

**Record of Determinations
Medical Practitioners Tribunal**

PUBLIC RECORD



Date: 12/02/2019

Medical Practitioner's name: Dr Fahad ALI

GMC reference number: 7053225

Primary medical qualification: MB BS 2006 King Edward Medical University

Type of case

Review - Non-compliance with a performance assessment

Outcome on non-compliance

Non-compliance found

Summary of outcome

Suspension for 12 months
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr David Robinson
Lay Tribunal Member:	Mrs Angela Buckley
Medical Tribunal Member:	Dr Matthew O'Meara

Tribunal Clerk:	Ms Rosanna Sheerin
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Attendance and Representation:

Medical Practitioner:	Not present and not represented
GMC Representative:	Mr Peter Warne, 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.

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Determination on preliminary procedural matters- Service and Proceeding 12/02/2019

Service

1. Dr Ali is neither present nor represented at the hearing. Mr Warne made an application, pursuant to Rule 15 of the Rules, for the Tribunal to determine that all service on Dr Ali had been both effected and effective.
2. In considering whether notice of this hearing had been properly served on Dr Ali, the Tribunal first had regard to the GMC's Information Letter, sent by email to Dr Ali's email address on 10 January 2019 and for which there is a delivery receipt.
3. The Tribunal also had regard to the MPTS Notice of Hearing, dated 11 January 2019, also sent to Dr Ali's registered address by Special Delivery. The Notice of Hearing sent by Special Delivery was signed for by a signatory named as 'Ali' on 28 December 2018. The Notice of Hearing was also sent by email to Dr Ali's email address on 11 January 2019 and for which there is a delivery receipt.
4. In all the circumstances, the Tribunal concluded that all the relevant requirements of the GMC Fitness to Practise Rules 2004, as amended, ('the Rules') Rules 15 and 40, have been satisfied and that proper service of the documents had been effected. It accepted Mr Warne's submission that service had been effective.

Proceeding in absence

5. The Tribunal went on to consider whether to proceed in Dr Ali's absence.
6. Mr Warne submitted that it would be appropriate to proceed in Dr Ali's absence. He set out the steps that the GMC had taken to inform Dr Ali of today's hearing. He noted that the last correspondence from Dr Ali to the GMC was in an email dated 15 August 2018 in which Dr Ali stated:

"I have been through extremely testing time for the past few months. As an immigrant I was unable to work due to the GMC process. I had to exit the UK without access to my PC and other stuff after taken into custody by the immigration department in April.

While dealing with this problem I've been unable to attend to other matters. I don't see things getting better anytime soon but still trying very hard to get a hold on so many issues. I regret not being able to inform you earlier."

7. Mr Warne submitted that it appeared Dr Ali has disengaged from the GMC and has not provided any reason for his non-attendance at today's proceedings, has not requested an adjournment and has not indicated that he would attend at a later date. For all of these reasons, Mr Warne submitted that, pursuant to Rule 31 of the

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Rules, the Tribunal should proceed as service has been effected. He submitted that it is clear that the doctor had chosen not to participate in this hearing and it is therefore in the interests of justice and in the public interest to proceed in Dr Ali's absence following the principles outlined in R v Jones.

8. Whilst the Tribunal bore in mind Mr Warne's submissions, it exercised its own judgement in making its decision. It also bore in mind that although it has the discretion to proceed with the case in the doctor's absence, that discretion should be exercised with the utmost care and caution and with the overall fairness of the proceedings in mind. The Tribunal is mindful of the need to balance Dr Ali's interests with the overarching statutory objective, namely protection of the public

9. The Tribunal has determined that Dr Ali has been given ample opportunity to engage with this hearing but has chosen not to do so. The Tribunal considered that that Dr Ali may not currently be in the UK but noted that he has not requested any measures to be taken in his absence, for example, to participate via video link, provide written submissions, or instruct legal counsel. The Tribunal considered all three limbs of the overarching objective and determined that in order to protect and promote the health, safety and welfare of the public it is imperative to address performance concerns. Further, that confidence in the profession is served by performance being objectively assessed when concerns are raised and that other members of the profession would consider it irregular if a review did not proceed.

10. The Tribunal has therefore determined that in accordance with Rule 31, it is appropriate to proceed with the hearing in Dr Ali's absence. It considered that it is fair and in the public interest to hear this case without further delay and proceed with this hearing in the absence of Dr Ali.

Determination on consideration of non-compliance 12/02/2019

Background to the Case

1. Dr Ali was referred to the GMC by the Executive Medical Director of University Hospitals Birmingham NHS Foundation Trust ('the Trust') in January 2016, following concerns that had been raised about the acceptability of his clinical work and conduct when he had been working in two departments there.

Trauma and Orthopaedics Department

2. Dr Ali commenced working at the Trust in August 2013 on a two-year fixed-term contract as a Junior Specialist Doctor and he initially undertook work in the Trauma and Orthopaedics department. Concerns about the acceptability of the standard of his work and conduct were raised and these were brought to Dr Ali's attention by the department's Clinical Service Lead in October 2013. However, in

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early 2014 a number of further complaints were raised about Dr Ali and a formal investigation was implemented by the Trust.

3. The findings of the Trust's investigation into Dr Ali's performance and conduct in the Trauma and Orthopaedics Department were summarised as follows:

- failure to respond to bleeps/unknown whereabouts;
- poor documentation;
- failure to adequately hand over patients;
- failure to support colleagues;
- poor MDT working;
- unprofessional attitude and actions;
- lack of clinical judgement; and
- breach of GMC's Good Medical Practice (2013) in respect of:
 - knowledge, skills and performance;
 - safety and quality;
 - communication, partnership and teamwork; and
 - maintaining trust.

4. Dr Ali subsequently accepted a final written warning about his conduct from the Trust on 9 October 2014. The Trust offered Dr Ali an opportunity to remediate and Dr Ali was transferred to the Trust's Urology Department. A Personal Development Plan ('PDP') was also put in place.

Urology Department

5. Shortly after Dr Ali was transferred to the Trust's Urology Department further concerns were raised about his work and conduct. He was subsequently excluded from the Trust on patient safety grounds and another Trust investigation took place.

6. The findings of the Trust's investigation into Dr Ali's performance and conduct in the Urology Department were summarised as follows:

- failure to respond to appropriate patient care including handovers;
- failure to document patient care appropriately;
- failure to undertake the full range of duties required;
- unprofessional attitude and actions;
- failure to show support and respect for colleagues;
- poor attendance patterns;
- poor communication skills;
- failure to work as part of a team;
- breach of GMC's Good Medical Practice (2013) in respect of:
 - knowledge, skills and performance;
 - safety and quality;
 - communication, partnership and teamwork; and

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- maintaining trust.

7. A conduct hearing subsequently took place at the Trust on 22 December 2015 despite Dr Ali's fixed-term contract with the Trust having been terminated in August 2015. Dr Ali did not attend that hearing and the allegations made against him were upheld.

Referral to the GMC

8. When referring Dr Ali to the GMC the following month, in January 2016, the Trust's Executive Medical Director stated that Dr Ali's actions, both before and after the Trust investigation process, were extremely concerning to the extent that the Trust hearing panel in December 2015 did not consider Dr Ali fit to be a doctor.

9. In support of that opinion, the Executive Medical Director referred to the following summary points:

- it appeared that Dr Ali lacked the capacity to self-reflect, accept responsibility and personally develop;
- the behaviour and concerns were consistent and repetitive throughout his two years of employment at the Trust;
- he lacked the ability to reflect on comments made to him, always denying and seeking to deflect such comments. Dr Ali had a problem understanding concepts such as respect, responsibility and authority. His rudeness to consultant staff and senior Trust personnel was staggering;
- he complained about the Trust processes but fundamentally failed to participate in those processes and made no efforts to explain why his complaints had any foundation;
- he failed to confirm attendance to an investigatory interview and then complained the interview did not take place;
- he made inappropriate telephone calls and personal visits to Trust headquarters and offices. Staff had to seek his removal by security;
- he emailed the Trust Chief Executive and ignored a response provided on her behalf. He then emailed the Chief Executive on two further occasions; and
- when he was sent a final copy of the investigation report and was invited to a hearing, he chose to ignore the process.

Invitation to Undergo a GMC Performance Assessment

10. As a result of the referral to the GMC, on 7 April 2016 the GMC wrote to Dr Ali inviting him to undergo an assessment of his performance (a 'performance assessment', or 'PA') in accordance with Rule 7(3) and Schedule 1 of the Rules.

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11. On 5 May 2016 the GMC sent Dr Ali a further letter requesting confirmation of his agreement to participate in a PA and the completion and provision of a PA portfolio. Dr Ali was informed that the matter may be referred to the MPTS for a non-compliance hearing in the event that he failed to complete the PA without good reason. On 17 May 2016 he responded to the GMC to confirm that he was not opposed to the PA but that it should come 'as a step in the right place and time of investigation'.

12. On 18 May 2016 the GMC sent a further email to Dr Ali attaching a copy of its letter dated 7 April 2016, confirming that an Assistant Registrar had reviewed the matter, that a PA had been directed, and that failure to submit to a PA may result in referral to a non-compliance hearing. An extension to complete a PA portfolio was provided to Dr Ali and it was confirmed that if the PA portfolio was not received then the GMC would consider referral to a non-compliance hearing. Dr Ali responded to the GMC on the same date to say that he had not even been asked to submit his case in writing, but that he did not need an extension to submit a PA portfolio.

13. On 19 May 2016, Dr Ali was advised by email that he would have until 25 May 2016 to complete the PA portfolio. He confirmed on the same date that he was 'not convinced to move ahead except with the right process'. Dr Ali again emailed the GMC on 3 June 2016 stating that he had been waiting for a response. The GMC responded on the same date to confirm that: the Registrar had decided to direct him to undergo a PA; he had been given two extensions to complete his PA portfolio; and failure to submit a PA portfolio may result in his referral to a non-compliance hearing. On 6 June 2016, Dr Ali responded by email asking for the matter to be escalated.

14. On 10 June 2016 Dr Ali requested an update from the GMC via email. The GMC responded on the same date, confirming that the investigation required his co-operation with a PA and that he had failed to co-operate. Dr Ali was informed that the matter was being raised with the Registrar and he was reminded that the GMC could refer him to a non-compliance hearing. He replied on the same day to say that the case needed escalation and in-depth analysis.

15. On 23 June 2016 Dr Ali sent a further email to the GMC requesting an update. The GMC confirmed that a Registrar was deciding whether or not to refer him to a non-compliance hearing following his failure to engage with the PA procedure, by failing to provide a PA portfolio. In his response Dr Ali asked for a quick and effective reckoning of the case.

16. On 29 June 2016, Dr Ali wrote to the GMC by email to confirm that he refused to undergo a PA as a result of unfounded allegations.

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The 2016 Tribunal

17. Dr Ali's case was first considered for non-compliance by a Medical Practitioners Tribunal ('MPT') on 26 September 2016 ('the 2016 Tribunal'). The 2016 Tribunal found that in all the circumstances the request for Dr Ali to undergo a GMC PA was reasonable at the time it was made and that the request had been made in accordance with the GMC's powers as set out in the Medical Act 1983 (as amended) and the Rules. The 2016 Tribunal considered that the request for Dr Ali to undergo a PA was proportionate as the allegations made against him were sufficiently serious to justify the direction of a PA. Furthermore, the 2016 Tribunal considered that, given the conflicting views of the Trust and Dr Ali about the standard of his performance, a PA would have been an objective way of assessing Dr Ali's performance and would have assisted the GMC in investigating matters further.

18. The 2016 Tribunal was satisfied that Dr Ali had received appropriate reminders from the GMC regarding its direction that he undergo a PA. Having had regard to Dr Ali's correspondence with the GMC, the 2016 Tribunal determined that Dr Ali had explicitly refused to comply with the direction. The 2016 Tribunal accepted that Dr Ali provided an explanation for his failure to complete the PA but it was not satisfied that this amounted to a good reason. It therefore determined that Dr Ali's failure to comply with the direction was not unavoidable or otherwise excusable. In all the circumstances, the 2016 Tribunal determined that non-compliance had been found.

19. Having determined that there was non-compliance by reason of Dr Ali's failure to undergo a PA in accordance with Schedule 1 of the Rules, the 2016 Tribunal went on to consider whether a sanction should be imposed. The 2016 Tribunal was satisfied that Dr Ali had been engaging with the GMC but, given his belief that the process was wrong, he had chosen not to comply with the direction to undergo a PA. Whilst the 2016 Tribunal had some concerns regarding Dr Ali's insight, it accepted that Dr Ali's adopted position regarding the process may have impacted on his decision not to comply with the direction. In those circumstances, the 2016 Tribunal considered that Dr Ali should be afforded a further opportunity to comply with a direction to undergo a PA.

20. Having weighed the interests of the public with Dr Ali's own interests, the 2016 Tribunal determined that it would be sufficient and proportionate to impose conditions on his registration for a period of 12 months. It considered that this period would allow Dr Ali time to comply with the direction for a PA. The 2016 Tribunal was also satisfied that the conditions imposed were sufficient to address patient safety and the public interest.

21. The 2016 Tribunal directed a review hearing and noted that a tribunal reviewing Dr Ali's case would be assisted by receiving the following:

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- a copy of the Performance Assessment Report;
- a report from his supervisor(s).

Subsequent Appeal

22. On 11 October 2016 Dr Ali issued an appeal against the decision of the 2016 Tribunal to impose conditions on his registration for a period of 12 months. The appeal judgment, *Ali v GMC* [2017] EWHC (Admin), dated 19 January 2017, sets out the grounds of his appeal, namely on the basis of procedural irregularity and because the 2016 Tribunal's decision was wrong. In respect of the second basis of Dr Ali's appeal, Mr Justice Fraser identified seven separate grounds set out in his skeleton argument. At the High Court Mr Justice Fraser dismissed Dr Ali's appeal in its entirety, stating that 'the proportionate judgment, which was the requirement of the performance assessment, was entirely justified in all the circumstances'. Dr Ali's appeal having been dismissed on 19 January 2017, the conditions imposed by the 2016 Tribunal became effective the same date.

23. On 16 March 2017 the GMC emailed Dr Ali providing him with a further copy of the PA portfolio and requested that he complete it and return it to the GMC.

24. On 20 April 2017 Dr Ali applied to the Court of Appeal for permission to appeal the High Court's decision of 19 January 2017.

25. The GMC emailed Dr Ali on 16 June 2017 and 14 September 2017 providing him on both occasions with a further copy of the PA portfolio and again requesting that he complete it and return it to the GMC. In correspondence with the GMC between 16 and 21 September 2017 Dr Ali stated that he would not be proceeding with the GMC's investigation process until his appeal had been decided.

26. Dr Ali's application for permission to appeal was refused by the Court of Appeal on 6 October 2017 and on 9 November 2017 the GMC again emailed Dr Ali providing him with a further copy of the PA portfolio and requesting that he complete it and return it to the GMC.

2018 Non-Compliance Hearing

27. On 3 January 2018, Dr Ali's non-compliance review hearing took place ("the 2018 Tribunal"). It was satisfied that Dr Ali had received appropriate reminders from the GMC regarding its direction that he undergo a PA. Having had regard to Dr Ali's correspondence with the GMC, the 2018 Tribunal determined that Dr Ali had explicitly refused to comply with the direction. It also determined that he had also failed to comply with the 2016 Tribunal's condition that he submit to and comply with a PA and therefore the 2018 Tribunal imposed a suspension on Dr Ali's registration for a period of 9 months.

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Subsequent Appeal

28. On 18 January 2018, Dr Ali issued an appeal against the decision of the 2018 Tribunal to suspend his registration for a period of 9 months, pursuant to section 40 of the Medical Act 1983. On 31 January 2018, the GMC notified Dr Ali of the outcome of the hearing and invited him to complete the PA.

29. On 27 April 2018, the GMC sent Dr Ali an email reminding him to undergo a PA in accordance with the conditions set whilst his appeal was on-going.

30. Dr Ali's appeal having been dismissed in the High Court by Mrs Justice May on 7 June 2018, the suspension imposed by the 2018 Tribunal became effective on the same date.

31. On 2 August 2018, the GMC sent Dr Ali a reminder to complete and return his PA portfolio. On 15 August 2018 Dr Ali responded to the GMC in which he stated:

"I have been through extremely testing time for the past few months. As an immigrant I was unable to work due to the GMC process. I had to exit the UK without access to my PC and other stuff after taken into custody by the immigration department in April.

While dealing with this problem I've been unable to attend to other matters. I don't see things getting better anytime soon but still trying very hard to get a hold on so many issues. I regret not being able to inform you earlier."

32. On 2 November 2018, the GMC sent Dr Ali a further reminder to complete and return his PA portfolio.

33. On 10 January 2019, the GMC wrote to Dr Ali with details of his non-compliance hearing to take place on 12 February 2019.

Today's Review Hearing of Dr Ali's Non Compliance

34. This Tribunal has convened to review Dr Ali's case. It has considered, under Rule 22A of the Rules, whether there has been a failure to comply with an assessment under Schedule 1 of the Rules.

Evidence

35. In making its decision, the Tribunal had regard to all the evidence adduced, which included:

- The determinations of the 2016 and 2018 Tribunals;
- Ali v GMC Appeal Judgment of Mr Justice Fraser dated 19 January 2017;

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- Dr Ali's Skeleton Argument for his 2018 Appeal;
- Correspondence between the GMC and Dr Ali between January 2018 and January 2019;
- Order of Justice Jackson dated 9 October 2017;
- Order of Mrs Justice May dated 7 June 2018.

Submissions

36. Mr Warne submitted on behalf of the GMC, that Dr Ali has continued to fail to comply with the original direction that he undergo a PA and that he has also failed to comply with the condition imposed by the 2016 Tribunal stipulating that he had to submit to and comply with a PA before 30 June 2017. Mr Warne noted that since the 2018 hearing Dr Ali was once again invited to submit his PA portfolio notwithstanding the ongoing appeal process but that he failed to do so. Mr Warne drew the Tribunal's attention to the "Non-compliance Hearings Guidance for Medical Practitioners Tribunals" dated March 2017, in particular paragraphs 6, 8, 17, 18, 23 and 24.

37. Mr Warne submitted that at the 2018 hearing Dr Ali stated that once the appeal route had concluded he would comply with the direction to undergo a PA but that he has had two reminders since his appeal was dismissed on 7 June 2018 to comply and has failed to do so.

The Tribunal's Decision

38. Whilst the Tribunal has borne in mind the submissions made, the decision regarding non-compliance is one for it to reach exercising its own judgement. In making its decision, the Tribunal bore in mind that at a review hearing the onus is on the doctor to demonstrate compliance.

39. The Tribunal considered the "Non-compliance Hearings Guidance for Medical Practitioners Tribunals", in particular paragraphs 23 and 24 which state:

"Before taking action, the tribunal should be satisfied that the doctor has failed to comply. In considering a doctor's failure to comply, the tribunal may wish to address the following points:

- has the doctor explicitly refused to comply with a direction to provide information or direction to undergo an assessment?
- has the doctor failed to respond to a direction to provide information or to undergo an assessment despite two reminders?

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- has the doctor submitted to a direction, but subsequently failed to comply with directions made in line with that assessment?
- is there any evidence before the tribunal to suggest that the doctor has complied with the request or direction?

“If the tribunal is satisfied that the doctor has failed to comply, they should consider whether or not there was good reason for the doctor’s failure to comply, i.e. it was unavoidable or otherwise excusable because:

- for reasons of adverse physical or mental health, a doctor was unable to respond to or comply with a request, even where the request is seen to be reasonable
- a doctor has demonstrated that he/she has not received an invitation to undergo an assessment or request for information
- a doctor can demonstrate that he/she is not in possession of the information or documentation requested by the GMC
- a doctor can demonstrate that, for reasons beyond his/her control, he/she was unable to comply with the direction.”

40. The Tribunal noted that when the conditions imposed by the 2016 Tribunal became effective on Dr Ali’s registration, the GMC wrote to him on four occasions providing him with a copy of a PA portfolio and requested him to complete and return it. He failed to do so. The Tribunal has also noted that since the 2018 hearing Dr Ali has also failed to provide his PA portfolio despite four reminders to do so. Without a PA portfolio a PA cannot be arranged. The Tribunal was therefore satisfied that Dr Ali has received appropriate reminders from the GMC and that he has not responded positively to those reminders. The 2018 Tribunal was of the view that a Performance Assessment was highly relevant to the concerns that had been raised and the approach of the GMC was appropriate and proportionate. This Tribunal has not needed to consider the issues of reasonableness of the original direction for a PA as this has already been considered by the previous Tribunal.

41. The Tribunal noted that Dr Ali may have been absent, and may remain absent, from the UK due to issues beyond his control, but it notes that Dr Ali has not responded or engaged with the GMC since August 2018 despite being aware that this matter was still pending and that his appeal had been dismissed in June 2018. The Tribunal took into account that Dr Ali had the ability to communicate with the GMC despite having left the country, and had in fact done so in his email dated 15 August 2018, and therefore should not have precluded him from being able to start the process of engaging with the submission of his PA portfolio.

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42. In all the circumstances, the Tribunal was satisfied that Dr Ali has failed to comply with the original direction that he undergo a PA and that he has also failed to comply with the 2016 Tribunal's condition that he submit to and comply with a PA.

Determination on sanction 12/02/2019

1. Having determined that there is non-compliance by reason of Dr Ali's failure to comply with a Performance Assessment (PA) in accordance with Schedule 1 to the Rules, the Tribunal has considered whether a sanction should be imposed.
2. The Tribunal has considered the submissions made by Mr Warne, Counsel, on behalf of the GMC regarding the appropriate sanction, if any, that should be imposed on Dr Ali's registration.

Submissions

3. Mr Warne submitted that the appropriate and proportionate sanction in this case was a further period of suspension. He submitted that a suspension of 12 months would allow Dr Ali a further opportunity for his compliance with the original direction for him to undergo a PA. He submitted that at least 5 months would need to be allowed for the PA to be organised and that further time would be needed beforehand for the PA portfolio to be submitted by Dr Ali. Mr Warne submitted that a period of suspension would be a proportionate response in the circumstances of Dr Ali's case given his failure to comply with the original direction that he undergo a PA, and his failure to comply with the 2016 Tribunal's condition that he submit to and comply with a PA.
4. Mr Warne submitted that given the varied concerns regarding Dr Ali that have been raised from as far back as 2014, patient safety and public confidence in the medical profession would be undermined if he were allowed to practise unrestricted.

The Tribunal's Approach

5. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on his registration is a matter for this Tribunal exercising its independent judgment. In reaching its decision, the Tribunal has taken account of the guidance.
6. Throughout its deliberations, the Tribunal considered its overarching objective which includes:
 - a. protecting, promoting and maintaining the health, safety and well-being of the public,
 - b. maintaining public confidence in the profession

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c. promoting and maintaining proper professional standards and conduct for the members of the profession.

7. The Tribunal has also borne in mind that the purpose of a sanction is not to punish or discipline doctors, though they may have a punitive effect.

The Tribunal's Decision

No Action

8. The Tribunal first considered whether to conclude Dr Ali's case and take no further action. It considered the concerns raised, including Dr Ali's failure to comply with the original direction that he undergo a PA and his failure to comply with the 2016 Tribunal's condition that he submit to and comply with a PA. In light of these matters the Tribunal determined that taking no action in this case would be inappropriate.

Conditions

9. The Tribunal next considered whether it would be appropriate to impose a period of conditions on Dr Ali's registration. It has borne in mind that any conditions must be appropriate, proportionate, workable and measurable.

10. The Tribunal noted the "Non-compliance Hearings Guidance for Medical Practitioners Tribunals" dated March 2017, in particular paragraphs 34 and 36 which state:

"Conditions are unlikely to be appropriate where a doctor has refused to comply or failed to respond to a direction plus two reminders and there is no mitigating information to suggest that conditions are likely to be sufficient."

"The objectives of any conditions should be made clear so that the doctor knows what is expected of him or her. Any conditions should be appropriate, proportionate, workable and measurable."

11. The Tribunal was of the view that Dr Ali has shown a lack of engagement with the regulatory process since his last correspondence to the GMC on 15 August 2018, it was not in a position to formulate workable conditions with which he would be likely or able to comply with. It also noted that Dr Ali has previously been provided an opportunity to comply with an order of conditions which he has failed to do. Further, given the unresolved concerns raised about Dr Ali's practice and the requirement to protect the public and maintain public confidence in the profession, it was not satisfied that an order of conditions was a sufficient sanction in this case.

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Suspension

12. Having determined that the imposition of conditions would not be appropriate the Tribunal next considered whether to suspend Dr Ali's registration for a further period.

13. The Tribunal noted the "Non-compliance Hearings Guidance for Medical Practitioners Tribunals" dated March 2017, in particular paragraph 40 which states:

"When considering a period of suspension, the tribunal might consider the following factors:

- *the previous opportunities for the doctor to comply*
- *whether the doctor has refused to comply or failed to respond to a direction plus two reminders and there is no mitigating information to suggest that conditions are likely to be sufficient."*

14. The Tribunal took into account the wide ranging concerns previously raised with regard to Dr Ali's practice and his continued non-compliance with the GMC's direction for a PA. It noted that Dr Ali stated at the 2018 hearing that once the appeal route had concluded he would comply with the direction to undergo a PA. Dr Ali has had two reminders since his appeal was dismissed on 7 June 2018 to comply and has failed to do so.

15. In these circumstances, the Tribunal considered that it was necessary to impose a further period of suspension on Dr Ali's registration. While it removed Dr Ali's ability to practise medicine, it was satisfied that this was the proportionate sanction required. It will guard against the risk to patient safety arising from the clinical concerns raised in respect of Dr Ali's practice, whilst indicating to him the importance of compliance with the regulator. It also sends a message to the profession and the wider public about the importance of engaging with the regulatory body and its directions and will maintain public confidence in the profession.

16. The Tribunal has determined to suspend Dr Ali's registration for a period of 12 months. This period would allow Dr Ali to re-engage with his regulator, comply with the direction for the Performance Assessment and give sufficient time for him to reflect upon the Tribunal's determination and its finding of non-compliance.

17. A Tribunal will review Dr Ali's case at a hearing to be held before the end of the period of suspension. It will then consider whether it should take any further action in relation to his registration. Dr Ali will be informed of the date of that meeting, which he will be invited to attend. The Tribunal noted that should Dr Ali consider that he has fully complied with the direction to undergo a PA, then he can apply for an early review.

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18. The Tribunal reviewing Dr Ali's case would be assisted by receiving the following:

- evidence that Dr Ali has undergone a Performance Assessment, along with its results; and
- any other information which Dr Ali considers will assist the reviewing Tribunal.

19. The effect of this direction is that, unless Dr Ali exercises his right of appeal, this decision will take effect on the date upon which the previous order would otherwise expire. The suspension currently imposed on his registration will remain in place until the outcome of any appeal is known, pursuant to Schedule 4 paragraph 11(1)(a) of The Medical Act 1983 (as amended). Additionally, if Dr Ali chooses to appeal against this decision the current suspension will remain in force until the appeal is determined.

20. That concludes this hearing

Confirmed

Date 12 February 2019

Mr David Robinson, Chair