

## PUBLIC RECORD

Dates: 04/05/2021 - 07/05/2021

Medical Practitioner's name: Dr George TADROS

GMC reference number: 4455628

Primary medical qualification: MB ChB 1986 University of Alexandria

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	No facts found proved	Not Impaired

## Summary of outcome

No action (warning not considered)

## Tribunal:

Legally Qualified Chair	Mr Nathan Moxon
Lay Tribunal Member:	Mrs Carol Jackson
Medical Tribunal Member:	Dr John Smith

Tribunal Clerk:	Ms Olivia Moy
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## Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Andrew Hockton, Counsel, instructed by Ms Leigh Taylor of the Medical Protection Society
GMC Representative:	Mr Tim Grey, 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.

### 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 - 07/05/2021

1. Within the Allegation, the accused doctor is referenced as 'Dr Tadros'. However, he is known professionally as 'Professor Tadros' and so the latter title shall be used throughout this determination.
2. Professor Tadros qualified with an MB ChB in 1986 from Alexandria University in Egypt. After moving to the UK in April 1995, Professor Tadros registered with the GMC in August 1995 and has been on the GMC specialist register for Old Age Psychiatry since September 2001.
3. Prior to the events which are the subject of the hearing, Professor Tadros was employed as Clinical Director of the Urgent Care Pathway for NHS Birmingham & Solihull ("the Trust"). The Allegation that has led to these proceedings can be summarised as follows:
4. Professor Tadros was a witness for his employer, the Birmingham and Solihull Mental Health NHS Foundation Trust ('the Trust'), in a trademark case ('the Trial') that was heard at the High Court (Intellectual Property Enterprise Court) before Her Honour Judge Melissa Clarke on 8 October 2018. The case involved trademark infringement and passing off by the Trust in the area of the provision of psychiatry and mental health training courses to those caring for people with mental health and behavioural issues. The case related to the use of the wordmark "RAID" in relation to the training courses.

5. HHJ Clarke provided her written judgment ('the Judgment') on 9 January 2019. In her Judgment, she was critical of the evidence given by Professor Tadros and concluded that he had not been honest.

6. In an email dated 25 February 2019, Professor Tadros self-referred to the GMC stating:

*"Please find enclosed a judgment in a civil claim where I am criticised as a witness. I take this matter seriously and will be [sic] ensure my full understanding of the criticism and engage in remediation as required."*

7. The GMC has subsequently alleged that Professor Tadros was dishonest when providing his evidence before HHJ Clarke.

8. A preliminary hearing took place on 18 March 2021 to consider the issue of the admissibility of evidence following a disputed application ('the Application') to redact sections of the proposed substantive hearing bundle ('the Bundle'), made on behalf of Professor Tadros. The Application proposed the following redactions to the bundle:

- The Paper entitled *"Impact of an integrated rapid response psychiatric liaison team on quality improvement and cost savings: the Birmingham RAID model"*, published 2013, at pages 8 – 14 of the Bundle.
- Reference to the above paper at paragraph 3, page 6 of the Bundle.
- The following paragraphs of the Judgment of Her Honour Judge Melissa Clarke, beginning at p734 of the Bundle:
  - 16, 18-20, 44-91 (Evidence and Findings)
  - 92-143 (Analysis)

9. The Tribunal concluded that admission of both the Paper and the unredacted Judgment were both relevant and fair and refused the Application, determining that the tribunal considering the substantive matters would be best placed to comment on the manner in which this evidence will be treated.

## The Allegation and the Doctor's Response

10. The Allegation made against Professor Tadros is as follows:

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

1. On 8 October 2018 when giving evidence as a witness before Her Honour Judge Melissa Clarke in the High Court of Justice, you sought to minimise the scope of the training offered by the Birmingham and Solihull Mental Health NHS Trust ('the Trust') in relation to the Rapid Assessment Interface and Discharge Service ('the RAID service'), by indicating that:
  - a. no formal training courses were provided by the Trust in relation to the RAID service; **To be determined**
  - b. the only training provided by the Trust in relation to the RAID service was delivered in an:
    - i. informal manner; **To be determined**
    - ii. ad-hoc manner. **To be determined**
2. The evidence you provided as set out at paragraph 1 was untrue. **To be determined**
3. You knew that the evidence you provided as set out a paragraph 1 was untrue. **To be determined**
4. Your actions as described at paragraph 1 were dishonest by reason of paragraphs 2 and 3. **To be determined**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. **To be determined**

### The Facts to be Determined

11. The Allegation was denied by Professor Tadros and therefore the Tribunal was required to determine the entirety of the Allegation.

### Factual Witness Evidence

12. The Tribunal received oral evidence on behalf of Professor Tadros from a number of defence witnesses:

- Mrs A - Physician Associate at the Birmingham and Solihull Mental Health Foundation Trust;
- Ms B – Executive Medical Director at the Birmingham and Solihull Mental Health Foundation Trust; and
- Ms C - Executive Director of Nursing at the Birmingham and Solihull Mental Health Foundation Trust.

13. The Tribunal also received oral evidence on behalf of Professor Tadros from two testimonial witnesses:

- Mr D; and
- Mr E.

14. Professor Tadros provided his own witness statement and also gave oral evidence at the Facts stage of proceedings.

### Documentary Evidence

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

- Self-referral from Professor Tadros dated 25 February 2019;

- Correspondence between the GMC and Professor Tadros;
- Approved judgement and transcript of the High Court trial;
- Witness statement of Professor Tadros;
- Various witness statements and testimonials; and
- Stage 1 defence bundle.

### The Tribunal's Approach

16. Following the closing submissions at the Facts stage of the proceedings, the Tribunal heard the below legal advice from the Legally Qualified Chair, after it was discussed with counsel for both parties:

- 1. When exercising its functions, the Tribunal must have particular regard to the statutory overarching objective:*
  - a. To protect, promote and maintain the health, safety and wellbeing of the public;*
  - b. To promote and maintain public confidence in the medical profession; and*
  - c. To promote and maintain proper professional standards and conduct for members of that profession.*
- 2. The GMC has the burden of proving each aspect of the allegation upon the civil standard, which is upon the balance of probabilities. The GMC must establish that it is more likely than not that facts occurred. The more serious the allegation of misconduct the more cogent the evidence will need to be in order to meet that standard. This does not mean that the standard is higher. It means only that the inherent probability or improbability of the conduct occurring is itself a matter to be taken into account when weighing the probability and deciding whether on balance the conduct occurred.*
- 3. It is alleged that Professor Tadros has acted dishonestly during his evidence in court before Her Honour Judge Clarke in October 2018. The test for dishonesty is as follows:*

- a. *The Tribunal must first ascertain (subjectively) the actual state of Professor Tadros' knowledge or belief as to the facts. The reasonableness or otherwise of his belief may evidence whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held.*
  - b. *Once that had been established the Tribunal must determine whether his conduct was dishonest by applying the objective standards of ordinary decent people. It is not necessary for the individual to appreciate that what he has done is, by those standards, dishonest.*
4. *It is alleged that Professor Tadros dishonestly stated, during court proceedings, that no formal training courses were provided by the Birmingham and Solihull Mental Health NHS Trust in the RAID service and that the only training provided by the Trust in relation to the RAID service was delivered in an informal and ad hoc manner. Professor Tadros accepts making those comments, and in fact he maintains them.*
5. *For him to be found dishonest it must be proved to the requisite standard that when he made those comments he knew or believed that what he was saying was false. The Tribunal should not initially concern itself with what a reasonable person would have believed in Professor Tadros' position, but what Professor Tadros himself believed.*
6. *If the Tribunal finds that the subjective limb is not satisfied, it need not consider the objective limb, and should find the Allegation not proved. If the Tribunal finds that the subjective limb is proved, it must then consider whether ordinary decent people would consider the conduct dishonest.*
7. *It is for the Tribunal to determine what evidence assists in discharging its duties to make findings and the weight to be given to that evidence. Decisions must be based upon the evidence alone and not speculation.*

8. *The papers before the panel contain hearsay evidence, which is evidence that has not been given orally during these proceedings. Hearsay evidence is admissible in these proceedings but the Tribunal must consider the weight, if any, to assign such evidence. When considering hearsay evidence the Tribunal must consider the extent to which the evidence is agreed or disputed. The source of the evidence should be identified and the Tribunal should consider whether the witness was independent or may have had a purpose of their own or another to serve. The Tribunal must also consider the reliability of the evidence and should identify any mistakes or inconsistencies found in it. There has been no opportunity to see the sources of disputed hearsay evidence tested under cross-examination, for example as to accuracy, truthfulness, ambiguity or misperception, and how the witnesses would have responded to this process. It may be that a witness has not addressed an issue in their written accounts that they may have been questioned about at this hearing.*
  
9. *Her Honour Judge Clarke found that Professor Tadros had been dishonest during his evidence before her when he stated that the training provided was not formal and that the only training provided was informal and ad hoc. That determination is admissible as background evidence. However, when considering the weight, if any, to give that evidence, the Tribunal should have regard to the following:*
  - a. *There is no unfairness arising from the judgment being admitted but the Tribunal must make findings of facts for itself (45). The judgment of HHJ Clarke is one aspect of the evidence that must be considered with all of the other evidence in the case, including the evidence called by Professor Tadros;*
  
  - b. *The statutory role of the Tribunal is that it should be the decision maker on the issues and evidence before it and should not adopt the decision of another body (para 43);*
  
  - c. *The purpose of admitting HHJ Clark’s judgment is not to substitute her judgment for the judgment of the Tribunal or even to treat her judgment as rebuttable prima facie evidence of the correctness of the allegations which the Tribunal has to decide (para 45).*

- d. HHJ Clarke’s judgment does not reverse the burden of proof. The GMC must prove upon the balance of probabilities that Professor Tadros has been dishonest. Professor Tadros does not have the burden of proving that HHJ Clarke reached the wrong conclusion (para 48);*
- e. There is evidence and counsel’s submissions before the Tribunal that was not before HHJ Clarke; and*
- f. The Tribunal must consider all of the evidence before it, of which HHJ Clarke’s judgment is only part.*

*10. It is agreed between the parties that Professor Tadros shall be treated as of good character. His good character must be taken into account by the Tribunal when assessing his credibility and the likelihood of him having done what has been alleged.*

*11. The Tribunal’s determination and reasons must be outlined in writing.*

### **The Tribunal’s Analysis of the Evidence and Findings**

17. The Tribunal considered each paragraph of the Allegation and evaluated all of the evidence before it in order to make its findings on the facts.

18. It was alleged that Professor Tadros was dishonest during his evidence in October 2018 before HHJ Clarke when he stated that no formal training courses were provided by the Trust in relation to the RAID service and that the only training provided by the Trust in relation to the RAID service was delivered in an informal and / or ad hoc manner.

19. The Tribunal was not satisfied, upon the balance of probabilities, that Professor Tadros knew or believed that his assertions were false. As such, the Allegation is found not proved in its entirety.

20. The Tribunal was satisfied that Professor Tadros believed, and continues to believe, that formal training is training that is accredited and that upon conclusion participants are

certified or receive a qualification. It is not disputed that the training provided in relation to the RAID service did not include those elements. Others may prefer different definitions, but the Tribunal was satisfied that the definitions provided by Professor Tadros were genuinely believed by him to be accurate.

21. The Tribunal considered that the use of terminology when describing training events; the production of slides, posters and other materials to aid delivery of training; and the use of feedback forms, were not of the significance argued by the GMC. Professor Tadros' explanation of the difference between formal and informal training was accepted and both types of training would foreseeably include those features.

22. Professor Tadros explained that during the RAID pilot in 2009-2011, the service provided formal training to staff by a paid, external supplier. However, after the pilot, and despite his efforts, he was refused funding to continue formal training and so thereafter all training was required to be in house, informal and ad hoc. The Tribunal considered this to be a plausible and credible explanation as to how he had distinguished between the formality of training provided by the service during the pilot and thereafter. Further, that assessment was corroborated by Ms C, who stated the following:

“During the pilot scheme (2009 – 2011) the Trust had a relationship with Staffordshire University to provide training to staff as part of a package of training. I consider that the training provided as part of the pilot was formal but became informal training after that ended.”

23. The Tribunal noted the witness evidence of Mrs A, Dr B and Mrs C and that all three witnesses agreed entirely with Professor Tadros's view that the training provided by the Trust in relation to the RAID service was informal. The credibility of the witnesses was not challenged by the GMC and the Tribunal in any event found them to be straightforward and truthful witnesses who gave consistent and persuasive evidence.

24. The witnesses detailed the following material aspects of the training provided in relation to the RAID service to support their opinions that it was informal and ad hoc:

- Not mandatory for any attendees;
- Not accredited;

- Did not result in certification or qualification;
- Did not result in the accrual of CME points; and
- Did not require expenditure, such as room hire, paid trainers etc.

25. The Tribunal noted that Mrs A wholly supported Professor Tadros’s definition of the training provided in relation to the RAID service. The Tribunal was of the view that her evidence was key in supporting the contention that the training was informal and ad-hoc. Mrs A was the training lead of the RAID service, a role which was limited to identifying training needs and collating statistics as to what training was held. She explained that her role covered training over five hospitals and that this work took up around 5% of her working time in total. This was broadly consistent with the evidence of Professor Tadros who stated that Mrs A’s predecessor in the role would spend approximately half a day a month fulfilling the duties required. The Tribunal was of the view that this supported the notion that the training was ad-hoc and informal as, in its view, formal training would take considerably more time to organise and deliver.

26. The Tribunal found the evidence of Dr B to be particularly persuasive and noted that Dr B has almost 30 years NHS experience and has also held a role as Clinical Director. Dr B had read the judgment of HHJ Clarke, including a summary of the evidence considered in relation to the training provided in relation to the RAID service, and disagreed with the conclusion that the training was anything other than informal and ad-hoc. During her oral evidence, Dr B stated that the training described within the judgment would be considered, within psychiatric NHS services, as informal and ad-hoc and not formal training. Dr B agreed with the view of Professor Tadros, in that, the fact that the training was not accredited and did not lead to a qualification, indicated that it was indeed informal and ad-hoc.

27. The Tribunal had regard to the transcript of the High Court trial. The Tribunal accepted that the manner in which Professor Tadros gave his evidence before HHJ Clarke was at times unsatisfactory as he occasionally went off on tangents, which could have given the impression of evasiveness. However, the Tribunal accepted that even for an impressive professional, giving evidence before the High Court can be unsettling and stress inducing, particularly if the witness is unfamiliar with legal proceedings, as Professor Tadros has explained he was.

28. At an early stage of cross-examination Professor Tadros was chastised by HHJ Clarke for the nature in which he answered questions. The Tribunal accepted that this could have played on his mind when answering further questions and took the view that this was a reasonable explanation for the lack of detail in subsequent answers. The Tribunal also noted that Professor Tadros was giving evidence in his second language about the meaning of ‘formal’, ‘informal’ and ‘ad-hoc’ training, in a situation where no definitions of such phrases were put to him.

29. The Tribunal also considered it notable that the Claimant’s barrister in the High Court did not argue that Professor Tadros had been dishonest in his evidence and, in fact, argued the contrary:

*“Now it became clear during cross-examination that Professor Tadros is not actually responsible for all the training that-that happens. So I am not asking you to find that Professor Tadros lied or that he did anything of the sort; my suggestion to you is that Professor Tadros misunderstood or mischaracterised the training that is provided and was mistaken in that regard.”*

30. Furthermore, the Tribunal noted that HHJ Clarke made a finding of dishonesty against Professor Tadros without giving him an opportunity to address the charge and without outlining the test that she had applied in reaching that conclusion.

31. The Tribunal also noted that HHJ Clarke did not have the benefit of the wealth of evidence that this Tribunal had before it during these fitness to practise proceedings. She did not have the persuasive evidence of, in particular, Mrs A and Dr B. The Tribunal noted that this evidence is paramount in understanding the nature of the training and the opinions of relevant professionals as to whether the training was formal or otherwise.

32. The Tribunal also noted that it has never been asserted by the GMC that Professor Tadros had anything to gain by seeking to mislead HHJ Clarke as to the nature of the training provided. His uncontested evidence before the Tribunal was that there was nothing to be gained from him being dishonest.

33. Finally, the Tribunal noted that Professor Tadros has had a lengthy and distinguished career along with an unblemished regulatory record prior to the events that have led to this

hearing. The Tribunal had regard to the testimonials presented on behalf of Professor Tadros and noted that he is a well-respected and accomplished doctor. The Tribunal took the view that these factors enhanced his credibility and overall render it less likely that he would have acted as alleged.

34. Given the evidence before it, the Tribunal was not satisfied, upon the balance of probabilities, that Professor Tadros subjectively knew or believed that his assertions before HHJ Clarke were false. The GMC have therefore failed to satisfy the burden of proof.

35. Mr Grey, on behalf of the GMC, had argued that HHJ Clarke's determination as to Professor Tadros' honesty gave rise to a rebuttable presumption. That approach was rejected by the Tribunal upon consideration of the legal advice given by the Legally Qualified Chair, as outlined above. Nevertheless, had Mr Grey's suggested approach been adopted by the Tribunal, it would nevertheless have found, in light of the significant and compelling evidence supportive of Professor Tadros that was not before HHJ Clarke, that the presumption would have been rebutted. In summary, the Tribunal was satisfied upon the balance of probabilities that Professor Tadros's evidence before HHJ Clarke was honestly given and that he knew or believed that all of his answers were factually correct. Whilst others may disagree with Professor Tadros' definitions of 'formal', 'informal' and 'ad hoc' training, the Tribunal was satisfied that the definitions that he expressed were genuinely believed by him to be accurate.

36. Accordingly, The Tribunal determined that it could not find any of the paragraphs of the Allegation proven.

### **The Tribunal's Overall Determination on the Facts**

37. The Tribunal has determined the facts as follows:

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

1. On 8 October 2018 when giving evidence as a witness before Her Honour Judge Melissa Clarke in the High Court of Justice, you sought to minimise the scope of the training offered by the Birmingham and Solihull Mental

Health NHS Trust ('the Trust') in relation to the Rapid Assessment Interface and Discharge Service ('the RAID service'), by indicating that:

- a. no formal training courses were provided by the Trust in relation to the RAID service; **Not proved**
- b. the only training provided by the Trust in relation to the RAID service was delivered in an:
  - i. informal manner; **Not proved**
  - ii. ad-hoc manner. **Not proved**
2. The evidence you provided as set out at paragraph 1 was untrue. **Not proved**
3. You knew that the evidence you provided as set out a paragraph 1 was untrue. **Not proved**
4. Your actions as described at paragraph 1 were dishonest by reason of paragraphs 2 and 3. **Not proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. **Not proved**

Confirmed  
Date 07 May 2021

Mr Nathan Moxon, Chair