted to possess and/or use your mobile phone during the Examination; Admitted and found proved

    b. your actions at paragraph 1 would give you an unfair advantage in the Examination. Admitted and found proved

3. Your actions as described at:

    a. paragraph 1a were dishonest by reason of paragraph 2a; Admitted and found proved

    b. paragraph 1b were dishonest by reason of paragraph 2a and 2b. Admitted 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

The Admitted Facts

5. At the outset of these proceedings, Dr Rajan, through her counsel Mr Michael Rawlinson made admissions to the whole 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.

2. IMPAIRMENT

Determination on Impairment

6. The Tribunal has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the fully admitted Allegation, Dr Rajan's fitness to practise is impaired by reason of misconduct.

Witness Evidence

7. The Tribunal received evidence on behalf of the GMC in the form of two witness statements, dated 11 April 2022 and 30 September 2022 from Mr A. He was not called to give oral evidence and his evidence was not contested by Dr Rajan.

8. In his written statements, Mr A stated that he had never met Dr Rajan or had any interaction with her prior to the Examination. Mr A explained that for all online exams, they work with a company called the BTL Group Limited who hire the proctor for the online MRCP(UK) examinations. The main role of the proctor is to complete all identification checks and monitor candidates completing the online examinations.

9. He stated that prior to candidates sitting an examination, an application will be submitted to complete that exam. Candidates agree to the terms and condition when submitting this application.

10. On 11 May 2021, Dr Rajan attended the Examination. The proctor for the Examination raised a flag on the log, which was reviewed and ranked as a red concern indicating this was serious. Mr A reviewed the CCTV footage of the Examination in full and could identify that a mobile device was being used.

11. On 10 June 2021, a letter was sent to Dr Rajan stating that she was in breach of the examination regulations and the candidate code of conduct by being in possession of a mobile phone during the Examination.

12. By email dated 23 June 2021, Dr Rajan stated that she had read the letter and admitted that she had used her phone during the Examination. Her email stated *'I am writing in response to the Initial Letter sent on 10 June. I apologise for not following regulations during the examination. Please let me know what action will be taken next and what I should do next.'*

13. A further email was sent by Dr Rajan dated 5 July 2021. In her email, she stated *'I would like to state that I do understand the significance of my actions, and I apologise for not following regulations during the examination'.*

14. By letter dated 22 July 2021, the MRCP(UK) notified Dr Rajan that, after taking into account her admission of guilt and her statement, it had been decided that the following penalties should be imposed:

- Her results from the Examination for the 2021/02 diet were annulled.
- She was to be barred from entry to the MRCP(UK) Part 1 examination for four diets.
- The details of her case would be reported to the GMC.

15. Dr Rajan gave evidence by means of a reflective statement dated 30 March 2023 and by oral evidence at the hearing. She confirmed that the contents of her statement were true to the best of her knowledge and belief.

16. Dr Rajan explained that she qualified from the University of East Anglia in 2017, completed her foundation years one and two before being accepted onto the East of England internal medical training programme ('IMT'). She completed the first year in IMT and then took a career break from 6 August 2020 - 6 August 2021.

17. Dr Rajan explained that during that IMT year she worked on a Covid ward for 4 months and found it very stressful. She started to recognise that she was suffering from stress and burnout at that time.

18. She told the Tribunal she took a career break because her father, who resided in the USA was in ill health. She told the Tribunal that this had a significant impact on her, she was an only child and the thought of supporting him was stressful. She explained that she had not really prepared for this situation financially and that she relied on her savings while she was on this career break.

19. During her career break, Dr Rajan took the Examination on 11 May 2021. Dr Rajan told the Tribunal she had previously sat and failed this exam three times. She said her personal circumstances at this time were stressful and that she had not sought any support. Dr Rajan explained that she found the examination difficult, and it was the fear of failing again and desperation which caused her to cheat during the Examination. She told the Tribunal that this examination determined whether she could get a further training post and whether she could progress in her career. The fear of not succeeding was always there in the back of her mind and not being able to earn a higher income to support her father and future family members.

20. Dr Rajan gave oral evidence that she did leave her phone in her pocket because she thought she might need to use it. She felt anxious as this was her fourth attempt at this exam and she used the phone to answer questions. She admitted that she knew she was being watched but that she was not in the right frame of mind. She had not slept well the night before and felt groggy. She explained that any reasonable person knowing they were being watched would not have done what she did. She recognises that her actions at the time were selfish.

21. She said that her financial situation, the lack of support and being out of the training programme played a significant role. She told the Tribunal that she certainly does not want to diminish what she has done. She recognises that her actions impact the public's trust in the medical profession. Her actions could also have misled the public in terms of her qualifications.

22. Dr Rajan told the Tribunal that she found it difficult returning to work after the incident. Having to speak to her responsible officer and her supervisor was very awkward and embarrassing but it was also very therapeutic to be able to talk about it openly. She assured the Tribunal that she would never do this again and recognised the impact it has on the public's trust in the medical profession.

23. Dr Rajan explained that returning to work has made her structure her day-to-day routine in terms of work, life and studying. She said that her supervisor had no concerns about her continuing to work and he actually recommended her to the oncology department for the clinical fellow position that she currently holds.

24. Dr Rajan told the Tribunal that she will never repeat her misconduct. It was a selfish act and falls below the principles of medical ethics. She said that this incident is constantly in the back of her mind on almost a daily basis. This acts as a safeguard from ever doing it again.

Documentary Evidence

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

- Template of ‘What to expect’ email sent to all MRCP(UK) Examination candidates;
- MRCP(UK) Examination Regulations and Guidance for candidates;
- MRCP(UK) Code of Conduct for Examination applicants and candidates;
- MRCP(UK) misconduct regulations;

- Letter from the RCP to Dr Rajan, regarding concerns about the Examination, dated 10 June 2021;
- Emails from Dr Rajan to RCP dated 23 June 2021 and 5 July 2021;
- Letter from the RCP to Dr Rajan confirming the outcome of the investigation dated 22 July 2021;
- Letter from Mr A to the GMC, dated 16 August 2021;
- CPD certificates and reflective statements from Dr Rajan;
- Multi source feedback from colleagues and patients;
- Witness statement from Dr Rajan's former Responsible Officer, Professor B dated 20 September 2022;
- Witness statement from Dr Rajan's current Responsible Officer, Dr C, dated 11 April 2023.

Submissions

26. On behalf of the GMC, Ms Bucklow submitted that the Tribunal should bear in mind the overarching objective when considering Dr Rajan's impairment. She conceded that this is not a case where the GMC considered that the doctor currently poses a risk to the safety of patients. However, she submitted that the need to protect public confidence in the profession and uphold proper professional standards were of importance in this case. She submitted that public confidence required a finding of impairment.

27. Ms Bucklow invited the Tribunal, when considering dishonesty, to have regard to the case of *General Medical Council v Theodoropolous [2017] EWHC 1984 (Admin)* where it was noted that:

> *'35. The importance of honesty and integrity on the part of members of a profession, including the medical profession is generally recognised in the case law…Findings of dishonesty lie at the top end of the spectrum of gravity of misconduct…*
>
> *36. …Honesty and integrity are also fundamental in relation to qualifications and the system of applying for medical positions…'*

28. Ms Bucklow submitted that Dr Rajan's actions were a serious breach of Good Medical Practice ('GMP') and were not at the lower end of dishonesty because they related to professional skills and qualifications. She said that the public would expect that a doctor holds their position because they are properly qualified, and the implications of not being qualified lead to a risk to patient safety. She submitted that the idea that a doctor gained entry or progressed through a medical career by cheating on a significant examination such as the MRCP(UK) would be a concern to the public.

29. Ms Bucklow noted that Dr Rajan had reflected and made early admissions but submitted that a month had passed after sitting the exams before being informed of the allegations, and the doctor had not taken any steps during that month to own up to her conduct and the fact that she cheated on the exam.

30. Ms Bucklow submitted that Dr Rajan's insight has developed since the incident but is not yet fully complete. She said that there had been limited engagement in response to the GMC's allegations a year later in the rule seven response. There was no real elaboration at that stage that she recognised the seriousness of her actions on the public's confidence in the medical profession nor that she recognised the serious implications to maintaining proper professional standards.

31. Ms Bucklow submitted that the doctor did not take any remedial training until six months after she had been referred to the MPTS by the case examiners, and this was 18 months after the incident. She said that Dr Rajan explained that this was due to focusing on finding the right course, the cost implications and there was a delay in admitting to herself and accepting what she had done. Ms Bucklow submitted that the reflective statement provided in March 2023 does show more insight but at a very late stage.

32. Ms Bucklow submitted that Dr Rajan, in her oral evidence, made an admission for the first time that there had been some thought about maybe needing to use her mobile phone in the Examination, therefore there was an element of preplanning. She said that this was not explained in Dr Rajan's reflective statement. She further submitted that the issue about the potential implications of risk to patient safety is not dealt with in detail in her reflective statement. Ms Bucklow submitted that in terms of remediation, Dr Rajan has undertaken appropriate training in professional ethics and taken full responsibility.

33. Ms Bucklow invited the Tribunal to consider *Ranga v GMC [2022] EWHC 2595 (Admin)*, which set out in paragraph 51 that *'remediation may be of less relevance in a non-clinical case where aspects of a practitioner's character are central to the allegations, such as in dishonesty cases'*.

34. Ms Bucklow submitted that a finding of impairment is required to uphold probity as a fundamental tenet of the profession and as a proper professional standard to be upheld. It would undermine the public's confidence in the regulation of the profession if Dr Rajan was not found impaired by reason of her conduct, particularly in circumstances where her insight does appear to still be developing.

35. Mr Rawlinson drew the Tribunal's attention to the cases of *PSA v GMC and Uppal [2015] EWHC 104, PSA v GMC and Hilton [2019] EWHC 1638,* General *Medical Council v Chaudhary [2017] EWHC 2561* (Admin), *General Medical Council v Armstrong [2021] EWHC 1658 (Admin)* and *PSA v NMC [2017] CSIH 29. He* noted that these could provide guidance to the Tribunal on the considerations it needed to give to the matter of impairment and in particular whether the facts of such a case are exceptional in nature.

36. On behalf of Dr Rajan, Mr Rawlinson submitted that she is not impaired. She was a junior doctor who acted out of character and cheated on her exam. This was an isolated lapse in an otherwise unblemished career.

37. He submitted that since the event, the Tribunal has evidence that Dr Rajan has been working without difficulty, the multi source feedback from her colleagues and her patients regards her highly. Dr Rajan is now being well supported. Dr Rajan has undertaken quality improvement work and not been named in any complaints or significant events.

38. He submitted that the stress that she was under is a significant feature of this case, with her personal circumstances impacting her in the lead up to her exam. Dr Rajan has subsequently been working as a doctor without difficulty making complex decisions. These are finally balanced decisions in the stress and hustle and bustle of the clinical environment, and she has not put a foot wrong.

39. He submitted that Dr Rajan has reflected on the matters concerned. Her actions will always be with her, and he submitted that is a good thing. He submitted that Dr Rajan has given the Tribunal concrete examples of what she would do now she was faced with this type of situation.

40. Mr Rawlinson directed the tribunal to the cases of *PSA v GMC and Uppal, PSA V GMC and Hilton* which held that a finding of dishonest conduct does not automatically lead to a finding of impairment. He also referenced the case of *GMC v Chaudhary* where Mr Justice Jay said:

> *"...dishonesty is not necessarily a monolithic concept…questions of degree obviously arise but secondly, that dishonesty in an individual does not have to be an all pervading or immutable trait*."

41. He submitted that this is one of those rare cases which can be seen as exceptional. There are features here that mark out Dr Rajan's case as being different to run-of-the-mill cases of dishonesty, both in terms of the context, the circumstances, and her motives. He further submitted that Dr Rajan had been completely frank and honest with the Tribunal

when giving her evidence and that rather than see her candor as evidence of pre-meditation to cheat, he invited the Tribunal to see this as evidence of her honest character. For all these reasons, he invited the Tribunal to find that Dr Rajan is not impaired.

The Relevant Legal Principles

42. 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 judgement alone.

43. In approaching its decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct and whether that misconduct was serious; whether the finding of that misconduct could lead to a finding of impairment.

44. The Tribunal must determine whether Dr Rajan's fitness to practise is impaired today, taking into account Dr Rajan's conduct at the time of the events and any relevant factors since.

45. When considering misconduct, the LQC referred the Tribunal to the case of *Cheatle v GMC [2009] EWCH 645 (Admin)* which provided that misconduct must be serious rather than mere misconduct. It was determined in the matter of *Roylance v GMC Council (No.2) [2000] 1 AC 311* that the decision in every case as to whether the misconduct is serious has to be made by the Tribunal in the exercise of its own skilled judgment on the facts and circumstances in light of the evidence.

46. On impairment, the LQC directed that the Tribunal have regard to Dame Janet Smith's test in *The Fifth Shipman Report, cited in CHRE v NMC and P Grant [2011] EWHC 927 (Admin),* at paragraph 76:

> *'a) Whether the registrant 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;*
>
> *b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;*
>
> *c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*

d) Whether the registrant has in the past acted dishonestly and/or is liable to act dishonestly in the future.

47. The LQC referred the Tribunal to the case of *Cohen v GMC [2008] EWHC 581 (Admin),* where Mr Justice Silber ruled that at the impairment stage, a tribunal ought to take account of evidence and/or submissions dealing with;

(a) whether the conduct can be remediated;
(b) whether it has been remediated; and
(c) whether there is a risk of repetition.

48. In coming to a conclusion on impairment, the authorities make clear that the Tribunal must look forward. It must consider, in light of what happened and Dr Rajan's conduct both before and after the misconduct, whether her fitness to practise is currently impaired by the particular event.

49. The LQC also referred the Tribunal to the case of *Armstrong* and in particular paragraph 56:

'56 …In determining whether a case is exceptional, it is important not to make direct factual comparisons between one case and another…'

50. The LQC advised the Tribunal that in reaching its decision, it must have regard to all three limbs of the overarching objective:

(a) to protect the health, safety and well-being of the public;
(b) to maintain public confidence in the medical profession; and
(c) to maintain proper professional standards and conduct for members of that profession.

The Tribunal's Determination on Impairment

Misconduct

51. The Tribunal first considered whether Dr Rajan's actions amounted to misconduct.

52. The Tribunal had regard to GMP, in particular paragraphs 1 and 65 which state:

'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with

patients and colleagues, are honest and trustworthy, and act with integrity and within the law.

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

53. The Tribunal determined that these paragraphs of GMP were engaged in this case and that Dr Rajan had breached fundamental tenets of the medical profession.

54. The Tribunal was of the view that Dr Rajan's conduct in cheating while undertaking the Examination by using her mobile phone to access information was misconduct; this gave her an unfair advantage in the Examination and was dishonest.

55. The Tribunal considered that had Dr Rajan's cheating not been discovered, she would have progressed in her career without obtaining the required qualifications, posing a risk to patient safety.

56. The Tribunal was in no doubt that the misconduct in this case was serious professional misconduct. The Tribunal was of the view that fellow members of the medical profession would consider this behaviour by Dr Rajan reprehensible and seriously below the standard expected of a medical practitioner.

57. Therefore, the Tribunal concluded that Dr Rajan's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

Impairment

58. The Tribunal, having found that the facts found proved amounted to serious misconduct, went on to consider whether, as a result of that misconduct, Dr Rajan's fitness to practise was currently impaired.

59. In determining whether a finding of impairment of fitness to practise was necessary, the Tribunal considered all limbs of the guidance provided in the *Fifth Shipman Report* and found that Dr Rajan's past conduct met each of these. The Tribunal determined that:

a. If Dr Rajan had not been caught, she could have progressed in her career without having the necessary knowledge required by the MRCP(UK) part 1 examination. The tribunal considered the potential impact and harm that could have been

caused by this in respect of patient safety and concluded that this behaviour put patients at unwarranted risk of harm;

b. Dr Rajan's cheating brought the medical profession into disrepute. It impacts on the credibility of the whole profession if the public cannot trust the qualifications of a doctor treating them;
c. Integrity and honesty are fundamental tenets of the medical profession and Dr Rajan's behaviour was a breach of these; and
d. Dr Rajan had acted dishonestly by presenting her examination paper for marking knowing that she had cheated.

60. In determining whether there was current impairment to Dr Rajan's fitness to practise the Tribunal balanced the evidence of insight, remediation, and the likelihood of repetition, alongside the three elements of the overarching statutory objective.

61. The Tribunal were mindful that case law demonstrates that dishonesty is hard to remediate as it is a behavioural characteristic. However, the Tribunal agreed with Mr Rawlinson's submission which highlighted the decision in *Chaudhury* that dishonesty does not have to be a pervading trait but can occur on one occasion.

62. The Tribunal was of the view that Dr Rajan gave compelling oral evidence that she was not a dishonest person. The Tribunal gave consideration to Dr Rajan's circumstances surrounding her misconduct in that she was isolated from the profession and her colleagues as a result of her personal situation. The Tribunal observed that Dr Rajan may not have understood the full extent and gravity of her actions at the time of her misconduct, in part, because she was not at that time working in the medical profession. The Tribunal therefore agreed with Mr Rawlinson's submission that dishonesty was not a pervading trait of Dr Rajan and therefore was remediable.

63. The Tribunal considered Dr Rajan's remediation, which included completing courses on Reflective Learning for Medical Professionals (September 2022); Medical Ethics (December 2022); Building Resilience and Avoiding Burnout, (March 2023) and Burnout and Medicolegal Ris, (March 2023). Dr Rajan had also provided detailed reflections on her dishonesty in her written statement:

> '*I have had time to develop insight into my action over the course of approximately 2 years and have, on a daily basis, felt a sense of deep regret over my behaviour and more importantly the impact it has had on the public's trust in the medical profession, and my colleagues' sense of justice when interacting with me.*

I recognise and accept that what I have done was wrong and I understand the broader deleterious impact on the public and my colleagues which is far more significant than any impact that will dealt to myself'.

64. The Tribunal had regard to Dr Rajan's positive multi source feedback and the statements from her Responsible Officers. The Tribunal considered that this showed that Dr Rajan is developing well as a doctor and is respected by her patients and colleagues.

65. The Tribunal then considered the likelihood of repetition of the conduct. The Tribunal found that Dr Rajan in her oral evidence came across as mortified by her actions. The Tribunal noted that Dr Rajan's evidence was muddled at times which could possibly be as a result of her difficulties fully confronting her misconduct. Dr Rajan explained that she has been in stressful situations since her misconduct and that she actively manages herself in such a way as to prevent any repetition. The Tribunal noted that Dr Rajan has sat MRCP(UK) part 1 on two further occasions without any probity issues.

66. The Tribunal considered both Dr Rajan's actions in the Examination as well as her dishonesty when reaching a decision on whether the conduct was likely to be repeated. The Tribunal was satisfied that the risk of Dr Rajan repeating similar misconduct was low and that this was a terrible misjudgement by Dr Rajan which she deeply regretted.

67. The Tribunal considered Dr Rajan's insight into her misconduct and noted that her answers changed under questioning from both the GMC and the Tribunal. The Tribunal felt that Dr Rajan was deeply embarrassed by her actions and that embarrassment prevented her from fully exploring the potential impact on patient safety, had she not been caught. The Tribunal accepted Ms Bucklow's submission that Dr Rajan's insight was developing. Whilst it was of the view Dr Rajan needed to further develop her insight, it considered that there was no reason that Dr Rajan could not gain full insight into her actions.

68. The Tribunal had regard to the cases of *Uppal, Armstong, Hilton* and the *PSA v NMC* as explored by Mr Rawlinson, however reminded itself of the LQC's legal advice that factual comparisons should not inform the decision on exceptionality. It addressed the elements Mr Justice Lane referenced in *Armstong: 'isolated incident; uncharacteristic lapse; and no financial gain'.* The Tribunal found that whilst this was an isolated incident and an uncharacteristic lapse there was a professional gain which Dr Rajan would benefit from as a result of her dishonesty and that this professional gain could in due course lead to a financial gain. The Tribunal was not of the view that the facts of this case made it exceptional.

69. Having regard to the overarching objective, the Tribunal was satisfied that there was no risk to patients and there are no grounds to find Dr Rajan impaired on that limb.

70. Having regard to the second and third limbs of the overarching objective, the Tribunal reminded itself that Dr Rajan's misconduct was out of character and related to a single incident, that she was under stress and was on a career break without a support network around her. However, the Tribunal determined that Dr Rajan's actions of cheating in the Examination would severely impact the public confidence in the medical profession and that proper professional standards and conduct would not be upheld if a finding of impairment was not made.

71. The Tribunal therefore determined that Dr Rajan's fitness to practise was impaired by reason of misconduct.

Determination on Sanction - 28/04/2023

72. Having determined that Dr Rajan's fitness to practise is impaired by reason of misconduct, the Tribunal now had to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

73. The Tribunal took into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

Submissions

74. On behalf of the GMC, Ms Bucklow submitted the most appropriate sanction to maintain public confidence in the profession would be an order of suspension. She directed the Tribunal to the relevant paragraphs in the Sanctions Guidance ('SG')

75. Ms Bucklow noted that this is not a case regarding patient safety. She submitted that a sanction of suspension with a review is required on public confidence grounds.

76. Ms Bucklow reminded the Tribunal of the need for any sanction to be proportionate and that it must begin by considering the least restrictive sanction available.

77. She submitted that it may be in Dr Rajan's interest to have an order of suspension rather than conditions as the Tribunal may consider that conditions would be more onerous in this case. She further submitted that suspension would bring this matter to a resolution for the doctor.

78. She submitted that Dr Rajan has undertaken relevant CPD on professional ethics, as outlined in detail in her reflective statement.

79. In terms of insight, Ms Bucklow submitted that it was clear in Dr Rajan's evidence at the impairment stage, that she is deeply remorseful and ashamed of her actions. However, because of that sense of shame, Ms Bucklow submitted that Dr Rajan's insight is still developing, as when questioned, Dr Rajan made further admissions not contained in her written statement. She submitted that insight is important when considering a risk of repetition.

80. Ms Bucklow submitted that Dr Rajan's conduct fell just short of being fundamentally incompatible with continued registration. Dishonesty could lead to a sanction of erasure, but she submitted that this was not necessary in this case as: Dr Rajan's misconduct was an isolated incident; she was early in her career; and she had made full admissions. Ms Bucklow submitted that there was still time for Dr Rajan to develop full insight, remediate her failings and to move on with her career.

81. Mr Rawlinson submitted that a suspension is the most suitable outcome. He reminded the Tribunal that this was a terrible misjudgement made by Dr Rajan and a single isolated incident. Dr Rajan did not admit her misconduct straight away but certainly did when she was confronted with it. He submitted that her cheating involved a rather unsophisticated and easily detected attempt, which was unsuccessful.

82. Mr Rawlinson submitted that as Dr Rajan was on a career break she was not around her colleagues and was operating in a solo environment without a support network. He submitted that there were both personal and professional matters going on in the background. He reminded the Tribunal that this was a doctor of good character and that this was a single episode in an otherwise unblemished career.

83. He submitted that Dr Rajan has engaged with the GMC investigation throughout and has continued to engage during the hearing. She has attended CPD courses and given a detailed reflective statement. Dr Rajan has owned her mistake and expressed remorse and regret. Mr Rawlinson submitted that the fact that Dr Rajan's insight is still developing is a credit to her, as there are many people who go through a regulatory process and learn nothing from it and who make no concessions.

84. He submitted the length of any suspension does not need to be long. Dr Rajan does not require much time to fully develop her insight. She has been working for the last two years under no restrictions without any other issues and there has not been an interim order

in place. Mr Rawlinson submitted that a short suspension of perhaps one – two months would allow a good and competent doctor to return to unrestricted practice as soon as reasonably practicable. He submitted that a short suspension would also allow Dr Rajan to reapply for her current post which was due to conclude in August 2023 and also to sit the Examination later this year.

85. Mr Rawlinson submitted that it is to Dr Rajan's credit that her principal concern regarding the length of any suspension is the impact it will have on the oncology service she currently works in.

Tribunal's Determination on Sanction

The Relevant Legal Principles

86. The Tribunal's decision as to the appropriate sanction, if any, is a matter for the Tribunal's own independent judgment.

87. When considering the most appropriate sanction, the Tribunal considered each of the three limbs of the overarching objective.

88. In making its determination the Tribunal should consider proportionality by weighing the public interest against the interests of the Doctor. The Tribunal noted that the main purpose of imposing a sanction is to protect the public, its purpose was not to punish, although the sanction may have a punitive effect.

89. The LQC advised the Tribunal that when considering the sanction it would need to take into account all of the relevant aggravating and mitigating factors.

The Tribunal's approach

90. In reaching its decision the Tribunal took into account any mitigating and aggravating features in the case and weighed them accordingly. It considered each factor in conjunction with the SG and the statutory overarching objective.

Aggravating Factors

91. The Tribunal considered the following to be aggravating factors:

- Dr Rajan's dishonesty was a serious departure from GMP;

- Dr Rajan only admitted to cheating after she received the letter from the RCP, regarding concerns about the Examination.

Mitigating Factors

92. The Tribunal considered the following to be mitigating factors:

- Dr Rajan was at an early stage in her professional career and did not have, at the time of the events, a full understanding of the impact of her actions on public confidence in the medical profession as a whole;
- Dr Rajan was under personal pressure at the time and as she was on a career break she had limited access to a support network;
- Dr Rajan had attended relevant CPD courses and submitted a detailed reflective statement;
- Dr Rajan had made full admissions and apologised as soon as she was confronted with her misconduct;
- The Tribunal took into account the positive Responsible Officer's comments and multisource feedback;
- Dr Rajan's misconduct was confined to a single incident and the risk of repetition was low;
- Dr Rajan has implemented strategies to cope better with stress and now structures her work, life and studying commitments in a more balanced way. She has also sought out help and support for taking the Examination in the future;

93. The Tribunal then went on to consider what sanction, if any, to impose on Dr Rajan's registration. The Tribunal balanced these factors throughout its deliberations and went on to consider each sanction in order of ascending severity, starting with the least restrictive.

No action

94. The Tribunal first considered whether it could take no action and reminded itself that to do so would require exceptional circumstances. It recalled its findings at the impairment stage and accepted Ms Bucklow's submission that there were no exceptional circumstances in this case. The Tribunal considered that the seriousness of Dr Rajan's misconduct meant that it would not be sufficient or appropriate to conclude this case by taking no action.

Conditions

95. The Tribunal reminded itself that any order of conditions must be workable, measurable, appropriate and proportionate.

96. The Tribunal noted Ms Bucklow's submission that an order of conditions would be most appropriate in cases relating to a doctor's health or clinical performance and agreed that conditions would not be appropriate in this case, which concerned Dr Rajan's dishonesty.

97. The Tribunal had regard to paragraph 81 of the SG and found that workable conditions could not be formulated to address Dr Rajan's misconduct. The Tribunal further considered that conditions would not sufficiently mark the seriousness of Dr Rajan's dishonesty.

Suspension

98. The Tribunal then moved on to consider an order of suspension. The Tribunal had regard to paragraph 91, 92 and 93 of SG which state:

> *'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).*
>
> *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.*

99. The Tribunal reminded itself of its findings in the facts and impairment determination as to the nature and seriousness of the misconduct in Dr Rajan's case. Dr Rajan had acted out of character, her dishonestly was not a pervading trait but instead a one off incident. It noted that Dr Rajan's dishonestly was not persistent nor covered up.

100. The Tribunal gave weight to the fact that Dr Rajan has taken positive steps to reflect on her misconduct and to remediate it. She had expressed an apology on 23 June 2021 as soon as she was confronted with her cheating and further expressed her understanding of the significance of her actions on 5 July 2021.

101. The Tribunal noted its previous determination that the risk of future repetition of her misconduct was low. The Tribunal found that Dr Rajan's insight was developing and had continued to develop further during the course of this MPTS hearing. The Tribunal considered that a period of suspension would allow her to reflect further on the insight she had gained.

102. The Tribunal considered Dr Rajan's misconduct to be a serious breach of GMP but accepted that there was no evidence of repetition of similar behaviour since the incident. In light of the mitigating factors, the Tribunal considered that Dr Rajan's actions fell short of being fundamentally incompatible with continued registration. The Tribunal determined that erasure would not be a proportionate sanction.

103. The Tribunal was mindful of the early stage of Dr Rajan's career and the fact that her misconduct was confined to a single incident. The Tribunal reminded itself of the personal and professional circumstances leading up to the misconduct, in particular that Dr Rajan had been in a stressful situation. The Tribunal balanced this against the fact that Dr Rajan's misconduct could have advanced her career beyond her level of qualification and that this could have put patients at risk of harm. The Tribunal found Dr Rajan's behaviour amounted to a serious departure from the principles in GMP. It further considered that a message must be sent to the medical profession that this behaviour is unacceptable, in order to uphold professional standards and public confidence. It determined that suspending Dr Rajan's registration would send this message.

Conclusion

104. In light of the above, the Tribunal determined that an order of suspension was the appropriate and proportionate response and was necessary to maintain public confidence in the profession and uphold proper professional standards.

Length of suspension

105. When determining the appropriate length of suspension, the Tribunal had regard to paragraph 100 of the SG.

> *'100 The following factors will be relevant when determining the length of suspension:*

a the risk to patient safety/public protection

b the seriousness of the findings and any mitigating or aggravating factors

c ensuring the doctor has adequate time to remediate.'

106. The Tribunal had regard to Dr Rajan's remediation, she had submitted a detailed reflective statement and undertaken relevant CPD and courses. It found that her insight had further developed over the course of the hearing. The Tribunal determined that a short suspension would mark the seriousness of the misconduct to uphold the public confidence in the profession and send a deterrent message to fellow professionals that this conduct was unacceptable. The short suspension would also provide Dr Rajan with the opportunity to reflect further and develop full insight.

107. In all of the circumstances, the Tribunal determined that it would be appropriate and proportionate to suspend Dr Rajan's registration for a period of one month.

No review hearing

108. The Tribunal considered whether it should direct a review hearing, which would take place shortly before the expiration of the period of suspension. The Tribunal had regard to paragraph 164 of the SG:

'*In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing…….'*

109. The Tribunal determined not to direct a review of Dr Rajan's case. It concluded that Dr Rajan had demonstrated sufficient insight, and that a review hearing would be unnecessary and inappropriate in the specific circumstances of this case. The Tribunal had no concern in Dr Rajan resuming unrestricted practice after the expiration of the suspension.

Determination on Immediate Order - 28/04/2023

110. Having determined that Dr Rajan's registration be suspended for a period of one month, the Tribunal considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Rajan's registration should be subject to an immediate order.

Submissions

111. On behalf of the GMC, Ms Bucklow submitted that the GMC did not seek an immediate order. She informed the Tribunal that Dr Rajan was not currently under an Interim Order.

112. Mr Rawlinson submitted an immediate order was not necessary. He submitted that Dr Rajan did not pose a risk to patient safety, and she has been working for a considerable time without any restrictions.

The Tribunal's Determination

113. The Tribunal was mindful that it 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.

114. The Tribunal bore in mind the facts of the case as well as its findings at the impairment and sanction stages. It also noted that it had identified no concerns about patient safety.

115. The Tribunal took into account the paragraphs of the SG which deal with the matter of immediate orders, in particular paragraphs 172, 173 and 178 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.*
>
> *...*

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'

7. The Tribunal determined that in all the circumstances of this case an immediate order was not necessary to protect members of the public. The Tribunal considered that the substantive suspension would be sufficient to satisfy the public interest and uphold proper standards in the profession.

8. The Tribunal therefore determined not to impose an immediate order.

116. This means that Dr Rajan's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served, unless she lodges an appeal. If Dr Rajan does lodge an appeal she will remain free to practise unrestricted until the outcome of any appeal is known.

117. This concludes the case.