

PUBLIC RECORD**Dates:** 31/08/2022 - 06/09/2022

Medical Practitioner's name: Dr Hosam ELSEKNIDY
GMC reference number: 7013082
Primary medical qualification: MB ChB 2007 University of Alexandria

Type of case
Restoration following
disciplinary erasure

Summary of outcome

Restoration application granted. Restore to Medical Register.

Tribunal:

Legally Qualified Chair	Miss Ruona Iguyovwe
Lay Tribunal Member:	Mrs Valerie Blessington
Medical Tribunal Member:	Dr Alastair McGowan
Tribunal Clerk:	Mr Matthew Rowbotham

Attendance and Representation:

Medical Practitioner:	Present and not represented
GMC Representative:	Mr Bob Sastry, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held partly in public and partly in private.

Overarching Objective

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

Determination On Application For Restoration Following Disciplinary Erasure - 06/09/2022

1. This determination will be handed down in private. However, as this case concerns Dr Elseknidy's application for restoration to the Medical Register, a redacted version will be published at the close of the hearing.
2. The Tribunal will consider Dr Elseknidy's application in accordance with the provisions set out in Section 41 of the Medical Act 1983, as amended ('the Act'), and Rule 24 of The General Medical Council (Fitness to Practise) Rules 2004, as amended ('the Rules').

Background

3. This is Dr Elseknidy's first restoration application. Dr Elseknidy's name was erased from the Medical Register for disciplinary reasons on 13 February 2017 following a Fitness to Practise Panel hearing ('2017 hearing').

The 2017 Fitness to Practise Panel hearing

4. In 2015 Dr Elseknidy had been working as a locum via the Pro-Medical Personnel Limited ('Pro-Medical') locum agency. The Senior Compliance Officer at Pro-Medical informed Dr Elseknidy that his certificate for mandatory training had expired and that he would need to undertake online training in order to obtain a new certificate and continue working for them as a locum.
5. Dr Elseknidy responded with an email to the Senior Compliance Officer with a training certificate indicating he had passed the course. However, it was found that this certificate had been forged by Dr Elseknidy by amending the date it was issued. This prompted the following allegations which were found proved at the 2017 hearing:
 1. On 30 January 2015 you were sent an email from Pro-Medical Personnel Limited ('Pro-Medical') requesting that you provide an up to date mandatory training certificate.
 2. On or around 31 January 2015 you created a new mandatory training certificate dated 31 January 2015 ('the Certificate').
 3. On 31 January 2015 you sent an email to Pro-Medical attaching the

Certificate.

4. You submitted the Certificate to Pro-Medical despite knowing that:
 - a. you had not completed the up to date mandatory training;
 - b. the Certificate was falsified.
5. Your actions in respect of paragraphs 2-4 above were:
 - a. dishonest;
 - b. misleading.
6. The Tribunal also considered whether by reason of the matters set out above Dr Elseknidy's fitness to practise was impaired because of his misconduct.
7. The 2017 Tribunal found Dr Elseknidy's fitness to practise was impaired by reason of misconduct in relation to actions reflected in paragraphs 5- 7 above. It determined that Dr Elseknidy's actions amounted to misconduct, and that public confidence and professional standards would be seriously undermined if a finding of impairment were not made.
8. Having found Dr Elseknidy's fitness to practise impaired, the 2017 Tribunal went on to consider what sanction may be appropriate. The Tribunal noted that Dr Elseknidy had not shown any insight into his actions and had deliberately attempted to cover up his dishonesty. Despite previously being a person of good character with no fitness to practise concerns, the Tribunal was mindful of Dr Elseknidy's intentional departure from Good Medical Practice (2013, as amended) ('GMP'). It considered that his actions were fundamentally incompatible with continued registration. Given these factors, the Tribunal determined to erase Dr Elseknidy's name from the Medical Register.

The Restoration Hearing

The Outcome of Applications Made during the Facts Stage

9. The Tribunal granted Dr Elseknidy's application, made pursuant to Rule 34(13) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that a

witness be allowed to give evidence via telephone link. The GMC opposed the application. The Tribunal's full decision on the application is included at Annex A.

10. The Tribunal granted Dr Elseknidy's application to admit further evidence in the form of various documents shortly before and during the hearing. The GMC did not oppose the application, but noted the extreme lateness of the application, as Dr Elseknidy had been aware of this hearing for a significant time. The Tribunal subsequently placed no weight on these documents in reaching its determinations.

Evidence

11. The GMC called no witnesses to give oral evidence and relied solely on the documentary evidence provided to the Tribunal.

12. Dr Elseknidy gave oral evidence at the hearing and relied upon the documentary evidence he provided. He took the Tribunal to the evidence of training that he had undertaken and to work that he had completed since his erasure. He also provided character references and certificates of awards that he had received.

13. In addition to giving evidence to the Tribunal on his own behalf, Dr Elseknidy relied upon evidence from five witnesses who were called to give evidence on his behalf:

- Ms A, management professional in finance and Dr Elseknidy's former housemate, via video link, who also provided a witness statement dated 10 July 2022;
- Mr C, Obstetrics and Gynaecology Speciality Trainee, via video link, who also provided a witness statement, undated;
- Dr B, General Practitioner, via video link, who also provided a witness statement dated 12 July 2022;
- Mrs D, XXX, via video link, who also provided a witness statement dated 7 July 2022;
- Dr F, Head of Obstetrics and Gynaecology at El Alamein hospital, Egypt, and Egyptian Medical Syndicate appointed supervisor for Dr Elseknidy, via video link, who also provided a witness statement dated 10 July 2022.

Documentary Evidence

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

- transcripts and determinations of the 2017 hearing;
- correspondence between the GMC and Dr Elseknidy;
- XXX;
- Dr Elseknidy's restoration application including certificates of good standing from the Egyptian medical authority;
- certificates and presentations relating Dr Elseknidy's education and continuous professional development;
- Dr Elseknidy's diary;
- patient satisfaction surveys containing feedback from Dr Elseknidy's patients and newspaper articles regarding some of his work;
- reading material provided by Dr Elseknidy.

Submissions

On behalf of the GMC

15. Mr Sastry provided written submissions to the Tribunal which were fully considered. He submitted that Dr Elseknidy had failed to prove that he is fit to return to unrestricted practice in the UK.
16. Mr Sastry invited the Tribunal to make appropriate allowances for difficulties related to technical and language issues in this hearing. However, Mr Sastry submitted that the evidence set out in the witness statements had not been properly tested by the Tribunal due to these difficulties. He reminded the Tribunal that the onus was on Dr Elseknidy to prove he is fit to return to practise. He submitted about [Mrs D] that it was impossible to assess her credibility as she could not hear what was being said when she was being questioned by the GMC'S counsel and so her evidence could not be properly tested.
17. Mr Sastry submitted that Dr Elseknidy had breached fundamental tenets of the medical profession with significant aggravating factors, including persistent dishonesty, lying under oath and lacking insight into his actions. Further, Mr Sastry reminded the Tribunal that Dr Elseknidy had included [Mrs D] in his dishonesty, asserting that it was her who had forged the certificate. Overall, the 2017 Tribunal had found Dr Elseknidy's actions were deplorable, a deliberate departure from GMP and incompatible with continued registration. Mr Sastry submitted that his actions were therefore at the top end of the scale of dishonesty.

18. Mr Sastry submitted that Dr Elseknidy had given reasons for his behaviour at this hearing, which included:

- Dr Elseknidy XXX in 2012. Mr Sastry submitted that this occurred so long before Dr Elseknidy's dishonesty that it could not have possibly contributed to the reasons for it.
- Dr Elseknidy was being bullied at work in 2013. Mr Sastry submitted that Dr Elseknidy had moved hospitals after this time and before his dishonesty. Dr Elseknidy had said that he was doing well at work after this move. Mr Sastry submitted that this could therefore not have contributed to his decision to forge the document.
- Dr Elseknidy felt XXX. Mr Sastry accepted that Dr Elseknidy would have been in a difficult XXX position at this time.
- Dr Elseknidy was under stress from XXX. Mr Sastry submitted that many doctors feel XXX pressure, but that Dr Elseknidy had not dealt with them in an appropriate manner, failing to meet the high standards the public demands of doctors.
- Dr Elseknidy was also under stress taking on locum work and training at the same time.
- XXX.
- Dr Elseknidy was the sole breadwinner for his family and could not face the shame of losing his job to his family. Mr Sastry said that Dr Elseknidy was, in part, prepared to value financial stability over that of the responsibilities of being a doctor.

19. Mr Sastry submitted that Dr Elseknidy had some insight into his actions. However, given the implausibility of some of the reasons Dr Elseknidy had raised for his actions, he suggested that Dr Elseknidy had not taken full responsibility. In addition, he said Dr Elseknidy, in oral evidence, had stated that he '*didn't mean to lie*', which Mr Sastry submitted was inconsistent with Dr Elseknidy taking responsibility, and was significant when considering the likelihood of him repeating his actions.

20. Mr Sastry submitted that the Tribunal should also consider what information Dr Elseknidy had told his friends and colleagues about the incident, as it appeared he had told them little about the dishonest cover up he had engaged in.

21. Mr Sastry submitted that the stressful factors in Dr Elseknidy's life in the lead up to the events of 2015 may return in the vagaries of everyday life. Mr Sastry stated that Dr Elseknidy had not put in place XXX. He then submitted there is therefore a significant risk of repetition of his dishonest behaviour if XXX.

22. Mr Sastry submitted that it was difficult to assess the evidence of [Mrs D]. He reminded the Tribunal that she was prepared to subvert the fitness to practise proceedings in 2017. At this Tribunal, he submitted that [Mrs D] was having questions translated to her by a family member in a language the Tribunal did not understand. Further, that she stated that a friend had helped her construct her witness statement but refused to reveal who this was. Mr Sastry submitted that these were not the actions of someone attempting to assist the Tribunal in an honest and helpful manner. He stated that Dr Elseknidy is relying on the evidence of [Mrs D], who had been proven to be dishonest.
23. In addition, Mr Sastry submitted that there are significant questions regarding XXX. He submitted that, from the evidence at this hearing and the 2017 hearing, it was not clear who is telling lies and whether it was Dr Elseknidy or [Mrs D] doing the coercing. In any event, he stated that Dr Elseknidy XXX and this puts Dr Elseknidy at risk of being coerced and repeating his dishonest actions.
24. Mr Sastry submitted that it is difficult to assess the work Dr Elseknidy had done since his erasure and his current level of medical skills and knowledge. Mr Sastry noted that Dr Elseknidy had continued to work in Egypt; undertaken academic work and continuous professional development. However, Mr Sastry submitted that the equipment used in Egypt is not as good as that used in the UK, and that it was not possible to properly assess the evidence of Dr F, Dr Elseknidy's supervisor, due to the technical difficulties of him giving evidence by phone and the lack of formal documentation. He submitted that it was not possible to fully test the evidence that Dr F gave.
25. Further, Mr Sastry submitted that Dr Elseknidy had not worked for a significant amount of time since the erasure, between January 2016 and August 2018, which must have eroded his ability to practise medicine.
26. Mr Sastry submitted that whilst Dr Elseknidy appeared to have completed a great deal of continuous professional development, little of it was related to the issue of remediating his dishonesty. Mr Sastry submitted that, overall, the work Dr Elseknidy had done was not sufficient to satisfy the Tribunal he was fit to return to unrestricted practice.

On behalf of Dr Elseknidy

27. Dr Elseknidy was unrepresented. He gave oral evidence and made submissions on his own behalf. In his opening statement, he said he wanted to apologise for what he had done.

He said he was very sorry for everything he had done. He said he wanted to apologise to the public, his fellow doctors and to the public. He said he was silly and what he had done had not only offended himself but that he recognised that he had offended the whole profession and public.

28. Dr Elseknidy said it had not happened before and promised it would never happen again. He said he accepted that what he did, his misconduct was grave. He admitted that in his actions he had failed to comply with Good Medical Practice. He accepted that the decision made by the 2017 Tribunal to erase him from the Medical Register was an appropriate sanction for his actions. He said it was sufficient to safeguard the public. He went on to say that he had gained insight into his actions. He was deeply ashamed of his actions and was very sorry. He had a heaviness of his heart because of his behaviour. He apologised for causing distress. He was deeply ashamed, and he admitted he had repeated the lies and had involved [Mrs D].
29. He admitted that he had told lies to cover up his unethical behaviour, behaviour that he said was not suitable for the profession. He said he had disgraced his profession by his conduct. He said he had had time to think about his behaviour. He has thought about the impact of his actions. He accepted that he should have done the training. He should not have forged the certificate. He should have admitted that he had forged the certificate. He said he was scared to lose his job. [Mrs D] got involved. She thought she was helping him. She was in profound shock when he told her what he had done. She acted as she did because she wanted to protect him. She wanted to protect him from losing his job.
30. He told the Tribunal of the difficult personal circumstances that were prevailing in his life at the time. He said he did not want to offer them as an excuse for his behaviour. He accepted that regardless of those circumstances he should not have acted as he did. In his words he said: "...I was weak. I should have been strong and honest". He spoke of XXX.
31. Dr Elseknidy spoke of XXX in December 2014, a month before the forged certificate was submitted. When he heard, he was in shock because XXX. It also meant increased financial responsibilities for him. This meant he had to do more on his own to support his family and he had to do more locum work on top of his regular work. He spoke of XXX and that is why he had to travel to Egypt.
32. Dr Elseknidy spoke of XXX. He was also trying to pass Part 2 of the MRCOG examinations. He felt under massive pressure if he did not pass. XXX. He spoke of being bullied in his job

by one of the consultants but he admitted that was in 2016. All of these things put pressure on him.

33. Dr Elseknidy accepted none of it could be offered as an excuse for his actions. He admitted that his actions were dishonest but said he was not normally a dishonest person and did not like the GMC's Counsel referring to him as a dishonest person. He submitted that he has a genuine passion for helping people and has wanted to be a doctor all his life. He submitted that being a doctor is a great honour for him, and that he is inspired by his father. Dr Elseknidy submitted that he came from a financially humble background where becoming a doctor seemed nearly impossible. He worked hard on his education to overcome this.
34. Dr Elseknidy submitted that he was prey to work-place bullying and XXX prior to the incident. Further, the XXX and XXX around the time of the incident were also factors in his behaviour. Dr Elseknidy submitted that these factors and increased responsibility 'all came at the wrong time' during a period of XXX.
35. Dr Elseknidy submitted that he had taken many steps to improve his insight, remediate, and keep his skills and knowledge up to date. This included completing a Diploma in obstetrics and gynaecology in Egypt, a Masters Degree in Public Health in the UK and supported a charity in Egypt to help orphans. He submitted that his wider reading and CPD courses meant he now had a wider understanding of the ethics involved in the incident.
36. Dr Elseknidy submitted that he regretted his actions and termed the incident as a silly mistake. At other times during his evidence Dr Elseknidy referred to the incident as a 'terrible mistake' and a 'horrible mistake'. He submitted that Dr F's evidence was that Dr Elseknidy was crying when he told him of the incident, suggesting that he understood the gravity of his actions. Dr Elseknidy submitted that Dr F is a highly respected consultant who was retained to work in his hospital despite being of pensionable age.
37. Dr Elseknidy submitted that all the witnesses in this case, including Dr F, were of the opinion that he would not repeat his mistake. Dr Elseknidy submitted that [Mrs D] had also reflected on her actions in supporting Dr Elseknidy's dishonesty, and now fully understood and regretted them.

38. Dr Elseknidy submitted that the public deserve a good doctor with good insight. He submitted that he is always willing to learn more and wants the opportunity to move forward.

The Tribunal's Approach

39. The Tribunal approached Dr Elseknidy's application guided by the approach laid out in the '*Guidance for Medical Practitioners Tribunals on restoration following disciplinary erasure*' ('the guidance').

40. It reminded itself that the onus is on Dr Elseknidy to satisfy the Tribunal that he is fit to return to unrestricted practice. The Tribunal should not seek to go behind the findings on facts, impairment and sanction made at the 2017 hearing.

41. The test to be applied by Tribunals when considering if a doctor should be restored is that set out in *GMC v Chandra [2018] EWCA Civ 1898*, which states:

'having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective.'

42. The Tribunal was mindful that if it directs Dr Elseknidy's name to be restored to the Medical Register, it can only do so without restrictions.

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

- The circumstances that led to erasure including the reasons given by the previous Tribunal for the decision to direct erasure;
- Any relevant matters post-dating those circumstances;
- Whether the doctor has demonstrated insight into the matters that led to his erasure and taken responsibility for his actions and the extent to which he has shown remorse;
- The extent to which the doctor has remediated;
- What the doctor has done since his name was erased from the register;
- Steps taken by the doctor to keep medical knowledge and skills up to date;
- The length of time elapsed since erasure;
- Any risk posed by the doctor;

- Whether public confidence and professional standards would be damaged by restoring the doctor to the Medical Register.
44. The Tribunal has noted that when considering whether to restore a doctor to the Medical Register it should:
- consider any evidence of insight, remorse and remediation against the backdrop of those matters which led to erasure;
 - if the Tribunal concludes that there was insight, remorse and remediation, it should balance those positive findings against all three limbs of the statutory overarching objective;
 - when considering a restoration application, the Tribunal should also take account of length of time since erasure.
45. After considering these factors, the Tribunal reminded itself it should balance its findings against whether restoration meets the overarching objective, carefully considering each of the three elements and acting in a way which:
- Protects, promotes and maintains the health, safety, and well-being of the public;
 - Promotes and maintains public confidence in the profession; and
 - Promotes and maintains proper professional standards and conduct for members of the profession.
46. Before reaching a decision on the application for restoration, the Tribunal may adjourn and give such directions as it sees fit, including that the doctor should undergo an assessment of his performance, language and/or health.
47. The Tribunal took account of all the evidence before it, both oral and documentary. It has also considered the submissions made by Mr Sastry and Dr Elseknidy.
48. The Tribunal placed little weight on the evidence of [Mrs D]. The Tribunal acknowledged there were some difficulties presented due to the language barrier and technical issues, but it was possible for the evidence to be tested. Dr Elseknidy did not appoint an interpreter because he said he could not afford one.
49. The Tribunal determined that there were difficulties in testing Dr F's evidence due to the technical issues, noise in the background in Egypt and the significant language barrier. It was however possible with some perseverance to get evidence from Dr F and he gave

answers to questions put to him. The Tribunal felt able to assess his evidence and gave it some weight. The Tribunal accepted that more than likely Dr F had not written the reference for Dr Elseknidy himself (due to his limited grasp of the English language) but rather that the reference letter was written by his secretary with material provided by Dr Elseknidy.

The Tribunal's Decision

The circumstances which led to erasure and any relevant matters post-dating those circumstances

50. The Tribunal first considered the circumstances which led to the erasure of Dr Elseknidy's name from the Medical Register. The Tribunal fully considered the transcripts and determinations of the 2017 Tribunal throughout its deliberations. The Tribunal noted that it should not seek to go behind any of the findings made by any previous Tribunal
51. The Tribunal considered the incident that led to Dr Elseknidy's erasure. It noted that it was towards the upper end of the spectrum of dishonesty and was aggravated by the complexity of the situation that occurred after the forgery, where Dr Elseknidy had persistently denied and attempted to cover up his actions. Further, it noted that Dr Elseknidy had been found to be lying under oath at the 2017 hearing. In his evidence to the Tribunal during this restoration hearing, he also accepted that some of the evidence given about his travel to Egypt and XXX was inaccurate.
52. The Tribunal was mindful of the overarching objective. It considered whether the public's confidence in the medical profession would be damaged if it were to allow Dr Elseknidy's name to be returned to the Medical Register. It found that whilst Dr Elseknidy's misconduct was serious, the sanction of erasure was an appropriate response that would have restored the public's confidence. In addition, it found that Dr Elseknidy's actions were not so serious as to be completely incompatible with registration following the sanction.
53. The Tribunal was also mindful of Dr Elseknidy's circumstances surrounding the incident. It had heard that Dr Elseknidy faced many stressors at the time, XXX and new financial responsibilities XXX.

Insight and Remorse and extent to which the doctor has remediated his actions

54. The Tribunal had regard to all relevant paragraphs of the Restoration Guidance. In considering Dr Elseknidy's oral evidence, the Tribunal gave particular consideration to paragraph B10:

'B10 Factors that can be relevant to a doctor demonstrating genuine insight include, but are not limited to, evidence they have:

- a considered the concern, understood what went wrong and accepted they should have acted differently*
- b demonstrated that they fully understand the impact or potential impact of their performance or conduct, for example by showing remorse*
- c demonstrated empathy for any individual involved, for example by apologising fully*
- d taken steps to remediate and to identify how they will act differently in the future to avoid similar issues arising'*

55. The GMC submissions were that Dr Elseknidy had not shown full insight because he described the incident as a 'silly mistake', which indicated he may not have a full insight into the seriousness of his misconduct.

56. The Tribunal considered the question of insight and remorse by applying relevant parts of the Guidance on restoration as set out above. The Tribunal was satisfied that Dr Elseknidy had considered the concerns in his case. He fully understood what went wrong and accepted that he should have acted differently. He has also demonstrated that he fully understands the impact of his actions on the public, the profession, his professional peers and colleagues and on his own family. The Tribunal found that Dr Elseknidy had shown remorse during this hearing, demonstrating shame and understanding of his actions. He repeatedly apologised for his actions. The Tribunal had regard to Dr Elseknidy's diary written after the events, in which he described the incident as a 'nightmare', 'a huge mistake in his life' and that he felt 'shameful'. The Tribunal considered that Dr Elseknidy's comments regarding the incident as a 'silly mistake' were borne out of cultural phraseology, and were not a demonstration of a lack of insight. The Tribunal was also satisfied that Dr Elseknidy had taken steps to remediate his misconduct and he has stated how he will act differently in the future to avoid similar issues arising.

57. Further, the Tribunal noted that Dr Elseknidy had responded to the GMC's submissions by stating that he was not dishonest. The Tribunal understood this to be a broad characterisation of himself, and not a denial of his dishonest conduct at the time of the incident. The Tribunal noted that there has been no evidence of any dishonesty since the incident.
58. In terms of overall insight, the Tribunal had regard to Dr Elseknidy's feedback from his Educational Supervisor, dated 2 December 2015, that he sometimes does not listen to advice or take on board criticism. Whilst this is a concerning feature of Dr Elseknidy's character, the Tribunal was satisfied, given the evidence before it, that Dr Elseknidy had reached a level of insight in this case that meant there was a very low risk of him repeating the misconduct that led to his erasure.
59. Further, the Tribunal was mindful of Dr Elseknidy's evidence that he knew he needed to get support when he found himself in a stressful situation, and that he would speak to a supervisor. The Tribunal noted that Dr Elseknidy had stated he was XXX.
60. The Tribunal found that it was unable to give much weight to the evidence of the witnesses other than Dr F. Some of the witnesses were only able to give general opinion on Dr Elseknidy's behaviour, and some were not able to give a full picture of Dr Elseknidy's conduct during or after the incident.
61. In terms of remediation, the Tribunal gave careful consideration to the remediability of the matters which led to Dr Elseknidy's erasure. The Tribunal considered that Dr Elseknidy's past misconduct was remediable, however in this application it was for the doctor to demonstrate that he had remediated. It went on to consider the evidence of remediation presented.
62. The Tribunal again had regard to the relevant paragraphs of the Guidance and gave particular consideration to B15:

'B15 Remediation can take several forms, including, but not limited to:

- a participating in training, supervision, coaching and/or mentoring relevant to the concerns raised*

- b attending courses relevant to the concerns raised, for example anger management, maintaining boundaries, ethics or English language courses*
- c evidence that shows what a doctor has learnt following the events that led to the concerns being raised, and how they have applied this learning in their practice (where applicable)*
- d evidence of good practice in a similar environment to where the concerns arose.'*

63. The Tribunal had regard to whether Dr Elseknidy had undertaken any remediation since his erasure and whether that remediation was relevant, objective, measurable, and effective.

What the doctor has done since his name was erased from the Medical Register and steps taken by the doctor to keep his medical knowledge and skills up to date

64. Dr Elseknidy had provided evidence of the courses he attended and the contents of those courses. In his oral evidence he had amplified how he had applied his learning from the courses. He had undertaken a Masters in Public Health in the UK. He had undertaken a Diploma in O & G in Egypt which had clinical elements. He had also supported a charity and had played a role in supporting public health measures taken during Covid 19 pandemic.

65. The Tribunal also heard evidence of Dr Elseknidy seeking to improve standards in Egypt by delivering teaching sessions based on Good Medical Practice and the UK Royal College of Obstetrics and Gynaecology Guidelines. The Patient Satisfaction Surveys provided useful feedback of his work. Dr F also gave evidence of the quality Dr Elseknidy's work.

66. The Tribunal took the view that Dr Elseknidy had appreciated the findings of the previous Tribunal. In the Tribunal's view, Dr Elseknidy did understand the gravity of the findings against him. The Tribunal considered that Dr Elseknidy had taken steps to keep his skills and knowledge up to date. The Tribunal was satisfied that Dr Elseknidy had undertaken a great deal of learning from the courses accessible to him. The Tribunal was also satisfied that the clinical work done overseas would have kept Dr Elseknidy's clinical skills up to date. There were shortcomings in the system of appraisal of that work as submitted by the GMC. It was an imprecise tool and not to the same standard as would be expected in the UK but this did not have the effect of invalidating the experience.

67. In terms of Dr Elseknidy's medical skills, Dr Elseknidy gave evidence of some notable operations that he had undertaken, some of which was so remarkable it was featured in Newspapers in Egypt and received attention of a Government Minister. Dr Elseknidy's own evidence was that he had undertaken nearly 100 caesarean sections a month, Dr F in his evidence said that Egypt had a very high level of CS sections. He said in his own evidence that Dr Elseknidy had been performing roughly 2 – 3 caesarean sections a day in Egypt for the past four years. The Tribunal was mindful that this had been under in-person supervision for a short time, and then distant supervision, from Dr F.
68. The Tribunal considered the evidence of Dr F. It was mindful of the difficulties caused by technological issues and Dr F's level of English. However, it found that it could ascertain basic information from Dr F, including that he was aware of the actions that led to Dr Elseknidy's erasure. The Tribunal also noted that Dr F had explained that his statement had been translated and produced by his secretary, and so it could not place full weight on it. The Tribunal determined that Dr F knew the contents of his witness statement and confirmed this in his oral evidence. The Tribunal was satisfied that Dr Elseknidy had been working successfully for a significant period of time in the area of practice he would like to return to if his name is restored to the Medical Register. The Tribunal rejected the GMC's assertion that his work is undermined by the lack of resources in Egyptian hospitals.
69. The Tribunal also noted the extensive academic work Dr Elseknidy had undertaken. This included completing over 450 CPD modules and obtaining a Masters in Public Health Services. The Tribunal noted that some of the courses Dr Elseknidy completed covered ethics, which go to the heart of the issues his misconduct raised. Given these considerations, the Tribunal had no concerns regarding Dr Elseknidy's medical skills and knowledge.

Risk of Repetition

70. The Tribunal took into consideration Dr Elseknidy's level of insight and its assessment of his remediation when considering whether there remained a risk that he would repeat his misconduct.
71. The Tribunal noted that the following factors to be relevant in its consideration of the risk of repetition in this case:

'B22 In addition to the factual matters found proved, the following factors may also be relevant to a tribunal's decision on whether the doctor's fitness to practise is impaired and they can be allowed to return to unrestricted practice:

- *evidence the doctor has insight into the concerns about their fitness to practise and has actively addressed them*
- *the lapse of time since erasure*
- *the steps the doctor has taken to keep their medical knowledge and skills up to date*
- *what the doctor has done since their name was erased from the register.*

'B24 A low but nonetheless real risk of repetition may be particularly significant where repetition could have a very serious outcome. A low risk of repetition should therefore be carefully distinguished from identifying no risk of repetition.'

72. The Tribunal noted Dr Elseknidy's reflections on his conduct, his expressions of remorse and that they felt did constitute important remedial steps. It also noted the oral evidence that Dr Elseknidy gave the Tribunal about never repeating this type of misconduct again. The Tribunal concluded that the incidents have hugely impacted Dr Elseknidy's life and given everything that he has gone through since his erasure, his expressions of remorse and shame that any risk of repetition of the type of misconduct as was encountered in this case is very low. XXX. The evidence available to the Tribunal at the present time is that he is now in a much stronger position.

The length of time that has elapsed since Dr Elseknidy's erasure over 5 years

73. The Tribunal noted that there had been no evidence of further misconduct since Dr Elseknidy's erasure. In the over five years since his name was erased from the Medical Register, between 2016 and 2018, Dr Elseknidy had not initially undertaken any clinical work though he undertook training courses. However, this had been rectified in more recent years between 2018 to date. The Tribunal noted his extensive clinical work overseas. In circumstances in which the Tribunal had already determined that Dr Elseknidy's misconduct was remediable; and given that the Tribunal concluded that there was a very low risk that misconduct of this type would be repeated, the Tribunal

considered the lapse of time to be of relevance and supportive of Dr Elseknidy's application for restoration.

Will restoration meet the overarching objective?

74. The Tribunal took into account the Guidance which states at B35:

'Having considered the different factors above, the tribunal must make findings in relation to whether the doctor is fit to practise. The tribunal should then step back and balance its findings against whether restoration will meet our overarching objective. This balancing exercise will involve careful consideration of each of the elements.'

75. Taking into account all of the factors it has considered above, the Tribunal determined that Dr Elseknidy is potentially fit to return to practise. Having come to this conclusion, the Tribunal stepped back and balanced its findings against each element of the overarching objective.

76. The Tribunal first noted that Dr Elseknidy's case was not one of the types of cases set out as examples of those in which restoration is generally unlikely to meet the overarching objective. It proceeded to consider each limb of the overarching objective.

Protect, promote and maintain the health, safety, and well-being of the public

77. The Tribunal considered that its conclusion Dr Elseknidy was very unlikely to repeat such misconduct, if at all, to be important. The Tribunal's decision in this regard was based in large part on the level of insight Dr Elseknidy has now demonstrated and the remediation steps he has undertaken. In addition, the Tribunal placed weight on the genuine remorse and regret Dr Elseknidy had displayed at this hearing, which included full acceptance of his behaviour, his apologies, expression of shame and his vows never to repeat conduct of the sort which led to the disciplinary proceedings and his erasure from the Medical Register.

78. As outlined above, Dr Elseknidy had sought to keep his medical skills and knowledge up-to-date as best he could in the prevailing circumstances. The Tribunal was satisfied that he had achieved this to a reasonable level, such that it was satisfied that he would be able to work safely if he returned to unrestricted practice in the UK.

79. In the circumstances of Dr Elseknidy's case, the Tribunal therefore determined that restoring his name to the Medical Register would satisfy this limb of the overarching objective.

Promote and maintain public confidence in the profession

80. The Tribunal considered the following parts of the *Guidance* with particular care:

'B42 Where a doctor's past behaviour is so serious that it remains capable of undermining the trust that the public places in doctors, it is unlikely that restoration will be in line with the overarching objective. This applies to behaviour both inside and outside of a doctor's professional practice. There will be some cases where, even if insight and remediation have been fully demonstrated and there has been a significant lapse of time since erasure, public confidence in the profession would be undermined by allowing the doctor to practise again.'

'B43 Tribunals should ask themselves whether an ordinary, well informed member of the public who is aware of all the relevant facts would be concerned to learn the doctor had been allowed to return to practice. They should also have regard to the fact that maintaining public confidence in the profession as a whole is more important than the interests of an individual doctor.'

81. The Tribunal considered that, as a general proposition, a decision to restore to the Medical Register a doctor who has been erased for misconduct may have the potential to damage public confidence in the profession.

82. The Tribunal reminded itself of the specific findings of fact made by the 2017 Tribunal regarding Dr Elseknidy's misconduct; and it reminded itself of its conclusions. The Tribunal decided that Dr Elseknidy's misconduct was potentially remediable, although noted it is always difficult to remediate dishonesty. The Tribunal considered that it had been remedied, there had been no repetition of such conduct and determined that there was a very low risk that repetition would occur, if at all.

83. Taking all of the circumstances of this case into account, the Tribunal considered that a well-informed member of the public who is aware of all of the relevant facts would not be concerned to learn that Dr Elseknidy had been allowed to return to practice. The Tribunal therefore considered that the requirements of this limb of the overarching objective

would not be adversely affected by a decision to restore Dr Elseknidy's name to the Medical Register.

Promote and maintain professional standards and conduct for members of the profession

84. The Tribunal reminded itself that Dr Elseknidy's misconduct which led to his erasure demonstrated behaviour which fell seriously short of the values and behaviours expected of all doctors. However, as outlined above, the Tribunal considered that Dr Elseknidy's misconduct was not such that it was not remediable.

85. Dr Elseknidy has fully engaged with his regulator, accepted responsibility for his actions and has repeatedly apologised for his behaviour.

86. The Tribunal considered its conclusions regarding Dr Elseknidy's efforts to reflect, gain insight into and remediate his misconduct and to alleviate any concerns regarding the potential for repetition. Since Dr Elseknidy was erased in 2017, there has been a significant passage of time. In the time since his erasure, Dr Elseknidy has taken significant steps to attempt to remediate his actions.

87. Having heard Dr Elseknidy's oral evidence, the Tribunal accepted that his expressions of shame, regret, and apologies were genuine. The Tribunal is satisfied that he has made considerable efforts to reflect and remediate his actions such that restoring him to the Medical Register will also be consistent with this limb of the overarching objective.

88. The Tribunal had been persuaded that Dr Elseknidy has adequately reduced the risk to the maintenance of professional standards, restored public confidence in the medical profession as a whole, and does not present a risk to patient safety. Public confidence and professional standards would not be damaged by restoring the doctor to the Medical Register.

Conclusion

89. In conclusion, the Tribunal was satisfied that Dr Elseknidy was a fit and proper person to be restored. Accordingly, Dr Elseknidy's application to be restored to the Medical Register is granted.

ANNEX A – 06/09/2022

Application to hear Evidence via Telephone

90. On the first day of this hearing, 31 August 2022, Dr Elseknidy made an application for the evidence of Dr F F to be heard via telephone under Rule 34(13) of the General Medical Council ('GMC') (Fitness to Practise) Rules 2004, as amended (the Rules).

Submissions

On behalf of Dr Elseknidy

91. Dr Elseknidy submitted that Dr F is not comfortable using video conferencing technology due to his older age and wants to participate using a telephone only.

92. Dr Elseknidy submitted that Dr F is a consultant and head of the department at the hospital he currently works at in Egypt. Dr Elseknidy submitted that Dr F would be able to give evidence on his current professional performance.

93. Dr Elseknidy submitted that Dr F could understand and speak English at a basic level, but that he would have preferred to have obtained a translator if funds were available.

On behalf of the GMC

94. Mr Sastry submitted that whilst telephone evidence is permitted, the Tribunal ought to be able to see the face of the person giving evidence where possible to assess the reactions of the witness to questions in the usual way. Mr Sastry submitted that alternative arrangements should be made so that Dr F could give evidence via video link.

Tribunal's Decision

95. The Tribunal had regard to Rule 34(13) and (14) which states:

(13) A party may, at any time during a hearing, make an application to the Committee or Tribunal for the oral evidence of a witness to be given by means of a video link or a telephone link.

(14) When considering whether to grant an application by a party under paragraph (13), the Committee or Tribunal must—

(a) give the other party an opportunity to make representations;

(b) have regard to—

(i) any agreement between the parties, or

(ii) in the case of a Tribunal hearing, any relevant direction given by a Case Manager; and

(c) only grant the application if the Committee or Tribunal consider that it is in the interests of justice to do so.

96. The Tribunal was mindful that the preference is to hear witness evidence in person, or if this is not possible, by video link.
97. The Tribunal noted that Dr F worked with people who may be able to assist him in using video link technology. It initially instructed Dr Elseknidy to ascertain whether it would be possible for someone to assist Dr F in joining the hearing via link. Further, it also considered whether someone would be able to act as an interpreter for Dr F.
98. Dr Elseknidy, with assistance from MPTS staff, made contact with Dr F and explained the Tribunal's request. They stressed the importance of joining this hearing via video link. However, Dr F remained uncomfortable with the prospect and declined to participate by any other means than via a telephone.
99. During the conversation, MPTS staff confirmed with Dr F that if questions were phrased clearly and in plain English, he would be able to understand and respond.
100. The Tribunal was mindful that Dr F could be an important witness in assessing Dr Elseknidy's current level of professional competence. It considered that Dr Elseknidy had attempted all reasonable options to obtain Dr F's attendance via video link.
101. The Tribunal noted that the GMC would have the opportunity to cross-examine Dr F, and that the Tribunal could assess what weight it could give to Dr F's evidence when making its determination. It therefore found that there would be no unfairness or injustice to the GMC.

102. Given these considerations, and that, whilst it was not preferable, it was open to Dr Elseknidy to call Dr F as a witness via telephone link only, the Tribunal granted Dr Elseknidy's application.