

PUBLIC RECORD

Dates: 06/04/2021 - 08/04/2021

Medical Practitioner's name: Dr Faisal NAWAZ
GMC reference number: 7563531
Primary medical qualification: MB ChB 2017 University of Manchester

Type of case	Outcome on facts	Outcome on impairment
New - Conviction	Facts relevant to impairment found proved	Impaired
XXX	XXX	XXX

Summary of outcome

Conditions, 12 months.
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Colin Chapman
Lay Tribunal Member:	Mrs Barbara Larkin
Medical Tribunal Member:	Dr Paolo De Marco
Tribunal Clerk:	Miss Emma Saunders

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Christopher Geering, Counsel, instructed by the MDU
GMC Representative:	Mr Nigel Grundy, 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 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 Facts and Impairment - 07/04/2021

Hearing in Private

1. The Tribunal considered in accordance with Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), whether all or parts of the hearing should be heard in private.
2. XXX
3. The Tribunal determined that XXX, for practical reasons, the hearing should be heard in private session. This determination will be read in private but, as this case concerns Dr Nawaz's convictions, a redacted version will be published following the conclusion of this hearing, XXX.

FACTS

Background

4. Dr Nawaz qualified in 2017 from the University of Manchester and he completed his Foundation Year 1 (FY1) training with the East Lancashire Hospitals NHS Trust ('the Trust') on 31 July 2018. At the time of the events Dr Nawaz had started his Foundation Year 2 (FY2) training.
5. The allegations that have led to Dr Nawaz's hearing relate to his convictions and sentence for one count of dangerous driving and two counts of driving a motor vehicle with the proportion of a specified controlled drug above the specified limit. XXX.
6. Dr Nawaz was arrested on 25 February 2019 for dangerous driving after failing to stop for police. The vehicle had been travelling at high speed (well over 50mph in a 30mph zone) at 00.42 hours whereupon Inspector A turned his police vehicle around, illuminated his blue lights and sirens indicating for Dr Nawaz's car to stop. The car failed to stop and a pursuit commenced through residential streets at high speeds and causing members of the public to make emergency stops to avoid the car. He was arrested for offences of dangerous driving and driving under the influence of a controlled drug.
7. The initial concerns were raised with the GMC on 1 March 2019 by XXX the Trust. XXX Dr Nawaz was informed at a meeting with the Director of Medical Education that he had not

been successful in his FY2 year and would need to repeat it XXX. Dr Nawaz had been absent from work since 14 February 2019, except for a short period in January 2020 when he undertook a supernumerary shadowing post in intensive care. However, he returned XXX after making two clinical errors which were corrected by others and did not therefore result in patient harm.

8. XXX

The Allegation and the Doctor's Response

9. The Allegation made against Dr Nawaz is as follows:

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

1. XXX

2. XXX

3. On 17 September 2019 at Lancashire Magistrates' Court you were convicted of:

a. one count of dangerous driving, contrary to section 2 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;
Admitted and found proved

b. one count of driving a motor vehicle with the proportion of a specified controlled drug, namely benzoylcegonine, above the specified limit, contrary to section 5A(1)(a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;
Admitted and found proved

c. one count of driving a motor vehicle with the proportion of a specified controlled drug, namely cocaine, above the specified limit, contrary to section 5A(1)(a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.
Admitted and found proved

4. On 4 November 2019 at Burnley Crown Court you were sentenced to:

a. seven months' imprisonment suspended for 12 months;
Admitted and found proved

b. 100hrs of Community Unpaid Work;
Admitted and found proved

c. 10 days Rehabilitation Activity Requirement;
Admitted and found proved

d. disqualification from driving for 24 months.
Admitted and found proved

And that by reason of the matters set out above your fitness to practise is impaired because of your:

a. XXX

b. conviction in respect of paragraphs 3 and 4.
To be determined

The Admitted Facts

10. At the outset of these proceedings, through his counsel, Mr Geering, Dr Nawaz made admissions to all paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of 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.

Evidence

Documentary Evidence

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

- Record of Dr Nawaz's interview at Blackburn Police Station on 25 February 2019;
- Memorandum of conviction dated 17 September 2019 and Certificate of conviction dated 20 November 2019;
- Correspondence from the police including the witness statement from Inspector A;
- Dr Nawaz's FY1 and FY2 portfolios and positive testimonial evidence from a number of people including XXX Dr B, Consultant Paediatrician, Clinical Director for Paediatrics and Deputy Director of Medical Education for East Lancashire Hospitals NHS Trust;
- XXX;
- XXX;
- XXX.

XXX

- XXX;
- XXX;
- XXX;
- XXX.

12. XXX

13. XXX

14. XXX

15. XXX

16. XXX

17. XXX

18. XXX

Dr Nawaz's witness statement and oral evidence to the Tribunal

19. Dr Nawaz provided his own witness statement dated 1 March 2021 and also gave oral evidence at the hearing. Within the witness statement, Dr Nawaz referred to his background and personal family circumstances and that he had been in recent discussions with Dr B regarding his phased return to work, if these proceedings allowed it. Dr Nawaz stated that he wanted to continue his medical career and *'I desperately want to be able to put these last few years behind me and return to a feeling of being proud of myself, of my family being proud of me and of being able to serve patients'*.

20. XXX

21. XXX

22. In terms of his conviction, Dr Nawaz stated that he was deeply ashamed of his actions and the fact of the convictions. He stated that he understood that such behaviour was unacceptable for a doctor and would undermine public confidence in the profession. He stated that he did not wish for the public to lose trust in their doctors as a result of his irresponsible actions. Dr Nawaz stated that he very much recognised the danger that his actions caused to himself and others and he was desperately sorry for this. XXX.

23. In Dr Nawaz's oral evidence to the Tribunal, he provided further details of his background, his family circumstances and his education. XXX.

24. XXX.

25. Dr Nawaz stated that his actions had negatively impacted the Trust but that they had stood by him which he was grateful for. He stated that he understood the impact of his conduct on the Trust and on confidence in the medical profession generally. Dr Nawaz spoke about the dangerous manner in which he drove to try to avoid the police. He stated that he was the only person responsible for his conduct, that he was remorseful and wished he had not done it. Dr Nawaz referred to the danger he had put the public, police officer and himself in XXX. Dr Nawaz stated that he never thought he would be the person who endangered others and himself and that he was sorry for his actions.

26. Following a question from Mr Grundy, Dr Nawaz XXX acknowledged that he had not been able to maintain his medical skills and knowledge XXX, apart from reading the British Medical Journal and discussions with Dr B about a XXX phased return to work, but that he was willing to put in the work to get his skills up to date.

IMPAIRMENT

27. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Nawaz's fitness to practise is impaired by reason of his convictions XXX.

28. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary.

Submissions

On behalf of the GMC

29. Mr Grundy took the Tribunal through the documentation in respect of the case. In respect of the convictions, Mr Grundy stated that these were serious. He noted that the criminal courts had clearly taken the view that they were serious as the custody threshold was met, albeit that the sentence was suspended. Mr Grundy submitted that XXX, Dr Nawaz's fitness to practise was impaired by reason of his convictions and a finding of impairment was required to maintain public confidence in the profession and to uphold proper professional standards.

30. XXX

31. Mr Grundy stated that Dr Nawaz had been out of medical practice for over two years and had not kept up with his medical skills and knowledge. He submitted that this also had an impact on Dr Nawaz's fitness to practice. Mr Grundy stated that Dr Nawaz had also accepted that his fitness to practise was currently impaired.

On behalf of Dr Nawaz

32. Mr Geering stated that Dr Nawaz had accepted that his actions justified a finding that his fitness to practise was currently impaired. XXX.

33. Mr Geering stated that one of the issues the Tribunal would need to consider was Dr Nawaz's insight, as it was a key part of remediation. He submitted that Dr Nawaz XXX has shown a high degree of insight. XXX.

34. XXX.

35. Mr Geering stated that the Tribunal had heard from Dr Nawaz that he had clearly taken to heart the seriousness of his actions. Mr Geering stated that Dr Nawaz's actions put his life and the lives of others at risk XXX. Mr Geering referred to correspondence regarding Dr Nawaz's probation where it was stated: *'he expressed a great deal of remorse for the offence that he committed and in discussing this he was emotional'*.

36. XXX.

37. In terms of maintaining his medical skills and knowledge, XXX. Mr Geering referred to the structured, phased and supervised return to work that has been discussed with Dr B.

The Relevant Legal Principles

38. The Tribunal reminded itself that at this stage of proceedings, there is no formal burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

39. The Tribunal must determine whether Dr Nawaz's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then, such as whether the matters are remediable, have been remedied and any likelihood of repetition.

40. The Legally Qualified Chair reminded the Tribunal of the questions posed by Dame Janet Smith in the Fifth Shipman Report, as referred to in the case of *CHRE v NMC and Grant [2011] EWHC 927 (Admin)*, as follows:

"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a. 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; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or [...]”

The Tribunal’s Determination on Impairment

Impairment by reason of Conviction

41. The Tribunal took account of the serious nature of the convictions listed in the Allegation. The Tribunal had regard to Dr Nawaz’s witness statement and his acceptance that his fitness to practise is impaired by reason of the convictions. The Tribunal noted that Dr Nawaz had expressed his remorse for the convictions and acknowledged the impact of his actions, including that he had put the public, the police officer and himself at risk.

42. The Tribunal noted that Dr Nawaz had paid the fine, completed his 100 hours of Community Unpaid Work, attended the Rehabilitation Activity Requirement and the 12 month suspended sentence has now passed. Dr Nawaz was waiting for the end of the two years of disqualification from driving, whereupon he would need to undertake a test before he could drive again. The Tribunal noted the positive comments from the probation officer, that there has been no reoffending and that he has completed his sentence, albeit that the disqualification from driving is still in place.

43. XXX

44. The Tribunal determined that Dr Nawaz had shown insight into his actions in his witness statement and through his oral evidence.

45. The Tribunal referred to the serious nature of the convictions. It determined that Dr Nawaz’s fitness to practise is impaired by reason of his convictions.

XXX

46. XXX

47. XXX

48. XXX

49. XXX

50. XXX

51. XXX

52. XXX

53. XXX

Overarching objective

54. In respect of XXX impairment, the Tribunal determined that all three limbs of the statutory overarching objective were engaged. The Tribunal concluded that a finding of impaired fitness to practise was required 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 Sanction - 08/04/2021

1. Having determined that Dr Nawaz's fitness to practise is impaired by reason of his convictions XXX, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

2. This determination will be read in private but, as this case concerns Dr Nawaz's convictions, a redacted version will be published following the conclusion of this hearing, XXX.

The Evidence

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

Submissions

On behalf of the GMC

4. Mr Grundy referred to the overarching objective and the principle of proportionality. He submitted that the proportionate and appropriate sanction would be the imposition of conditions on Dr Nawaz's registration. Mr Grundy stated that the length of conditional registration was a matter for the Tribunal.

5. Mr Grundy stated that the GMC submission reflected Dr Nawaz's insight into his conviction XXX. He referred to the Tribunal's comments in its impairment determination about Dr Nawaz's insight and the positive comments from the probation officer. XXX.

6. Mr Grundy XXX stated that Dr Nawaz was at the very early stages of his career and conditions would also allow him the opportunity to undertake work under supervision. XXX.

7. XXX

8. XXX

9. Mr Grundy submitted that this was not an exceptional case where no action would be appropriate. He also submitted that an argument could have been made in this case for suspension but, for the reasons above, the proportionate sanction was one of conditions.

On behalf of Dr Nawaz

10. Mr Geering submitted that the imposition of conditions on Dr Nawaz's registration would be the appropriate sanction and could address the public interest issues in this case.

11. XXX

12. XXX

13. XXX. Mr Geering stated that Dr Nawaz is a FY2 practitioner and he would be supervised and closely monitored in the ordinary course of events. Mr Geering submitted that adding an additional condition of supervision would be unnecessary and there should be a degree of trust so his training programme can be properly directed by those at the Trust. Mr Geering stated that the Trust was well aware that Dr Nawaz had not been in medical practice for some time and any return to work would have to be well thought through. He referred to the current plans that have been discussed with Dr B.

14. Mr Geering submitted that Dr Nawaz was capable of being a good doctor. He referred to the positive comments from colleagues that had been provided regarding Dr Nawaz's FY1 year, including that he was polite, very professional, helpful and someone who was able to build a good rapport with patients. Mr Geering submitted that there was a public interest in such a practitioner being able to, safely, return to the workplace.

15. Mr Geering submitted that the convictions were serious but that suspension would be disproportionate. He stated that XXX Dr Nawaz's XXX had never acted like this before or since the events in question. Mr Geering submitted that Dr Nawaz had shown remorse for his actions, had insight and a period of suspension would only make it harder for Dr Nawaz to return to clinical practice.

16. Mr Geering submitted that the imposition of conditions for a period of 12 months would be appropriate. XXX.

The Tribunal's Determination on Sanction

17. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement.

18. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.

19. The Tribunal identified the following aggravating factors in this case:

- The seriousness of the dangerous driving conviction by which Dr Nawaz had put the public, the police officer and himself at risk;
- XXX

20. The Tribunal identified the following mitigating factors in this case:

- XXX;
- XXX;
- XXX;
- Dr Nawaz has shown insight into his convictions XXX.

No action

21. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Nawaz's case, the Tribunal first considered whether to conclude the case by taking no action.

22. The Tribunal was of the view that there were no exceptional circumstances present in this case such as to justify taking no action. The Tribunal determined that, in view of the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest to conclude this case by taking no action on Dr Nawaz's registration.

Conditions

23. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Nawaz's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

24. The Tribunal had regard to its conclusions at the impairment stage, including that Dr Nawaz had shown insight into his actions in respect of the convictions XXX.

25. The Tribunal was of the view that the following factors within paragraph 82 of the SG were all relevant in this case:

*“Conditions are likely to be workable where:
a. the doctor has insight*

- b. a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*
- c. the tribunal is satisfied the doctor will comply with them*
- d. the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.”*

26. The Tribunal determined that, in respect of paragraph 84 of the SG, there was no evidence to demonstrate that remediation would be unlikely to be successful in Dr Nawaz’s case and he was engaging well. The Tribunal was of the view that Dr Nawaz was committed to keeping his knowledge and skills up to date, XXX. The Tribunal considered he would abide by any conditions that were imposed.

27. The Tribunal determined to impose conditions on Dr Nawaz’s registration. It concluded that the imposition of conditions would mark the seriousness of the conviction XXX whilst providing adequate safeguards 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.

28. The Tribunal was also of the view that Dr Nawaz had clear potential to remediate, XXX and could continue his training XXX.

29. The Tribunal determined that, whilst supervision under the FY2 programme would be provided, that a separate condition in respect of supervision was necessary XXX. It also determined to restrict Dr Nawaz from being able to undertake locum posts to ensure that posts outside the FY2 programme do not take place to ensure the necessary safeguards are in place at all times.

30. The Tribunal had regard to Dr Nawaz’s compliance with his sentence, the positive comments from his probation officer and testimonial references XXX. The Tribunal determined that suspension of Dr Nawaz’s registration would be disproportionate.

31. The Tribunal concluded that it was appropriate, necessary and proportionate to impose conditions on Dr Nawaz’s registration for a period of 12 months. XXX.

32. The following conditions relate to Dr Nawaz’s employment and will be published:

- 1 He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:
 - a the details of his current post, including:
 - i his job title
 - ii his job location

- iii his responsible officer (or their nominated deputy)
 - b the contact details of his employer and any contracting body, including his direct line manager
 - c any organisation where he has practising privileges and/or admitting rights
 - d any training programmes he is in.
- 2 He must personally ensure the GMC is notified:
- a of any post he accepts, before starting it
 - b that all relevant people have been notified of his conditions, in accordance with condition 9
 - c if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - d if any of his posts, practising privileges, or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination
 - e if he applies for a post outside the UK.
- 3 He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.
- 4
- a He must have a workplace reporter appointed by his responsible officer (or their nominated deputy).
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his workplace reporter
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.
- 5
- a He must get the approval of his GMC Adviser before accepting any post.

- b He must keep his professional commitments under review and limit his work if his GMC Adviser tells him to.
 - c He must stop work immediately if his GMC Adviser tells him to and must get the approval of his GMC Adviser before returning to work.
- 6 He must get the approval of the GMC before working in a non-NHS post or setting.
- 7
- a He must be supervised in all of his posts by a clinical supervisor, as defined in the *Glossary for undertakings and conditions*. His clinical supervisor must be appointed by his responsible officer (or their nominated deputy).
 - b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his clinical supervisor and approved his supervision arrangements
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his clinical supervisor and his supervision arrangements.
- 8 He must not work as a locum.
- 9 He must personally ensure the following persons are notified of the conditions listed at 1 to 8:
- a his responsible officer (or their nominated deputy)
 - b the responsible officer of the following organisations:
 - i his place(s) of work, and any prospective place of work (at the time of application)
 - ii all of his contracting bodies and any prospective contracting body (prior to entering a contract)
 - iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)
 - iv any locum agency or out of hours service he is registered with
 - v if any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for

overall clinical governance within that organisation. If he is unable to identify that person, he must contact the GMC for advice before working for that organisation.

c his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

33. XXX

Review hearing directed

34. The Tribunal determined to direct a review of Dr Nawaz's case. A review hearing will convene shortly before the end of the period of conditional registration, unless an early review is sought. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Nawaz to demonstrate how he has progressed in the intervening period and, if appropriate, that his fitness to practise is no longer impaired. It therefore may assist the reviewing Tribunal if Dr Nawaz were to provide:

- XXX;
- XXX;
- XXX;
- Evidence that he has kept his medical skills and knowledge up to date, including a report from his XXX educational supervisors;
- XXX.

35. Dr Nawaz will also be able to provide any other information that he considers will assist.

Determination on Immediate Order - 08/04/2021

1. Having determined to impose conditions on Dr Nawaz's registration for 12 months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Nawaz's registration should be subject to an immediate order of conditional registration.

2. This determination will be read in private but, as this case concerns Dr Nawaz's convictions, a redacted version will be published following the conclusion of this hearing, XXX.

Submissions

3. Mr Grundy, on behalf of the GMC, submitted that an immediate order would be appropriate and for the interim order to be revoked.

4. Mr Grundy referred to paragraphs 172 and 178 of the SG:

“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...”

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.”

5. Mr Grundy submitted that it would not be appropriate for Dr Nawaz to continue in, potentially, unrestricted practice before the substantive order takes effect.

6. Mr Geering, on behalf of Dr Nawaz, stated that he had no observations to make in respect of the immediate or interim order.

The Tribunal’s Determination

7. The Tribunal had regard to paragraph 172 of the SG, as quoted above.

8. In all the circumstances, the Tribunal determined to impose an immediate order of conditional registration on Dr Nawaz’s registration. The Tribunal determined that this was necessary in order to uphold the overarching objective and is in the public interest.

9. This means that Dr Nawaz’s registration will be made subject to conditions from today. The substantive direction, as already announced, will take effect 28 days from when written notice of this determination has been served upon Dr Nawaz, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

10. The interim order currently imposed on Dr Nawaz’s registration will be revoked when the immediate order takes effect.

11. That concludes this case.

Confirmed

Date 08 April 2021

Mr Colin Chapman, Chair