

PUBLIC RECORD

Dates: 12 -14 February 2024
11 April 2024

Medical Practitioner's name: Dr Essam ALY

GMC reference number: 4360476

Primary medical qualification: MB BCh 1985 University of Asyut

Type of case

Restoration following
disciplinary erasure

Summary of outcome

Restoration application refused. No further applications allowed for 12 months from last application.

Tribunal:

Legally Qualified Chair	Mr Tim Bradbury
Lay Tribunal Member:	Mrs Debbie Hill
Medical Tribunal Member:	Dr John Moriarty

Tribunal Clerk:	Mr Matt O'Reilly (12 – 14 February 2024) Miss Keely Crabtree (11 April 2024)
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Attendance and Representation:

Medical Practitioner:	Present, not represented
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 partly in public and partly in private.

Overarching Objective

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

Determination on Restoration - 11/04/2024

1. This determination will be handed down in private as it contains information that is confidential, namely where it relates to XXX. This is in accordance with Rule 41 of the Rules. However, as this case concerns Dr Aly's application for restoration to the Medical Register, a redacted version will be published at the close of the hearing, with those matters relating to XXX removed.

Background

2. Dr Aly's name was erased from the Medical Register due to his fitness to practise being impaired by reason of misconduct following a fitness to practise hearing ('FTP') which was held between 5 September 2016 to 14 October 2016 ('the 2016 Panel'). Dr Aly's first restoration application was heard by a Medical Practitioners Tribunal between 31 August 2022 and 2 September 2022 ('the 2022 Tribunal') and his application was refused. This is Dr Aly's second restoration application.

The 2016 Panel

3. Dr Aly did not attend the 2016 hearing and was unrepresented. The matters which led to Dr Aly's erasure were identified in three distinct parts; assault, verbal abuse and probity issues XXX, work related probity issues and clinical care.

Assault, Verbal Abuse and Probity Issues - XXX

4. The 2016 Panel found proved against Dr Aly allegations of violent and controlling behaviour XXX. The 2016 Panel also found proved that Dr Aly submitted an email, purportedly from Ms B, during XXX proceedings. Ms B disputed that she had written this email and reported the issue both to the GMC and to the police. The 2016 Panel found Dr Aly had sent this email to himself and he had then submitted the email to the County Court for use in XXX. The Tribunal found Dr Aly's actions to be dishonest in this regard.

Work Related Probity

5. During a period of employment with the Burton Trust, Dr Aly requested a career break under the Trust's Special Leave Policy. Dr Aly initially requested a period of six months,

then subsequently requested an extension to 12 months, which was granted. The 2016 Panel found proved that Dr Aly, whilst on his career break, had engaged in paid employment in Bahrain between September 2012 and October 2013, which, as Dr Aly knew, was in breach of the Trust's Special Leave Policy. The 2016 Panel also found proved that Dr Aly had falsified documents (including falsifying emails purportedly written by others) relating to his activities during his period of leave and he had told the Burton Trust untruths about his activities both orally and in writing to them.

Clinical Care

6. At the time of the events that led to his 2016 hearing, Dr Aly was employed as a locum Consultant Anaesthetist at the Basildon and Thurrock University Hospital NHS Trust. The 2016 Panel found proved that on 27 August 2014, Dr Aly failed to provide good clinical care to Patient A, prior to the operation, during the operation and postoperatively.

7. The 2016 Panel considered that Dr Aly brought the medical profession into disrepute in relation to the facts found proved in the paragraphs referring to XXX matters, matters of probity and matter of clinical concern. The 2016 Panel found that Dr Aly's conduct, when taken in the round, had, in the past, brought the medical profession into disrepute. In the absence of any mitigation and evidence of insight, remorse or remediation, the 2016 Panel considered that it was impossible to suggest that Dr Aly was not liable, in the future, to bring the medical profession into disrepute. The 2016 Panel found that Dr Aly's actions amounted to serious misconduct and concluded that his fitness to practice was impaired.

8. The 2016 Panel turned to the issue of sanction and considered that a period of suspension would be an insufficient sanction to protect the public and to transmit the necessary signal to the doctor, the medical profession, and the public that Dr Aly's wholly unacceptable pattern of behaviour was unbecoming a registered doctor. The 2016 Panel found that Dr Aly's refusal to operate responsibly, appropriately, and dutifully as an integrated member of a team was a fundamental flaw evident throughout the history of events. The 2016 Panel determined that Dr Aly's actions in totality were symptomatic of that flaw. The 2016 Panel concluded that erasure from the medical register was the only appropriate and proportionate sanction in this case.

The 2022 Tribunal

9. In Dr Aly's first restoration application, the 2022 Tribunal considered the circumstances that led to Dr Aly's disciplinary erasure and took account of the 2016 Panel decision.

Insight and Remorse

10. The 2022 Tribunal considered the level of development and scope of Dr Aly's insight since the 2016 Panel. It noted that in oral evidence Dr Aly had apologised and expressed remorse for his previous actions in every aspect of his wrongdoing, that he said that he had

undertaken an anger management course in June 2017, and that he was deeply ashamed and remorseful of his past behaviour.

11. The 2022 Tribunal considered that Dr Aly offered explanations as to the reasons for his past behaviour XXX. The 2022 Tribunal determined to take Dr Aly's submissions at face-value and accepted that he had gained insight and remediated appropriately in this regard.

12. In respect to the issues of clinical care, the 2022 Tribunal noted that Dr Aly had acknowledged the impact his actions had on patient safety and public confidence in the profession, and that he stated that he holds his patients and profession in the highest regard. The 2022 Tribunal recognised that Dr Aly had, since the erasure, undertaken a number of courses both relating to clinical procedures and medical ethics and practices. Dr Aly had continued to practise medicine overseas and he had been involved in determining new procedures and methods of good practice. The Tribunal concluded that Dr Aly had shown a good degree of insight and understanding into his clinical failings and had undertaken the appropriate actions required to ensure safe clinical practice in the future.

13. The 2022 Tribunal acknowledged that Dr Aly expressed regret, shame, and remorse in respect to the issues of his probity and noted that the probity issues covered XXX, clinical and legal areas. The 2022 Tribunal accepted that Dr Aly genuinely regrets his actions and has made a concerted effort to demonstrate insight. It noted however that Dr Aly's actions focused on himself; XXX; and rather than accepting the previous findings of the 2016 Panel, Dr Aly offered explanations as to why he considered the behaviours had occurred rather than addressing remediation. The 2022 Tribunal determined that Dr Aly had demonstrated some insight, but it was not persuaded that he had made significant progress in remediation in relation to why he had acted dishonestly.

14. The 2022 Tribunal considered that Dr Aly's conduct in failing to inform a number of referees of his erasure and the reasons for that erasure when requesting testimonials from them and failing to inform them of the purpose of the testimonials amounted to less than full and frank behaviour on his part. The 2022 Tribunal highlighted in its determination that it considered this to be a continued pattern of unsatisfactory conduct in respect of his probity and Dr Aly's lack of candour in this respect demonstrated that his insight into his failings was incomplete and lack of probity remained an issue for Dr Aly.

15. The 2022 Tribunal also considered that the evidence given by Dr E, on behalf of Dr Aly, suggested that Dr E was not fully aware of the previous findings that had been made against Dr Aly. Namely, Dr E accepted that Dr Aly had not informed him that he had previously sent emails to the County Court purporting to be another party in the proceedings and thus misleading the Court.

Remediation and risk of repetition

16. The 2022 Tribunal noted that there had been no new concerns raised by the GMC about Dr Aly's behaviour regarding any assault, verbal abuse XXX or clinical care. It also noted that there was no evidence of any reoccurrence of such behaviour since 2016 XXX.

17. The 2022 Tribunal determined that it would be possible for Dr Aly to demonstrate remediation through attendance at appropriate courses, reflection and evidence to demonstrate that he has addressed his dishonest behaviour and to be able to understand how and why it occurred. The 2022 Tribunal concluded that Dr Aly's insight into issues around dishonesty and probity had developed since 2016 but that it could not be considered to be complete and remained inadequate.

18. The 2022 Tribunal determined that in light of Dr Aly's limited insight and lack of remediation in regard to probity, it could not be satisfied that his behaviour was unlikely to be repeated again in the future. Namely, choosing to withhold information when it suits him. The 2022 Tribunal was therefore concerned about a risk of repetition in this case.

What Dr Aly has done since his name was erased from the Register

19. The 2022 Tribunal noted that since his erasure, Dr Aly had worked overseas as a consultant in Egypt and the United Arab Emirates. It considered the certificates of good standing it received from the United Arab Emirates, dated 15 March 2021 on Dr Aly's behalf. It also noted in Dr Aly's personal statement, he said that he organises international conferences with collaboration between Guy's and St Thomas's Hospital and Sohag University in Egypt. The 2022 Tribunal was satisfied with the evidence available to it, namely Dr Aly's time working overseas in the Middle East and the CPD material as evidenced through certificates that Dr Aly had provided, that he had made good effort to ensure his medical knowledge and skills were up to date.

Lapse of time since erasure

20. The 2022 Tribunal noted that Dr Aly's name was erased from the Medical Register in October 2016, a significant period of over 6 years. It noted however that Dr Aly's clinical work in the Middle East had allowed him to keep his skills and knowledge up to date. The 2022 Tribunal was of the view that his overseas clinical practice sufficiently mitigated any concerns about the length of time Dr Aly had been out of clinical practice in UK and not registered with the GMC.

Will restoration meet the overarching objective?

21. The 2022 Tribunal determined that there would be low risk to patient safety and members of the public if Dr Aly were permitted to return to the register unrestricted. It determined however that public confidence in the profession would be seriously undermined by the restoration of Dr Aly into unrestricted practice. The 2022 Tribunal took into account the continued lack of full insight and remediation, within the context of failing to be open and honest with the testimonials that he provided to the Tribunal. The 2022 Tribunal took the

view that a well-informed member of the public would be concerned to learn that a doctor had continued to show a lack of insight in relation to a previous finding of dishonest behaviour and had failed to demonstrate the full and frank conduct expected of a practitioner.

22. In respect of the maintenance of professional standards and conduct for members of the profession, the 2022 Tribunal was satisfied that restoring Dr Aly to the Register would be inconsistent with promoting and maintaining professional standards of conduct in the profession, for the reasons it set out which included Dr Aly's insufficient insight and inadequate remediation of his probity concerns.

23. The 2022 Tribunal was not satisfied that Dr Aly was fit to practise at that time and refused Dr Aly's application to be restored to the Medical Register.

Today's Restoration Hearing

24. This Tribunal has convened to consider Dr Aly's second application for his name to be restored to the Medical Register in accordance with Section 41 of the Medical Act 1983 (as amended) and Rule 24 of the GMC (Fitness to Practise) Rules 2004 (as amended).

The Evidence

25. The GMC called no witnesses and relied solely on documentary evidence provided to the Tribunal. This included the determinations and transcripts of the 2016 Panel along with Dr Aly's first restoration application and determinations and transcripts of the 2022 Tribunal. The Tribunal also had before it Dr Aly's restoration application, dated 26 April 2023.

26. Dr Aly gave oral evidence at the hearing and also relied upon the documentary evidence he provided which included but was not limited to, a restoration application statement (undated). Dr Aly also provided a certificate in respect of a lecture he gave during 5th International Conference in Pain Management, between 16-18 February 2023, Egypt, to colleagues regarding open disclosure in respect of matters which led to his erasure. Dr Aly provided evidence of continuing professional development ('CPD') and testimonial evidence from a variety of individuals and colleagues.

Submissions on behalf of the GMC

27. Ms Bucklow submitted that at the outset of this hearing the GMC's position was neutral in respect of Dr Aly's restoration application, but following the oral evidence of Dr Aly, the GMC's position is now to oppose his application for restoration to the Medical Register. She referred the Tribunal to the *'Guidance for medical practitioners tribunals on restoration following disciplinary erasure' (October 2019)* ('the Guidance'). She submitted that the Guidance indicates the Tribunal has a broad discretion and that it can restore Dr Aly to the register if it determines he is fit to practise but that it cannot do so with conditions or

restrictions. Ms Bucklow submitted that there are no new allegations of impairment in this case and that Part B of the Guidance is relevant.

28. Ms Bucklow submitted that the onus is on Dr Aly when applying for restoration to satisfy the Tribunal that he is fit to return to unrestricted practice. She said that this Tribunal should not go behind the original findings that led to Dr Aly's erasure and that this Tribunal was not bound by any previous restoration decision. Ms Bucklow submitted that the test to apply is that having considered the circumstances which led to Dr Aly's erasure and the extent of remediation and insight, the question is whether the doctor is now fit to practise having regard to each of the three limbs of the overarching objective; protecting patients and members of the public, maintaining public confidence in the profession and maintaining proper professional standards. She submitted that the first limb is not engaged as the clinical practice concerns that led to Dr Aly's erasure appear to have been remediated and he has been practicing without further clinical concerns. She submitted that the second and third limbs were most relevant in this case and whether restoration would undermine public confidence in the profession and the maintenance of profession standards.

29. Ms Bucklow submitted that the Guidance sets out the relevant factors that need to be carefully balanced to ensure that restoration achieves that overarching objective, and that this Tribunal needs to consider the circumstances which led to Dr Aly's erasure. She submitted that the findings which resulted in Dr Aly's erasure were incredibly serious and covered a broad spectrum of concerns across his personal and his professional life. She said that whilst clinical concerns can often be remediated to the extent that there is no longer any patient safety concern or a public confidence issue, it is less easy to remediate behavioural or attitudinal problems, in particular dishonesty. She said that behavioural attitudinal concerns in terms of XXX were relevant, that XXX perpetrated over such a long period of time represents an attitudinal problem XXX. She said that it is relevant how long Dr Aly engaged in that course of conduct in respect of both dishonesty XXX.

30. Ms Bucklow invited the Tribunal to consider Dr Aly's dishonesty, whether it was a single incident or, in this instance, layers of dishonesty that happened on multiple occasions over a significant period of time. She submitted that this was relevant because it may give the Tribunal an indication of how entrenched that behaviour was in Dr Aly's character and the likelihood of that being something he can change or fully remediate. Ms Bucklow submitted that the 2016 Panel found, at that time, that Dr Aly had a remarkable lack of insight and remorse with regard to every aspect of the findings against him. She acknowledged the passage of time since then and said that things may have changed, but that this Tribunal would need to consider if Dr Aly has developed insight and to what point has it developed.

31. Ms Bucklow submitted that Dr Aly's insight was explored with him in his oral evidence and he was asked when he realised what he had done was wrong and he said it was around 2013. She said that this was three years before the initial 2016 hearing in which there was a fairly damning assessment of his insight and remorse. She said the 2016 Panel described Dr Aly as having a notable lack of capacity to change and an arrogant resistance to learning from his mistakes. She said that there were ten years between the first allegations of dishonesty

and the last restoration application in 2022. She said the 2022 Tribunal still had concerns about Dr Aly's probity, that the evidence before them demonstrated that Dr Aly had not acted in an open and frank manner in regard to obtaining testimonial evidence for those proceedings, and they found that Dr Aly lacked candour in that respect demonstrating that his insight into his failings was incomplete and that a lack of probity remained a feature. She said that the 2022 Tribunal also felt that there was a risk of repetition due to the lack of insight regarding probity and, in particular, the action of choosing to withhold information if it suited him. She said the 2022 Tribunal took the view that a well-informed member of the public would be concerned to learn that a doctor had continued to show a lack of insight in relation to a previous finding of dishonest behaviour.

32. Ms Bucklow said that determining whether Dr Aly's insight was genuine would help this Tribunal to assess whether there is a risk of repetition. She referred to the Guidance which outlined factors to help the Tribunal assess whether Dr Aly's insight was genuine. Ms Bucklow submitted that Dr Aly's oral evidence demonstrated a continued lack of insight in that he has not demonstrated a full understanding of the impact of what he has done XXX, or in relation to the probity concerns. She said that despite the findings of the 2022 Tribunal that Dr Aly had insight into the allegations XXX, his lack of insight into XXX during this hearing was at times quite startling. She said that this Tribunal may consider that such was Dr Aly's profound lack of insight, at times, it was difficult to listen to how he described those XXX events. Ms Bucklow submitted that there appeared to be a complete lack of comprehension of the seriousness of the allegations that had been found against him. XXX.

33. Ms Bucklow submitted that Dr Aly appeared to minimise the allegations that he had admitted, XXX. She said that Dr Aly appeared to have been more focused on minimising or excusing the significance of that allegation, rather than providing evidence of remediation or personal reflection on his actions and how his actions impacted those involved. XXX. She said that whilst Dr Aly could tell the Tribunal it was wrong, that appeared to be on the surface and he did not appear to demonstrate insight into the implications of what he had done, or into the very root cause of his actions. Ms Bucklow submitted that there was no demonstration of insight that Dr Aly truly understood what effect allegations of that nature, and findings of that nature, would have on a fully appraised member of the public.

34. Ms Bucklow submitted that XXX. Ms Bucklow submitted that had a member of the public heard Dr Aly's evidence they would have significant concerns about him returning to practice as a doctor without any restriction.

35. Ms Bucklow referred the Tribunal to the testimonial evidence of Dr D, (Professor and Consultant, United Arab Emirates Ministry of Health). She said it appeared to minimise the allegations XXX. Ms Bucklow said that these were some of the points also made by Dr Aly in his own evidence. She submitted that the Tribunal may be concerned that the content of this testimonial was a reflection of what Dr Aly shared with Dr D, or during his application for a license in the United Arab Emirates. Ms Bucklow said that whilst this is not clear, the Tribunal could be sure of the fact that Dr Aly read that reference, provided it to the GMC and approved it to go before this Tribunal. She submitted that the Tribunal may wish to consider

what that says about Dr Aly's level of insight and whether anybody with genuine insight would be 'ok' with that testimonial and its contents of that nature going before a Tribunal in an application for restoration.

36. Ms Bucklow submitted that in terms of probity it did not appear that Dr Aly was much further along from either the initial hearing, or the last application for restoration. She submitted that it did appear that Dr Aly was entrenched and had little prospect of changing. She said there was extensive questioning over testimonials trying to ascertain their origins, what information the author of the testimonials had and where they got that information from. She said that the responses from Dr Aly did not need to be as convoluted as they were if he was being frank and open. She said the fact that it was convoluted reflected the failure of Dr Aly to be fully frank and open with the Tribunal, and as to what he had told those producing the testimonials and with other medical boards when applying for a licence. She said that Dr D's testimonial contained information which could be considered misleading as it was not an accurate reflection of the GMC's allegations, findings or the case against Dr Aly at that time.

37. Ms Bucklow submitted that it was difficult to ascertain why within that testimonial from Dr D there was a statement that the email that Dr Aly had sent pretending to be Ms B was never interrogated by IT. Ms Bucklow said that the testimonial gave the impression that it had never been proven that Dr Aly actually did that dishonest act, or that there was some question over whether he had sent it, when Dr Aly had admitted to this Tribunal to doing it. She said there should never have been a question there and that it could be considered a disingenuous document in that regard that Dr Aly then submitted to this Tribunal. Ms Bucklow submitted that this matter was then aggravated by the fact that Dr Aly then tried to distance himself as to how that document has made its way into the bundle. She said that it became apparent that the licensing board in the United Arab Emirates and Dr D did not know the true extent of the probity concerns in Dr Aly's GMC case or that Dr Aly had sent emails purporting to be from another. She said that in his evidence, Dr Aly had admitted that he had not told the licensing board of the allegations that he accepted and that the reason he did not tell them was because they had not asked. She said that Dr Aly clearly does not understand what a duty of candour entails and that he is happy to lie by omission if not directly asked. Ms Bucklow referred back to the 2022 Tribunal where they were concerned that Dr Aly would withhold information if it suited him, she said that this appeared to still be the position today.

38. Ms Bucklow submitted that Dr Aly's evidence focused on reasons why he was dishonest and a lot of that related to him being unwell at the time, XXX, and not making the right choices. She submitted that if Dr Aly's dishonesty that was protracted and as calculated to the degree that it was, is his fall-back response to adverse life events, XXX, then there must be a risk of repetition. Ms Bucklow submitted that Dr Aly was specifically asked about this and what he had put in place to ensure that, should he return to practice, he did not fall back into dealing with matters through dishonesty. She invited the Tribunal to consider that Dr Aly's response was not clear. Ms Bucklow submitted that there was no satisfactory evidence of attempts to remediate Dr Aly's dishonesty. She referred to Dr Aly's evidence in which he

told the Tribunal about a lecture he did but that he has not provided any evidence of the specific contents of that lecture, though that may not be through any fault of his own. Ms Bucklow submitted that there was no evidence as to exactly what Dr Aly disclosed as part of that lecture. She said that the Tribunal may be sceptical about the account of Dr Aly that he fully disclosed the GMC case against him when all the other evidence is to the contrary and that he has not been forthcoming about the GMC allegations, unless he was specifically asked.

39. Ms Bucklow referred the Tribunal to the relevant paragraphs of the Guidance when considering the risk of repetition. She submitted dishonesty in the medical profession is always serious, either clinically, or in terms of public confidence and the timing of any remediation and any insight developed were important. She submitted that this was not one of those cases where it may not meet the overarching objective to restore a doctor, and that there are other cases where restoration would undermine public confidence in the profession irrespective of factors such as remediation. Ms Bucklow submitted that the nature of the allegations against Dr Aly were particularly serious, XXX and those pertaining to the dishonesty. The nature of that dishonesty was calculated, sophisticated and repeated. She said that Dr Aly was ultimately erased to uphold public confidence in the profession. Ms Bucklow submitted that to come back from that, Dr Aly needs to demonstrate that he has taken full responsibility for his actions, that he has insight into how serious his actions were, that he has changed, and that he will not repeat that conduct.

40. Ms Bucklow submitted that Dr Aly has not provided evidence during this hearing that he has full insight, has fully remediated and that there is no risk of repetition. She submitted that in terms of promoting and maintaining proper professional standards, erasing a doctor sends a clear message to the profession and to the public about what constitutes unacceptable behaviour and practice where there has been a very serious and persistent breach of the standards. She submitted that it may not be consistent with the third limb of the overarching objective to then allow a doctor back on the register. She said that, in this particular case, it would significantly undermine public confidence in the regulatory process if Dr Aly was allowed to return to unrestricted practice in circumstances where the GMC say there is a continued lack of insight into the concerns that saw him removed from the register in the first place. Ms Bucklow submitted that it would undermine the decision to erase Dr Aly in the first instance in circumstances where he has not fully and completely remediated the behaviour that led to his erasure.

Submissions on behalf of Dr Aly

41. Dr Aly provided written submissions. In summary, he submitted that there is a right to a fair trial for doctors facing charges involving dishonesty, and that they have a proper opportunity to resist potentially career-ending allegations. Further, that there is the necessity for protecting patients and the public who place a huge amount of trust in doctors, from practitioners on whose honesty and integrity they cannot rely. He cited Collins J in stating that there is a tension between these two objectives which may be difficult to resolve.

42. Dr Aly submitted that a concern of repetition [is still maintained by the GMC] despite eight years without a single new event having been raised and that he is of good standing in three different countries. He submitted that the 2022 Tribunal criticised him for not telling every referee about his case despite declaring before the start of the hearing who he personally told. He said that this time [when he sought a testimonial from Dr D of the UAE licensing board] he was seeking a clarification from the United Arab Emirates on how the system works and to present it to this Tribunal. He said that he was asked by the hospital authority to see Dr D who could give him a reference about how the system works in the United Arab Emirates and how it deals with physicians with an adverse finding. He said that Dr D was involved with his case in which he was granted a license to practice in the United Arab Emirates by the Ministry of Health and that the GMC had put him in a situation where he needed to defend himself.

43. Dr Aly submitted that the reference from Dr D went directly to the GMC and that he was never aware of the contents, that Dr D was part of the panel that issued the license, and Dr Aly had had no impact on the contents. He said that he had asked Dr D to be a witness but he declined. Dr Aly submitted that in his submission to the Ministry of Health in the United Arab Emirates he submitted all the papers from the GMC hearings and XXX. He submitted that there is no tribunal, trial, or questions to be asked and you just get a yes or no answer.

44. Dr Aly submitted that it was not fair to ask him about a decision that was taken by the Ministry of Health in 2016 and 2017 and that he was not aware of how they reached their decision. Dr Aly denied that he tried to reduce the consequences of the allegations that he had accepted. He submitted that in his oral evidence it was said that some of the events were put out of their context and that he was trying to minimise the misconduct. He submitted that contesting the charges, even robustly, should not be treated of itself as evidence of lack of insight.

45. Dr Aly submitted that the Tribunal should consider what exactly the individual is denying in his defence. If the individual is denying “primary facts” i.e. what they did, particularly if their denial in the face of the evidence appears unreasonable, then their “rejected defence” may be relevant. If however, the individual is denying “secondary facts” i.e. an evaluation of what happened, then it may be unjust to hold their denials against them or call it lack of insight. He submitted that there is always a question that is really not difficult to answer, what the public say if we let a doctor to come back to work.

46. Dr Aly referred the Tribunal to several instances reported in the press of doctor’s who were practising or had returned to practise following serious allegations either alleged or found proved. He submitted that doctors are humans, and they make mistakes and take their path to healing like others. He acknowledged that he lied to his previous NHS employer and did not want them to know where he was or if he was in a paid job or not during his unpaid sabbatical leave. He submitted that this was done to stop anyone from knowing where he was and to protect the privacy of his family. He accepted that he forged two emails and sent two pretending they were from someone else. He submitted that this was a stupid non

sophisticated act that was foolishly done out of anger, XXX, and the feeling of injustice. He submitted that he never gained any financial benefit from his ‘foolishness’.

47. Dr Aly acknowledged his mistakes XXX and the clinical errors, that he regretted doing what he did. He submitted that the assumption that he has no plan as to what to do under stress is not founded. He submitted that he is working as a consultant, in two different countries, same senior role, same job circumstances as in UK with more commitments and has coped very well.

48. Dr Aly submitted that he has taken proactive steps to overcome his shortcomings or sub-optimal conduct, to acquire full insight, achieve competence, and evidence a low risk of repetition in the future. He submitted that he has paid for his wrong actions, apologies given, corrected steps taken, history shows abiding with law and orders and professional regulations, and testimonials support the same.

49. Dr Aly submitted that dishonesty itself has different levels and is not an automatic punishment with erasure. However, the attitude to the allegations is to be properly taken into account when weighing up insight specifically in the light of consistent admissions of responsibility, grief, sorrow and regret for my shameful previous actions. He submitted that his acknowledgement and reflective statement on his errors is an insight in itself.

The Tribunal’s Approach

50. Throughout its consideration of Dr Aly’s application for restoration, the Tribunal was guided by the approach laid out in the relevant Guidance.

51. The Tribunal reminded itself that the onus is on Dr Aly to satisfy it that he is fit to return to unrestricted practice. The test to be applied by Tribunals when considering if a doctor should be restored is that set out in *GMC v Chandra [2018] EWCA Civ 1898*, namely: *‘having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective’*.

52. The Tribunal reminded itself that, in making its decision, it should consider the following factors:

- the circumstances that led to disciplinary erasure;
- whether the doctor has demonstrated insight into the matters that led to erasure, taken responsibility for their actions, and actively addressed the findings about their behaviour and skills including consideration of:
 - insight and remorse;
 - remediation and risk of repetition;
 - whether findings about the doctor’s behaviour have been remedied;
 - likelihood of repetition of the previous findings about the doctor’s behaviour;

- steps the doctor has taken to keep their skills and knowledge up to date; and
- the lapse of time since erasure.

53. After considering these factors, the Tribunal reminded itself it should balance its findings against whether restoration meets the overarching objective. It took account of all the evidence before it, both oral and documentary along with the submissions made.

The Tribunal's Decision

The circumstances that led to Dr Aly's disciplinary erasure

54. The Tribunal took the determinations of the 2016 Panel and the 2022 Tribunal fully into account. This Tribunal noted that it should not seek to go behind any of the findings made by the previous Panel or the 2022 Tribunal. As outlined above, the 2016 Panel determined that Dr Aly's fitness to practise was impaired by reason of his misconduct, and the 2022 Tribunal was not satisfied that Dr Aly was fit to practise and refused Dr Aly's application to be restored to the Medical Register.

55. The Tribunal was of the view that the probity, XXX and dishonesty, which led to Dr Aly's erasure were serious, and that the XXX and dishonesty were at the higher end of seriousness.

56. The Tribunal noted, and considered it significant, that, with the exception of Paragraph 4 of the original Allegation relating to XXX, Dr Aly accepted as correct the findings of fact made by the 2016 Tribunal although in relation to some of the facts found proved Dr Aly asserted that they had not been put into their proper context.

57. The Tribunal went on to consider whether the misconduct which led to Dr Aly's erasure was remediable, had been remedied and whether there was a risk of repetition. Further, if that conduct had been remedied, if restoration to the medical register would be consistent with the overarching objective. It had particular regard to any evidence of Dr Aly's insight and remediation.

Insight and remediation

58. When considering all the matters, whether individually or collectively, the Tribunal considered whether they were so serious such as to make it impossible to adequately remediate, or show sufficient insight, such as to permit restoration to the Medical Register consistently with the overarching objective. The Tribunal concluded that, despite the seriousness of the allegations, in particular with regard to XXX and probity matters, sufficient remediation and insight was possible. Although, it would be a challenge for any medical practitioner to do so given the nature, extent and repeated nature of the misconduct.

59. The Tribunal noted that the 2022 Tribunal was satisfied that the issues relating to the clinical matters were remediable and had been remedied. Dr Aly has been practising abroad since his erasure in 2016 and it had before it no evidence of any other concerns in this respect. This Tribunal agreed with the 2022 Tribunal's conclusion in this regard and for the reasons given by it.

60. This Tribunal considered that Dr Aly has shown sufficient insight and acknowledged and recognised his proven clinical failings. He has been able to provide testimonial evidence from colleagues who hold his work in high regard. Further, given that this was an isolated episode and there has been no pattern of similar episodes, either before or since, the Tribunal was satisfied that Dr Aly's misconduct in respect of the clinical concerns have been fully remediated.

61. In respect of Dr Aly's misconduct concerning XXX and dishonesty, the Tribunal was of the view that these were both serious and Dr Aly would therefore need to demonstrate a significant amount of insight and remediation to show that the concerns had been addressed.

62. Dr Aly's XXX were not one off, rather there was a history XXX over a period of time, with a pattern of controlling and coercive behaviour XXXX. The Tribunal acknowledged that whilst people can change, it had concerns as to whether Dr Aly has recognised that there was ever a problem. In this regard the Tribunal's assessment of insight and remediation was different to that made by the 2022 Tribunal. The Tribunal considered that in his evidence before it Dr Aly had sought to minimise the seriousness XXX.

63. The Tribunal paid close attention to that which Dr Aly said was the 'context' XXX. However, the Tribunal was wholly unpersuaded that the matters relied upon mitigated this proven misconduct. Rather, it illustrated a failure by Dr Aly to appreciate the seriousness of that which he had admitted doing and an attempt to trivialise or minimise his misconduct XXX.

64. Dr Aly told the Tribunal that he had attended an anger management course but he did not provide any evidence as to how this had assisted his remediation and/or insight or what he had learnt from the course. He also confirmed on questioning from the Tribunal that the course had not been XXX.

65. The Tribunal considered Dr Aly's assertion that he had not repeated the behaviour or been subject to any further complaint was not, in and of itself, a sufficient basis to conclude that he has remediated or shown insight into his actions.

66. Dr Aly has not addressed or focussed on his own wrongdoing, how that wrongdoing has affected others, or taken full and frank responsibility for his actions in a meaningful way. Dr Aly appeared to be focussing on other people's actions rather than his own and minimising his actions rather than recognising their seriousness, reflecting on what he had done and how he would avoid repeating such behaviour in the future.

67. The Tribunal determined that Dr Aly's insight in respect of XXX and dishonesty was at best limited. Dr Aly in his reflective statement and in his oral evidence focussed on minimising the findings against him and sought to categorise them as not of great importance and blamed others for the situation he finds himself in. Dr Aly sought to explain his actions on XXX. He was not however able to provide any explanation to the Tribunal as to why such XXX concerns made him act in the way that he did or evidence that he had reflected on the reasons for XXX and dishonesty XXX.

68. Dr Aly suggested that he had been open and honest about what he did which resulted in his erasure, in his lecture to colleagues and generally. However, this Tribunal only had the evidence from the testimonials as to the effect this lecture had on them. Unfortunately, Dr Aly was unable to furnish the Tribunal with the content of this lecture and he was vague in telling the Tribunal what he had said about his own misconduct and the findings made against him by the GMC. Accordingly, the Tribunal was unable to verify whether, as Dr Aly maintained, he had been fully frank and open in explaining the full extent as to what the Tribunal found against him.

69. The Tribunal also considered the testimonial evidence of Dr D which Dr Aly sought to distance himself from but which he had been responsible for submitting in support of this restoration application and which he confirmed to the Tribunal he had read before submitting. The Tribunal considered that this document demonstrated that Dr Aly had not been entirely candid with the regulator in the United Arab Emirates nor had he had shown the level of integrity one would have expected of a medical practitioner applying to a regulator to be admitted to a medical register/granted a license to practice. Dr Aly confirmed that he had failed to mention to the licencing board in the United Arab Emirates that he accepted all of the allegations (excepting paragraph 4) levelled against him as true. The testimonial letter demonstrated that the licensing board had been led to understand that the allegations were not sustainable and were not true. This was despite the fact that Dr Aly had it seems appeared before the board (or at least been represented by a lawyer). The Tribunal could only conclude that Dr Aly, by failing to disclose that he accepted the allegations, had led the licensing board in the UAE to fall into error.

70. Dr Aly told the Tribunal that he had a solicitor at that time and that it was up to the solicitor to decide what was put before the licencing board, and if he (Dr Aly) had been asked whether he admitted any of the allegations he would have told the truth. The Tribunal was of the view that this demonstrated Dr Aly's failure to recognise or appreciate what is expected of a medical practitioner in terms of acting honestly and with integrity and that it is his personal responsibility not to mislead his regulator by act or omission.

Evidence that Dr Aly has understood the concern as to what went wrong and accepted he should have acted differently.

71. Dr Aly did accept that he has done wrong and said that he has and would act differently. However, the Tribunal considered Dr Aly's acceptance of his wrongdoing to be

almost grudging as it would be invariably followed by a qualification minimising or deflecting responsibility for his misconduct.

Demonstrated that they fully understand the impact or potential impact of their performance or conduct, for example by showing remorse.

72. The Tribunal had no evidence before it that Dr Aly fully understands the impact or potential impact on XXX, or his colleagues. Throughout Dr Aly's evidence he failed to even acknowledge the potentially damaging impact his conduct could have had XXX.

73. The Tribunal was of the view that Dr Aly's expressions of remorse appeared to be superficial and that he does not have a full comprehension of his actions and that his insight is lacking due to what may be entrenched attitudes.

Lapse of time since erasure

74. The Tribunal noted that these events took place a long time ago and there was no evidence before it of any repetition of any of the concerns raised. The Tribunal was of the view however that the absence of repetition was not, of itself, evidence of insight and remediation, or that there is no risk of further repetition.

They should also understand how they could act differently in the future to avoid similar concerns occurring again.

75. Dr Aly told the Tribunal he attended an anger management course. He has not however given any further evidence about the context of that course, what he has learned and, in questions from the Tribunal members, XXX.

76. The Tribunal also acknowledged that Dr Aly had prepared and given a lecture detailing his experience of the regulatory process with the GMC. He said that he had in the course of that lecture fully disclosed the nature of his conduct and how someone could come back to practise. The Tribunal had no other evidence as to the content of this lecture or indeed the extent to which he had disclosed his own misconduct. Despite his belated endeavours to obtain a copy of that lecture, it appeared that one had not been retained.

Risk of repetition

77. The Tribunal was of the view that a doctor who has demonstrated as little insight and remediation as Dr Aly has demonstrated, will always present a risk of repetition in relation to XXX and probity at work issues. Despite the passage of time there has not been an adequate or sufficient level of insight and remediation necessary in this case to sufficiently mitigate that risk.

Conclusion

78. The Tribunal determined in all the circumstances, it was not satisfied that Dr Aly is currently fit to practise and that restoring him to the register would undermine the need to maintain public confidence in the medical profession and maintain proper professional standards and conduct for members of the profession. Accordingly, the Tribunal determined to refuse Dr Aly's application to be restored to the Medical Register.