

PUBLIC RECORD

Date: 26 March 2024

Medical Practitioner's name: Dr Gamal MOHAMED

GMC reference number:	4355450
Primary medical qualification:	MB BCh 1980 Cairo
Type of case	Outcome on impairment
Deficient professional performance	Impaired
Summary of outcome	
Conditions for 12 months	

Legally Qualified Chair:

Legally Qualified Chair:	Ms Alice Moller
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Review on the Papers

This case was reviewed on the papers, with the agreement of both parties, by a Legally Qualified Chair.

Overarching Objective

Throughout the decision making process the chair 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.

1. Dr Mohamed's case was first considered by a Medical Practitioners Tribunal in February 2014. In March 2010, Dr Mohamed was practising as a staff grade doctor in obstetrics and gynaecology at Jersey General Hospital ('the Hospital'). During his employment at the Hospital, complaints were made about Dr Mohamed's practice. An investigation was initiated, and the Hospital concluded that Dr Mohamed's practice should be closely supervised. In April 2011, Dr Mohamed was referred to the GMC due to concerns about his clinical skills and he subsequently underwent a performance assessment. In a report dated 15 February 2013, the assessment team

found Dr Mohamed's performance to be unacceptable in three areas: assessment, investigation and treatment.

2. In February 2014 a Medical Practitioners Tribunal found that Dr Mohamed's fitness to practise was impaired by reason of deficient professional performance. Dr Mohamed gave undertakings in relation to his registration.

3. In November 2015, Dr Mohamed underwent another performance assessment as required by his undertakings. The assessment team found that Dr Mohamed's performance gave cause for concern in the areas of assessment and record keeping and was unacceptable in the area of clinical management.

4. Dr Mohamed's case was considered in April 2018 and reviewed in April 2019, 2020 and more recently on the papers. Dr Mohamed was present and represented at the first hearings. Account must be taken of the determinations of all previous Tribunals.

The 2018 Tribunal

5. The 2018 Tribunal was informed that between 8 and 16 November 2015, Dr Mohamed had a GMC assessment of his professional performance. The assessors found that Dr Mohamed's performance was unacceptable in the area of clinical management and was a cause for concern in the assessment of patient's condition and recordkeeping. The 2018 Tribunal determined that the facts found proved amounted to deficient professional performance.

6. The 2018 Tribunal found Dr Mohamed's fitness to practise was impaired by reason of his deficient professional performance. In doing so it took account of the views of the assessment team, including as to potential risks.

7. The 2018 Tribunal imposed an order of conditions on Dr Mohamed's registration for 12 months. The Tribunal took account of Dr Mohamed's efforts to remediate and maintain his medical skills and knowledge. It also took account of his personal development plans ('PDP'). The 2018 Tribunal found that Dr Mohamed had some insight and that it would be possible to meet the overarching objective by the imposition of conditions. But, given the potential risk to the public, the 2018 Tribunal determined to impose an immediate order.

The 2019 Tribunal

8. Dr Mohamed's case was reviewed in April 2019. The 2019 Tribunal found that Dr Mohamed's fitness to practise remained impaired by reason of his deficient professional performance. The 2019 Tribunal noted that Dr Mohamed was not able to obtain employment in the UK with the requisite level of supervision required and that he had found a post at the Al-Galaa Hospital in Cairo under direct supervision. The 2019 Tribunal took account of reports from two supervising consultants, who recommended a relaxation in the level of supervision required and made adjustments to his conditions. However, the 2019 Tribunal concluded that he had not been working long enough to demonstrate sufficient remediation.

9. The 2019 Tribunal determined to impose a conditions for another 12 months. It said that a future reviewing Tribunal would be assisted by the following:

- A report from his clinical supervisors(s);
- Feedback from professional colleagues;
- Evidence of ongoing compliance with CPD requirements;
- Evidence to demonstrate obstetric exposure in labour wards, and acceptable performance of clinical management in obstetrics.
- Any other evidence Dr Mohamed considered relevant to a future Tribunal.

The 2020 Tribunal

10. The 2020 Tribunal was not provided with a formal report from Dr Mohamed's clinical supervisor. However, he provided reports from supervising doctors who were members of the Royal College of Obstetricians and Gynaecologists. There was no suggestion that Dr Mohamed had breached the conditions on his registration but the GMC submitted that, despite his efforts, Dr Mohamed had not fulfilled the requirements of the 2019 Tribunal.

11. The Tribunal was satisfied that Dr Mohamed had insight into the deficiencies in his clinical abilities, risk and the reason for conditions; he accepted that his fitness to practise remained impaired. The Tribunal had insufficient evidence in relation to Dr Mohamed's clinical practice and was concerned that Dr Mohamed had not been working in a medical capacity for some time and that there remained a risk to patient safety.

12. Dr Mohamed's conditions were varied by the 2020 Tribunal to allow him to assist safely with the Covid-19 pandemic, in the public interest. The Tribunal removed the requirement for him to work only in obstetrics and gynaecology.

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13. In any non-obstetrics and gynaecology role, the Tribunal determined that Dr Mohamed should be closely supervised. This would allow him to assist during the Covid-19 pandemic.

14. The 2020 Tribunal concluded that Dr Mohamed's fitness to practise was impaired by reason of deficient professional performance. It imposed a conditions of practice order and recommended that Dr Mohamed provide the following evidence to a review hearing:

- A report from his clinical supervisors(s);
- Feedback from professional colleagues;
- Evidence of ongoing compliance with CPD requirements;
- A diary of completed clinical work;
- Sufficient evidence to demonstrate obstetric exposure in labour wards, and acceptable performance of clinical management in obstetrics.
- Any other evidence Dr Mohamed considered relevant to a future Tribunal.

This Review Hearing

15. Dr Mohamed and the GMC have agreed that this review should be considered on the papers in accordance with Rule 21B of the General Medical Council (Fitness to Practise) Rules 2004. The GMC and Dr Mohamed both agreed that his fitness to practice remains impaired by reason of deficient professional performance and that his registration should be subject to a Conditions of Practise order for a further 12 months. The GMC and Dr Mohamed have jointly provided an agreed draft Conditions of Practice order to be considered by this review.

16. This Tribunal now has to decide in accordance with Rule 21B of the Rules whether Dr Mohamed's fitness to practise is impaired by reason of deficient professional performance. It must take account of relevant information from Dr Mohamed and the GMC, as well as the Sanctions Guidance.

17. The Tribunal will apply the principle of proportionality, weighing Dr Mohamed's own interests with the public interest. The public interest includes the protection of patients, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct and behaviour.

Impairment

18. The Tribunal first considered whether Dr Mohamed's fitness to practise is impaired by reason of deficient professional performance. This review was considered by a Legally

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Qualified Chair (LQC) on the papers, taking full account of the Sanctions Guidance and relevant legal principles. The purpose of any sanction is to protect patients and the wider public interest, not to be punitive.

19. However, it is recognised that a sanction may have a punitive effect on a doctor. The Tribunal or LQC must apply the principle of proportionality, weighing Dr Mohamed's own interests with the public interest.

Evidence – legal principles

20. The LQC was provided with documents including Records of Determinations from Dr Mohamed's previous Tribunals referred to above. Correspondence between the GMC, Dr Mohamed / his representative were also considered by the LQC.

21. On 8 March 2024, Dr Mohamed's solicitor emailed the GMC to provide documents showing that Dr Mohamed had 'kept his skills up to date in the intervening period.' These documents included a revalidation assessment report, with a test date of 11 December 2023 and other certificates of Continuing Professional Development (CPD).

22. The GMC provided a summary of previous Reviews on the Papers.

'A Review on the papers in March 2021 considered that the global COVID-19 pandemic had severely restricted Dr Mohamed's attempts to evidence remediation and noted he had been unable to return to practice abroad or in the UK and extended the conditions for 12 months.

A Review on the papers in March 2022 considered that since the previous review the circumstances had not changed other than Dr Mohamed had been able to find short-term positions in the UK and extended the conditions for 12 months.

A Review on the papers in March 2023 considered that since the previous review the circumstances had not changed as Dr Mohamed had not been able to find employment and extended the conditions for 12 months.'

23. The GMC noted that Dr Mohamed 'has not found employment but had submitted papers to show he has passed a GMC Revalidation Assessment in December 2023 and completed various elements of Continuing Professional Development'. The GMC submitted that: 'Dr Mohamed's fitness to practice remains impaired due to deficient professional performance. The facts are similar to the previous year when such a finding was made, with

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no evidence of any practice in the last 12 months, but with evidence that Dr Mohamed has kept his practice up to date’.

24. The GMC proposed a 12-month extension to his conditions of practice, saying that: ‘This reflects the reasoning of the last Tribunal which was previously accepted by the doctor’s representatives. Given the need to build a body of evidence of progress for a future Tribunal to consider, the GMC considers this appropriate’.

25. At the impairment stage, there is no burden or standard of proof. It is a question of judgment for the Tribunal or LQC. Impairment may be based on historical matters or a continuing state of affairs, but it is to be decided at the time of the hearing.

26. Account must be taken of any changes in performance since the relevant time. In determining impairment the Tribunal or LQC must consider whether deficiencies in performance indicate any risk of harm, breach of a fundamental tenet of the medical profession or bringing it into disrepute: Grant [2011] EWHC 927.

Determination

27. In all the circumstances, including Dr Mohamed’s efforts to continue his professional development despite being out of practice since the last Review, the LQC concluded that Dr Mohamed’s fitness to practise continues to be impaired by reason of deficient professional performance.

28. The LQC determined that a finding of impairment is necessary to protect the public, maintain trust in doctors and to declare and uphold standards. This appears to be recognised by both Dr Mohamed and the GMC.

Sanction

29. Although a Tribunal need not adhere to Sanctions Guidance, it should have proper regard to and apply it: Bramhall [2021] EWHC 2109. If departing from it, a Tribunal or LQC has a duty to state clear, substantial and specific reasons for the departure.

30. It is important that no doctor is allowed to resume unrestricted practice unless the Tribunal or LQC considers this would be safe. Dr Mohamed appreciates the issues identified by the GMC, but has not demonstrated sufficient remediation.

31. In all the circumstances the LQC determined that a twelve month Conditions of Practice Order is the appropriate and proportionate sanction. The precise terms have been

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agreed by the GMC and Dr Mohamed, who is willing to comply with restrictions. A year is the length required to protect the public and wider public interest.

32. The conditions proposed are proportionate and sufficient to protect the public and the public interest. The LQC determined that Dr Mohamed's registration be made subject to the following conditions for a period of 12 months:

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
 - e. of the contact details of any locum agency or out of hours service he is registered with.
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 13.
 - 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

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- 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 design a Personal Development Plan (PDP), with specific aims to address the deficiencies in the following areas of his practice:
- Clinical Management
- b. His PDP must be approved by his responsible officer (or their nominated deputy).
- c. He must give the GMC a copy of his approved PDP within three months of these substantive conditions becoming effective.
- d. He must give the GMC a copy of his approved PDP on request.
- e. He must meet with his responsible officer (or their nominated deputy), as required, to discuss his achievements against the aims of his PDP.
6. a. He must have an educational supervisor appointed by his responsible officer (or their nominated deputy)

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- b. He must not work until:
- i. his responsible officer (or their nominated deputy) has appointed his educational supervisor
 - ii. he has personally ensured that the GMC has been notified of the name and contact details of his educational supervisor.
7. He must get the approval of the GMC before working in a non-NHS post or setting.
8. He must only work at ST3 level or below or equivalent.
9. a. He must be closely supervised in all of his ST3 posts by a clinical supervisor, as defined in the Glossary for undertakings and conditions. His clinical supervisor must be approved by his responsible officer (or their nominated deputy). The period of close supervision should continue until such time as his clinical supervisor considers a different level of supervision is appropriate.
- b. He must notify the GMC in writing if the level of supervision at ST3 level changes.
- c. 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.
10. a. He must be supervised in any obstetrics and gynaecology post below ST3 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.

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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.

11. He must be closely supervised if working in a non-obstetrics and gynaecology medical role.

12. He must not work in any locum post or fixed term contract of fewer than 30 hours' duration.

13. He must personally ensure the following persons are notified of the conditions listed at 1 to 12:

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

iv. 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.

33. The effect of this direction is that, unless Dr Mohamed exercises his right of appeal, the Conditions Order will take effect 28 days from when written notice of this determination has been served on him.

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34. The current order of conditions will remain in place until the appeal period has ended, or in the event that he does appeal, that appeal is decided. A note explaining Dr Mohamed's right of appeal will be provided to him. Notification of this decision will be served on Dr Mohamed in accordance with the Medical Act 1983, as amended.