

PUBLIC RECORD

Dates: 06/04/2021 - 16/04/2021

Medical Practitioner's name: Dr Housameddin GHAZZAWI

GMC reference number: 6063718

Primary medical qualification: MUDr 1998 Komenskeho University

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Not Impaired

Summary of outcome

No warning

Tribunal:

Legally Qualified Chair	Mrs Emma Boothroyd
Lay Tribunal Member:	Mr Darren Shenton
Medical Tribunal Member:	Dr Peter Kyle
Tribunal Clerk:	Mr Michael Murphy

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Tom Day, Counsel, instructed by RLB Law
GMC Representative:	Mr Peter Horgan, 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 - 14/04/2021

Background

1. Dr Ghazzawi qualified in Slovakia in 1998 and prior to the events which are the subject of the hearing he worked as a locum in Accident and Emergency (A&E) departments in the UK. At the time of the events Dr Ghazzawi was practising as a contracted locum doctor, at a staff grade level, in A&E for South Eastern Health and Social Care Trust (the Trust) a position he had held since November 2015. This position mainly involved working at Lagan Valley Hospital (the Hospital).
2. The Allegations that have led to this hearing can be summarised as follows, Dr Ghazzawi is alleged to have amended an employment reference, prepared by Dr A, without discussing the amendments with Dr A. In an email dated 29 August 2018 Dr Ghazzawi stated that he had discussed the amendments with Dr A which is alleged to be untrue and dishonest.
3. In addition it is alleged that Dr Ghazzawi was late for some of his shifts at the Hospital and also that he stopped seeing patients before the end of some of his other shifts. The Allegation also raised concerns relating to Dr Ghazzawi's recording of his examination of Patients A to H where it is alleged that he did not actually see these patients but recorded that he had. The GMC also alleged that Dr Ghazzawi submitted a time sheet stating that he had started work earlier than he actually had. The GMC alleges that these actions by Dr Ghazzawi were dishonest.
4. The initial concerns were raised with the GMC on 18 September 2018 in an email sent from Dr A, Lead Consultant in Emergency Medicine at the Hospital. In this email Dr A set out her concerns in relation to Dr Ghazzawi altering the reference she had issued without her approval. Dr A advised that prior to requesting this reference concerns relating to Dr Ghazzawi's conduct had already resulted in his employment being terminated by the Hospital.
5. The referral to the GMC was further to a local investigation, requested by Dr A, which arose from the altering of the reference. Dr A informed Surgi-Call Locums of the matter and requested an explanation about how the reference came to be altered. The Locum Agency investigated the matter and requested a statement from Dr Ghazzawi. In an email, Dr

Ghazzawi stated that the references differed as the initial one required some amendments which were discussed with Dr A. Dr A stated that this was a blatant mistruth and as such referred the matter to the GMC.

6. As part of the referral to the GMC, Dr A also provided information relating to the Trusts investigation into the concerns regarding Dr Ghazzawi's timekeeping. Dr I, FY2 doctor in the Emergency Department at the Hospital and Dr J, Staff Grade Doctor in the Emergency Department at the Hospital, reported that Dr Ghazzawi had left his shift early on three particular dates. As part of the Trusts investigation, Dr A reviewed Dr Ghazzawi's timekeeping and reported her findings to Dr K, Assistant Clinical Director for Emergency Medicine at the Trust. Dr K and a colleague, Mr L, had a brief meeting with Dr Ghazzawi regarding the concerns raised. This resulted in Dr Ghazzawi's Locum contract at the Hospital being terminated on 1 August 2018.

The Allegation and the Doctor's Response

7. The Allegation made against Dr Ghazzawi is as follows:

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

1. On 1 August 2018, you were provided with an employment reference ('the Reference') from Dr A. **Admitted and found proved**
2. In an email to Surgi-Call employment Agency ('the Agency') dated 29 August 2018, you stated that you had discussed amendments to the Reference with Dr A. **To be determined**
3. You knew that:
 - a. you had not discussed the amendments with Dr A; **To be determined**
 - b. the contents of your email were untrue. **To be determined**
4. Your actions as described at paragraph 2 were dishonest by reason of paragraph 3. **To be determined**
5. On the occasions as set out in:
 - a. Schedule 1, you attended late for your shift at Lagan Valley Hospital ('the Hospital'); **Admitted and found proved (in relation to 4 April, 15 May & 13 July 2018)**
To be determined (in relation to 26 June 2018)

- b. Schedule 2, you stopped seeing patients at the Hospital prior to the end of your shift. **Admitted and found proved**
6. On 26 June 2018, you indicated on the eEMS system, that you had seen:
 - a. Patient A at 11.32; **To be determined**
 - b. Patient B at 11.51. **To be determined**
7. You knew that:
 - a. you:
 - i. did not start your shift until 12.15; **To be determined**
 - ii. had not seen Patients A and B at the times set out at paragraph 6; **To be determined**
 - b. the times entered into the eEMS system were untrue. **To be determined**
8. Your actions as described at paragraph 6 were dishonest by reason of paragraph 7. **To be determined**
9. On 2 July 2018, you indicated on the eEMS system that you saw Patients C, D, and E on that day. **To be determined**
10. You knew that you did not see Patients C, D and E as they were in the fracture clinic on that day. **To be determined**
11. Your actions as described at paragraph 9 were dishonest by reason of paragraph 10. **To be determined**
12. On 17 July 2018, you indicated on the eEMS system that you saw:
 - a. Patient F at 11.15; **To be determined**
 - b. Patient G at 11.20; **To be determined**
 - c. Patient H at 11.47. **To be determined**
13. You knew that:

- a. you:
 - i. were not available for your shift until 11.40; **To be determined**
 - ii. had not seen Patient F or Patient H as they were in the fracture clinic that day; **To be determined**
 - iii. had not seen Patient G at the time set out at paragraph 12b. **To be determined**
 - b. the times entered into the eEMS system were untrue. **To be determined**
14. Your actions as described at paragraph 12 were dishonest by reason of paragraph 13. **To be determined**
15. On 15 July 2018, you submitted a time sheet to the Agency for a shift at the Hospital on 13 July 2018 indicating that you had started work at 08.00. **Admitted and found proved**
16. You knew:
 - a. you did not start work until at least 12.27; **Admitted and found proved**
 - b. the time sheet contained information that was untrue. **To be determined**
17. Your actions as described at paragraph 15 were dishonest by reason of paragraph 16. **To be determined**

The Admitted Facts

8. At the outset of these proceedings, through his Counsel, Mr Day, Dr Ghazzawi made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('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.

The Evidence

9. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Dr A, Lead Consultant in Emergency Medicine at Lagan Valley Hospital (the Hospital), by video link;
- Dr K, Assistant Clinical Director for Emergency Medicine at (the Trust, by video link;
- Dr I, at the time of the events was a FY2 doctor in the Emergency Department at the Hospital, by video link;
- Dr J, Staff Grade Doctor in the Emergency Department at the Hospital, by video link.

10. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Mr N, Operations Director at Surgi-call;
- Ms O, Operations Manager in the IT department of HSC Business Services providing software support for the Trust;
- Dr P, Consultant in Emergency Medicine at the Trust.

11. Dr Ghazzawi provided his own witness statements and also gave oral evidence at the hearing. In addition, the Tribunal received evidence from Dr Q, Consultant Pathologist for Coventry and Warwickshire Pathology Services, by video link on Dr Ghazzawi's behalf.

Documentary Evidence

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

- Email correspondence relating to the Trusts investigation, with dates ranging from 11 January 2016 to 2 April 2019;
- eEMS data, relating to Dr Ghazzawi's arrival and examination times, dated 8 June 2018, 26 June 2018, 2 July 2018 and 17 July 2018 with an audit of these provided by Ms O;
- Text messages from Dr Ghazzawi to Hospital staff, dated 4 April 2018 and 13 July 2018;
- Surgi-Call timesheet for Dr Ghazzawi, for week commencing 25 June 2018;
- Dr Ghazzawi's timesheets for 13 July 2018;
- Emails between Dr A and Surgi-Call Locums dated 1 August 2018, 2 August 2018, 21 August 2018;
- Emails from Dr Ghazzawi to Mr R, of Surgi-Call Locums, dated 1 August 2018;
- A comparison between the original and altered references;
- Emails between Dr Ghazzawi and Mr N in August 2018;

- Medical records of Patients A to H;
- Summary of Dr Ghazzawi’s shift times and messages to the Hospital;
- Testimonials in support of Dr Ghazzawi.

The Tribunal’s Approach

13. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Ghazzawi does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

14. The Legally Qualified Chair referred the Tribunal to the Supreme Court judgment in the case of *Ivey v Genting Casinos (UK) Limited [2017] UKSC 67*, in which Lord Hughes set out the correct test for dishonesty as follows:

‘When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to 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. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.’

15. The Tribunal accepted the advice of the Legally Qualified chair and had regard to her advice relating to Dr Ghazzawi’s unchallenged evidence of good character.

The Tribunal’s Analysis of the Evidence and Findings

16. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

Paragraph 2 of the Allegation

17. The Tribunal had regard to the email sent from Dr Ghazzawi to Mr R of Surgi-Call on 29 August 2018. Dr Ghazzawi stated in this email that the *‘initial letter required some amendments which I briefly discussed with Dr A...before she left in her two week holiday.’*

18. Mr Day on behalf of Dr Ghazzawi submitted that the email could be interpreted in two ways. Either that Dr Ghazzawi had discussed that the reference needed amendments or

alternatively that Dr Ghazzawi had discussed the specific amendment with Dr A. Mr Day submitted that it was Dr Ghazzawi's position that he mentioned to Dr A that the reference needed amending but no further detail was discussed.

19. The Tribunal took a common-sense approach to the email and concluded that the words used in the email clearly stated that the reference required some amendments which Dr Ghazzawi stated he had briefly discussed with Dr A. the Tribunal did not consider it was necessary, for the purpose of its finding in relation to this paragraph to determine the precise nature of Dr Ghazzawi's meaning. The Tribunal was satisfied that the email on its face stated that amendments had been discussed.

20. The Tribunal therefore found paragraph 2 of the Allegation proved.

Paragraph 3(a) of the Allegation

21. The Tribunal then considered if Dr Ghazzawi knew that he had not discussed these amendments with Dr A.

22. The Tribunal had regard to Dr A's full account of the context and her interaction with Dr Ghazzawi before she left the Hospital for her two week holiday contained in her statement and expanded upon in her oral evidence. In her statement Dr A said, *'there was...never any discussion about the reference between Dr Ghazzawi and myself either that afternoon or indeed at any other time.'* It was suggested to Dr A in cross-examination that she may not have recalled Dr Ghazzawi mentioning some things needed changing in the reference. Dr A was strident in her response that it was not mentioned otherwise she would have been *'stewing'* about it during her holiday. Dr A was unable to recall the precise conversation, but she was clear that the reference was not mentioned, and she did not believe that Dr Ghazzawi had even read it.

23. Dr Ghazzawi stated in his evidence that he had received the reference on his phone, and he read it briefly. He stated that he knew straightaway that her description of him as *'a Locum Consultant in lieu of Staff Grade'* was something he wanted to change. He stated that he heard Dr A making preparations to leave and heard her saying goodbye to the nurses. Dr Ghazzawi said that he approached Dr A as she was saying her goodbyes and there was a brief conversation. Dr Ghazzawi stated that it was during this conversation that he briefly mentioned that the reference needed changing. Dr Ghazzawi stated that it was his impression that Dr A wasn't listening to him and wanted to get away. Dr Ghazzawi stated that he felt like Dr A was *'fobbing him off'* and said something like *'ok, ok'*. Dr Ghazzawi was equally clear that he mentioned changing the reference to Dr A and she did not engage in this discussion either by agreeing or disagreeing.

24. Dr Ghazzawi's account of this conversation is, in the Tribunal's view consistent with his email dated 29 August 2018 where he states, *'she was very busy at the time and [I] considered her thoughts were consumed elsewhere.'*

25. The Tribunal concluded that Dr A was keen to leave and did not want to invite any discussion about the reference. Dr A was clear that her purpose had been to send the reference late to avoid any such discussion. The Tribunal considered that it was likely that Dr A had either not heard or recalled Dr Ghazzawi mention the reference or had been keen to avoid entering into any discussion about it. The Tribunal took into account the fact that Dr A had not been asked to recall this conversation until much later. The Tribunal also took into account Dr Ghazzawi's evidence and his good character. In these circumstances the Tribunal was not satisfied that the GMC had demonstrated that Dr Ghazzawi had not mentioned anything about amending the reference to Dr A.

26. Accordingly, the Tribunal found paragraph 3(a) of the Allegation not proved.

Paragraph 3(b) and 4 of the Allegation

27. As the Tribunal found that, on the balance of probabilities, it was likely Dr Ghazzawi briefly mentioned to Dr A about amending the reference, it was not persuaded that Dr Ghazzawi knew the contents of his email of 28 August 2018 was untrue in that respect. The Tribunal considered that although Dr Ghazzawi had a good command of English, it is not his first language and the email had a number of grammatical errors. The Tribunal accepted Dr Ghazzawi's concession that on reflection '*discussion*' was not the right word to use. However, the Tribunal accepted that within the email Dr Ghazzawi was attempting to accurately explain the context of the conversation and provide an honest account of what had happened.

28. Accordingly, the Tribunal found paragraphs 3(b) and 4 of the Allegation not proved.

Paragraph 5(a) of the Allegation

29. The Tribunal considered if Dr Ghazzawi attended his shift late at the Hospital on 26 June 2018. In its deliberations, it noted that Dr Ghazzawi was due to start his shift on this date at 11:00. Dr A in her statement said, '*On 26 June 2018 he arrived late for work. He came to the work station to collect his first chart at 12:15 for an 11 shift. I had specifically observed his arrival.*' Dr A in her oral evidence confirmed that there was no possibility that Dr Ghazzawi was in the department and she had not seen him. Dr A was very clear in her evidence that Dr Ghazzawi was not on shift and not in the Hospital before 12:15.

30. Dr Ghazzawi has no recollection of the date but was clear that if he was going to be over an hour late, as it was alleged, he was, then he would have texted someone in the department to let them know. Dr Ghazzawi stated that this was his usual practice. The Tribunal were provided with evidence of texts of this nature in relation to other occasions that Dr Ghazzawi was running late but no text for 26 June 2018.

31. An email from Dr A, herself to Dr K on 26 June 2018 stated, '*I was looking for him at 11.40 – nurses said he had been seen but hadn't taken patients at that time.*'

32. In cross-examination, after having sight of the email Dr A conceded that it was possible that Dr Ghazzawi was in the department before 11:40 and that her evidence that he could not possibly have been there could be inaccurate. In these circumstances based on the evidence, the Tribunal was not satisfied that the GMC had discharged its persuasive burden to establish that Dr Ghazzawi was late for his shift to the extent outlined in the Allegation.

33. Accordingly, the Tribunal found paragraph 5(a) of the Allegation not proved.

Paragraphs 6(a) and 6(b) of the Allegation

34. The Tribunal considered if Dr Ghazzawi, on 26 June 2018, indicated on the eEMS system that he had seen Patient A at 11:32 and Patient B at 11:51. It had regard to the eEMS data for 26 June 2018 and noted that entries had been made with exam times for 11:32 and 11:51 and that the episode numbers for the examinations matched with the medical records for both Patients A and B.

35. The Tribunal noted that Dr Ghazzawi could not recall where he was when these exam times were entered but that he had been seen in the department before they were inputted. As such, it was satisfied that, on the balance of probabilities, it was Dr Ghazzawi who inputted these exam times.

36. Accordingly, the Tribunal found paragraphs 6(a) and 6(b) of the Allegation proved.

Paragraphs 7(a)(i), 7(a)(ii), 7(b) and 8 of the Allegation

37. The Tribunal had regard to the email sent by Dr A on the 28 June 2018 that Dr Ghazzawi did not *'pick up'* his first patient until 12.15. It also bore in mind that it was not persuaded that Dr Ghazzawi was absent from the department at this time.

38. Dr Ghazzawi had no specific recollection of Patients A and B and an explanation had not been requested from him at the time. However, Dr Ghazzawi stated that it was possible that he had seen both of these patients before picking up the file. In the case of Patient A he stated he may have approved an order for an X ray before formally seeing the patient. In the case of Patient B he suggested that he may have seen this patient before she was formally triaged as she had fainted in the reception area. Alternatively, he suggested that he may have mistakenly estimated the examination time when he was completing the administration sometime later.

39. The Tribunal reminded itself that the burden of proving the allegation rests with the GMC. It bore in mind Dr Ghazzawi's previous good character and the alternative explanations he had put forward. The Tribunal was not satisfied on the basis of the evidence presented that the GMC had established that Dr Ghazzawi had incorrectly and dishonestly entered the examination times for these patients to cover up his absence from the department.

40. Accordingly, the Tribunal found paragraphs 7(a)(i), 7(a)(ii), 7(b) and 8 of the Allegation not proved.

Paragraph 9 of the Allegation

41. The Tribunal considered if Dr Ghazzawi indicated on the eEMS system that he saw Patients C, D and E on 2 July 2018. It had regard to the eEMS data provided for 2 July 2018 and noted that the episode numbers for the exam times matched with those on the medical records of Patients C, D and E. However, neither this data nor the patients' medical records prove that it was Dr Ghazzawi who actually saw Patients C, D or E. It appears to be accepted that as these were patients for the fracture clinic in all likelihood they would not have been seen by Dr Ghazzawi.

42. Dr Ghazzawi stated, during his oral evidence, that he has no recollection of inputting these exam times into the eEMS system. He suggested that he may have mistakenly thought they were Emergency Department patients and called out in reception for them. He stated that if they did not respond he would call again and if they still did not respond he would enter an exam time and discharge them to effectively clear them from the system.

43. The Tribunal had regard to the evidence about the eEMS system that it heard from Dr A and Dr K. It noted that the fracture clinic patients were entered on to the list of the Emergency Department even though these patients were not part of the workload or required to be seen. The Tribunal heard evidence that these patients were then administratively '*cleared off*' by a nurse at the end of the day and the fracture clinic doctors did not use eEMS. The Tribunal heard further evidence that the eEMS data was routinely audited by administrative staff against the medical records to reflect that the data was sometimes inaccurate.

44. In its deliberations, the Tribunal had regard to the following from Dr A's witness statement:

'On 2 July 2018 I again reviewed the eEMS data in detail. This was related to a Monday evening shift I had worked alongside Dr Ghazzawi. He had clicked a 'pick-up' against three patients who had attended for the fracture clinic that day. Such patients would have been seen by an orthopaedic doctor'

45. The Tribunal noted that Ghazzawi was unlikely to have seen those patients, however the evidence does not demonstrate on a balance of probabilities that it was Dr Ghazzawi who entered that data. It accepts Dr Ghazzawi's point that the entries could have been administrative errors.

46. Accordingly, the Tribunal found paragraph 9 of the Allegation not proved.

Paragraph 10 of the Allegation

47. The Tribunal bore in mind that Dr Ghazzawi has no recollection if he saw Patients C, D and E. The eEMS system recorded these patients as being seen but the Tribunal was satisfied that this was not a deliberate deception by Dr Ghazzawi to cover up that he wasn't doing anything between 14:10 and 15:50 of his shift, when in fact he was seeing and discharging patients. It considered the entries on the eEMS system were more likely to be administrative errors and a mistaken discharge of the patients.

48. The GMC did not produce sufficient evidence that would enable the Tribunal to conclude that on the balance of probabilities, Dr Ghazzawi entered the exam times for the patients into the eEMS system in the knowledge that he had not seen them or that he did so with the intention of creating the impression to others that he had seen them.

49. Accordingly, the Tribunal found paragraph 10 of the Allegation not proved.

Paragraph 11 of the Allegation

50. The Tribunal reminded itself that the burden of proving the allegation rests with the GMC. It bore in mind Dr Ghazzawi's previous good character and the alternative explanations he had put forward. The Tribunal was not satisfied on the basis of the evidence presented that the GMC had established that Dr Ghazzawi had incorrectly and dishonestly entered the examination times for these patients to cover up his inaction for a period of time or to falsely suggest he had seen more patients that day.

51. Accordingly, the Tribunal found paragraph 11 of the Allegation not proved.

Paragraphs 12(a), 12(b) and 12(c) of the Allegation

52. In considering whether Dr Ghazzawi indicated on the eEMS system that he saw Patients F, G and H, the Tribunal noted that patients F and H would have been assigned to the fracture clinic and thus would not have been assigned to Dr Ghazzawi's care. The Tribunal reminded itself of the findings it had made above with regard to fracture clinic patients and the particular administrative processes for those patients. The Tribunal considered that the GMC did not produce sufficient evidence that, on the balance of probabilities, Dr Ghazzawi entered the exam times for patients F, G and H into the eEMS system. In particular, with regard to patient G, there was an audit conducted by Ms O in the afternoon of 17 July 2018 in which the initial entries were changed.

53. The Tribunal concluded that there was insufficient evidence to enable it to conclude that Dr Ghazzawi made these entries as alleged.

54. Accordingly, the Tribunal found paragraphs 12(a), 12(b) and 12(c) of the Allegation not proved.

Paragraph 13(a)(i)

55. Dr Ghazzawi was due to start this shift at 11:00 on 17 July 2018 and it is alleged that he was not available to start the shift until 11:40. In its deliberations, the Tribunal noted that there were no attempts made by Dr Ghazzawi to cover up that fact that he was on the phone during this time. No evidence has been presented at this hearing to suggest that if Dr Ghazzawi was needed, he wouldn't have stopped his phone call immediately to be available for his shift.

56. Accordingly the Tribunal found paragraph 13(a)(i) of the Allegation not proved.

Paragraph 13(a)(ii),

57. The Tribunal bore in mind that it is unlikely Dr Ghazzawi would not have seen patients F or H on 17 July 2018 as they would have been assigned to the fracture clinic, which is not the department Dr Ghazzawi worked in.

58. However, the Tribunal bore in mind its earlier finding in relation to fracture clinic patients at paragraphs 42 and 43 above. It considered that it could not discount the possibility that Dr Ghazzawi had mistakenly called for these patients.

Paragraphs 13(a)(iii) of the Allegation

59. The Tribunal accepted Dr Ghazzawi's explanation that he would have inputted an estimated time in which he saw Patient G and that this was done retrospectively. It was not persuaded that Dr Ghazzawi had dishonestly and deliberately backdated the time he saw Patient G to cover up the fact that he was taking a telephone call. The Tribunal considered that it was more likely that Dr Ghazzawi had wrongly estimated the time he had seen Patient G.

60. Accordingly, the Tribunal found paragraph 13(a)(iii) of the Allegation not proved.

Paragraph 13(b) of the Allegation

61. The Tribunal bore in mind that Dr Ghazzawi has no recollection about whether or when he saw Patients F, G and H. The eEMS system has recorded these patients as being seen at the times set out. However the Tribunal could not be satisfied on the balance of probabilities that it was Dr Ghazzawi who entered the exam times for these patients into the eEMS system. Even if he had entered these times the Tribunal accepted his explanation that it was because of a mistaken retrospective estimate and not because he knew or believed these times were untrue and wanted to create a misleading impression about his productivity.

62. Accordingly, the Tribunal found paragraph 13(b) of the Allegation not proved.

Paragraph 14 of the Allegation

63. As the Tribunal has not found paragraph 13 proved, it could not find his actions at paragraph 12 to have been dishonest.

64. Accordingly, the Tribunal found paragraph 14 of the Allegation not proved.

Paragraph 16(b) of the Allegation

65. In its deliberations on determining whether Dr Ghazzawi knew that the timesheet he submitted on 15 July 2018 contained information that was untrue, the Tribunal bore in mind his statement that he claimed for the hours he was rota'd which amounted to his contracted hours and that these had never been questioned before.

66. Dr Ghazzawi explained in his evidence that he sometimes worked later than the rota'd hours and sometimes finished earlier but he claimed for the contracted 60 hours and set them out as the rota'd shifts on his timesheet.

67. This approach was supported by the timesheet submitted by Dr Ghazzawi to Surgi-Call in which he claimed for a 12-hour shift from 08:00 until 20:00 on 13 July 2018. It also had regard to the eEMS system data which showed a patient was discharged at 00:31 hours which was an hour and a half after his shift had ended.

68. At 07:49 on the 13 July 2018, Dr Ghazzawi contacted a consultant, who was working in the department, by text message to advise that he had a bad migraine, that he had taken medication and that he was waiting for it to settle. That was acknowledged. He contacted that consultant again by text message at 12:27 to advise that he was much better and would be in the department shortly. The Tribunal heard evidence that this method of communication was considered to be usual working practise if Dr Ghazzawi was going to be late or absent. The Tribunal considered that Dr Ghazzawi was open and transparent as to his whereabouts and the reason for his late arrival on that day.

69. The Tribunal considered Dr Ghazzawi's approach was that he claimed for the hours he was rota'd to work but stayed late if needed and left early if this was possible. It bore in mind that Dr Ghazzawi's timesheets were completed in advance and that he had always claimed for his hours in this way with no prior issues. However, when he submitted the timesheet the information it contained in relation to the hours he worked on 13 July 2018 was inaccurate and Dr Ghazzawi would have known this to have been the case on the 15 July 2018 when it was submitted. The Tribunal did not consider that Dr Ghazzawi appreciated or even considered that the information was misleading or inaccurate.

70. Accordingly, the Tribunal found paragraph 16(b) of the Allegation proved.

Paragraph 17 of the Allegation

71. The Tribunal considered if Dr Ghazzawi's actions in submitting a timesheet that showed he started work at 08:00 on 13 July 2018 was dishonest. It noted that for Dr

Ghazzawi and the Hospital this was an administrative process and that the timesheets were completed in advance. The Tribunal had seen no evidence that it was ever raised with Dr Ghazzawi that the timesheets ought to reflect the actual start and finish time of the shifts.

72. The Tribunal was not persuaded on the evidence that Dr Ghazzawi did not correct the inaccurate start time with the intention to claim money that he was not entitled to. Rather, Dr Ghazzawi was claiming for his contracted hours in the way that he had always done to reflect the rota'd contracted hours and not the actual hours worked.

73. The Tribunal concluded that Dr Ghazzawi's actions were not dishonest, he did not have a dishonest state of mind and that an ordinary decent member of the public would take the same view. The Tribunal considered that Dr Ghazzawi genuinely did not give any consideration to the times on the timesheet as he had never had cause to change them and this was, in his view an administrative process. Whilst the Tribunal considers that ordinary people might consider Dr Ghazzawi's attitude was relaxed and a little cavalier they would not consider him to have been dishonest.

74. Accordingly, the Tribunal found paragraph 17 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

75. The Tribunal has determined the facts as follows:

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

1. On 1 August 2018, you were provided with an employment reference ('the Reference') from Dr A. **Admitted and found proved**
2. In an email to Surgi-Call employment Agency ('the Agency') dated 29 August 2018, you stated that you had discussed amendments to the Reference with Dr A. **Determined and found proved**
3. You knew that:
 - a. you had not discussed the amendments with Dr A; **Not proved**
 - b. the contents of your email were untrue. **Not proved**
4. Your actions as described at paragraph 2 were dishonest by reason of paragraph 3. **Not proved**
5. On the occasions as set out in:

- a. Schedule 1, you attended late for your shift at Lagan Valley Hospital ('the Hospital'); **Admitted and found proved (in relation to 4 April, 15 May & 13 July 2018)**
Not proved (in relation to 26 June 2018)
- b. Schedule 2, you stopped seeing patients at the Hospital prior to the end of your shift. **Admitted and found proved**
6. On 26 June 2018, you indicated on the eEMS system, that you had seen:
 - a. Patient A at 11.32; **Determined and found proved**
 - b. Patient B at 11.51. **Determined and found proved**
7. You knew that:
 - a. you:
 - i. did not start your shift until 12.15; **Not proved**
 - ii. had not seen Patients A and B at the times set out at paragraph 6; **Not proved**
 - b. the times entered into the eEMS system were untrue. **Not proved**
8. Your actions as described at paragraph 6 were dishonest by reason of paragraph 7. **Not proved**
9. On 2 July 2018, you indicated on the eEMS system that you saw Patients C, D, and E on that day. **Not proved**
10. You knew that you did not see Patients C, D and E as they were in the fracture clinic on that day. **Not proved**
11. Your actions as described at paragraph 9 were dishonest by reason of paragraph 10. **Not proved**
12. On 17 July 2018, you indicated on the eEMS system that you saw:
 - a. Patient F at 11.15; **Not proved**
 - b. Patient G at 11.20; **Not proved**

- c. Patient H at 11.47. **Not proved**
13. You knew that:
- a. you:
 - i. were not available for your shift until 11.40; **Not proved**
 - ii. had not seen Patient F or Patient H as they were in the fracture clinic that day; **Not proved**
 - iii. had not seen Patient G at the time set out at paragraph 12b. **Not proved**
 - b. the times entered into the eEMS system were untrue. **Not proved**
14. Your actions as described at paragraph 12 were dishonest by reason of paragraph 13. **Not proved**
15. On 15 July 2018, you submitted a time sheet to the Agency for a shift at the Hospital on 13 July 2018 indicating that you had started work at 08.00. **Admitted and found proved**
16. You knew:
- a. you did not start work until at least 12.27; **Admitted and found proved**
 - b. the time sheet contained information that was untrue. **Determined and found proved**
17. Your actions as described at paragraph 15 were dishonest by reason of paragraph 16. **Not proved**

Determination on Impairment - 16/04/2021

1. 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 Ghazzawi's fitness to practise is impaired by reason of misconduct.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows:

- A stage 2 bundle containing testimonials for Dr Ghazzawi;
- Written reflections by Dr Ghazzawi.

Submissions

3. On behalf of the GMC, Mr Horgan submitted that in light of the Tribunal's findings at the Facts stage of proceedings, the GMC do not make any positive submissions that Dr Ghazzawi's actions amounted to serious misconduct.

4. Mr Horgan drew the Tribunal's attention to paragraphs 34, 35 and 37 of Good Medical Practice (2013) (GMP) which outline the principles of effective communication and working collaboratively with colleagues, which in his submission, might be of assistance to the Tribunal when considering misconduct and impairment in this case.

5. Given that the GMC do not submit that Dr Ghazzawi's actions amount to serious misconduct, Mr Horgan stated that the GMC cannot move on to give positive submissions on impairment on this basis.

6. On behalf of Dr Ghazzawi, Mr Day submitted that he concurred with Mr Horgan's submissions and echoed that in his view, Dr Ghazzawi's actions did not amount to misconduct which is serious and that therefore, Dr Ghazzawi is not impaired.

7. Mr Day drew the Tribunal's attention to the following cases, which in his submission might be of relevance to the Tribunal when considering misconduct and impairment:

Preiss v General Dental Council (GDC) [2001] UKPC 36 (17 July 2001):

'Something more is required than a degree of negligence enough to give rise to civil liability but not calling for the opprobrium that inevitably attaches to the disciplinary offence.'

And

Spencer v General Osteopathic Council [2012] EWHC 3147 (Admin) (08 November 2012):

'Whether the finding is "misconduct" or "unacceptable professional conduct", there is in my view an implication of moral blameworthiness, and a degree of opprobrium is likely to be conveyed to the ordinary intelligent citizen. That is an

observation not merely about the natural meaning of the language, but about the likely effect of the finding in such a case as this, given the obligatory reporting of the finding under the Act.'

8. Mr Day submitted that lateness should have been avoided but, in his submission, does not amount to misconduct. Mr Day further submitted that Dr Ghazzawi ought to have taken greater care when filling out his timesheet, but that his error was a lack of accuracy rather than serious professional misconduct.

9. Mr Day submitted that the allegation that Dr Ghazzawi stopped seeing patients before the conclusion of his shift is the closest to the threshold for serious professional misconduct but submitted that when breaking it down, Dr Ghazzawi could have quickly returned to the Emergency Department had he been called.

10. Mr Day submitted that taking personal calls whilst at work and leaving junior doctors to deal with patients and workload was wrong, but that Dr Ghazzawi has admitted this and apologised for his actions. Mr Day reminded the Tribunal that Dr Ghazzawi was dealing with some stress in his personal life during this time. Mr Day submitted that it's fair to ask whether *'we might all let our standards slip from time to time, particularly during personal struggle'* and that given all the circumstances, these actions do not amount to serious professional misconduct.

11. Mr Day submitted that three years have passed since these events took place and that since then, Dr Ghazzawi has demonstrated that he is a safe and effective practitioner who has addressed the issues with his practice. Mr Day stated that Dr Ghazzawi was unable to work for a significant period of time and that the seriousness of these proceedings will be *'burned into his mind'*. On this basis, Mr Day submitted that the Tribunal can be satisfied that there is very little prospect of repetition.

12. Mr Day submitted that Dr Ghazzawi does not pose a risk to patient safety and that a well-informed member of the public would not demand a finding of current impairment. Mr Day concluded by stating that there is public interest in Dr Ghazzawi being able to return to work unrestricted and invited the Tribunal to find no misconduct but if it was minded to find misconduct there was no current impairment.

The Relevant Legal Principles

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

14. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct which was serious and then whether the finding of that misconduct could lead to a finding of impairment.

15. The Tribunal must determine whether Dr Ghazzawi'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.

The Tribunal's Determination on Misconduct and Impairment

Misconduct

16. The Tribunal first considered whether the conduct found proved in the case of Dr Ghazzawi amounted to misconduct.

17. The Tribunal had regard to the following paragraphs of Good Medical Practice which Dr Ghazzawi may have deviated from:

'34. When you are on duty you must be readily accessible to patients and colleagues seeking information, advice or support'

'35. You must work collaboratively with colleagues, respecting their skills and contributions.'

...

'37. You must be aware of how your behaviour may influence others within and outside the team.'

18. The Tribunal agreed with the submissions of the parties that in relation to Allegations 1 and 2, there could be no criticism of Dr Ghazzawi's conduct and therefore these allegations did not amount to misconduct.

19. The Tribunal moved on to consider whether paragraph 5(a) of the Allegation amounted to misconduct. The Tribunal took the view that arriving late for work is not acceptable but does not amount to misconduct. The Tribunal noted that on three occasions Dr Ghazzawi was late for what should have been avoidable reasons but nevertheless Dr Ghazzawi had made efforts to let colleagues know that he would be late. The Tribunal considered that in these circumstances these late attendances on one occasion each month between April and July 2018 did not amount to serious professional misconduct.

20. Moving on to consider paragraph 5(b) of the Allegation, the Tribunal took the view that leaving two inexperienced doctors alone on a ward, without supervision, for an extended period of time, was seriously below the standards to be expected.

21. The Tribunal had regard to the witness evidence and witness statements from Dr I (FY2) and Dr J (a staff grade doctor), where Dr I stated:

'I remember feeling that it wasn't appropriate for Dr Ghazzawi to leave without telling me. I also think he should have asked me whether I felt able to deal with the remaining patients before he left. I had only been on rotation in the Emergency Department for 5 weeks so I was still learning the process. If an urgent issue had come up with a patient and I needed to ask a Consultant a question or for advice, I would not have been able to as Dr Ghazzawi had left.'

22. The Tribunal considered that Dr Ghazzawi's actions had a significant impact on Dr I and Dr J as inexperienced doctors. In their oral evidence to the Tribunal both Doctors confirmed that it was their expectation that Dr Ghazzawi would remain in the department until the end of his shift. Dr I stated that she was still very new and was having all of her cases discussed and checked. In her statement she explained:

'...there were still a couple of patients in the Department waiting to be discharged, depending on their blood results and x-ray findings. I can remember that I also had 6-8 blood test results to review for Patients who had attended the department earlier in the day and who had been discharged. I would usually expect a Consultant to assist me in making a decision in respect of the Patient, especially if we were required to phone them to advise them of results.'

23. Dr J stated in her witness statement, that in response to Dr A's email of 11 June 2018 (which confirmed that all middle grade should not leave early and place pressure on junior doctors) she felt she should highlight that she felt uncomfortable on 7 May 2018 when Dr Ghazzawi left the Department early without discussing her patients and whether she was comfortable if he left.

24. The Tribunal considered that both Dr J and Dr I felt under pressure and uneasy at being left alone. Both doctors confirmed that it was their expectation that Dr Ghazzawi would remain on shift, or at the very least discuss with them whether they had any issues before he left. Both Dr I and Dr J stated that they were not aware of a mobile number for Dr Ghazzawi and both simply assumed that he had left to go home for the day. Neither Dr I nor Dr J were aware that Dr Ghazzawi lived on site and could be contacted and would be able to return within minutes if required.

25. The Tribunal considered that this conduct by Dr Ghazzawi was a serious falling short of the standards required. The Tribunal considered there was significant risk of patient harm if Dr J and Dr I were unaware that Dr Ghazzawi had left or that they were not properly informed about how to reach him if there were any issues. In addition Dr Ghazzawi's actions placed a significant burden on these newly qualified doctors. In particular Dr J explained that she felt unable to speak up, until the matter was raised in the email by Dr A on 11 June 2018.

26. In these circumstances the Tribunal considered that Dr Ghazzawi's conduct in stopping seeing patients and leaving the department without checking in with his junior colleagues amounted to serious professional misconduct.

27. The Tribunal moved on to consider paragraph 16(b) of the Allegation and whether it amounted to serious professional misconduct.

28. The Tribunal was of the view that Dr Ghazzawi's failure to apply his mind to his timesheet and cavalier attitude towards it, is misconduct.

29. The Tribunal did not consider that Dr Ghazzawi had been dishonest or deliberately tried to mislead anybody in these actions, but the Tribunal did take the view that this recklessness and cavalier attitude was misconduct as he should have considered whether he was accurately presenting time sheets and properly claiming for the hours he had worked. The Tribunal reminded itself of its earlier findings and also took into account that this appeared to be the system for claiming the hours worked. There was no suggestion from those who countersigned the timesheets or looked at Dr Ghazzawi's claims that exact start and finishing times should be recorded. In these circumstances, the Tribunal came to the conclusion that this Allegation, although careless and misconduct, did not pass the threshold into serious professional misconduct.

Impairment by Reason of Misconduct

30. Having determined that paragraph 5(b) of the Allegation amounted to serious misconduct, the Tribunal moved on to consider whether, as a result of that misconduct, Dr Ghazzawi's fitness to practise is currently impaired by reason of his misconduct.

31. The Tribunal had regard to the test of *Cohen v. General Medical Council [2008] EWHC 581 (Admin)* ('Cohen') in which Mr Justice Silber stated:

'It must be highly relevant in determining if a doctor's fitness to practise is impaired that; first his or her conduct which led to the charge is easily remedied, second that it has been remedied and third that it is highly unlikely to be repeated'

32. The Tribunal considered Dr Ghazzawi's remedial work and testimonial evidence and took the view that Dr Ghazzawi's conduct is remediable, has been remediated and that it is highly unlikely to be repeated.

33. The Tribunal took the view that Dr Ghazzawi has demonstrated sufficient insight into his shortcomings and has taken all steps to remedy his conduct. The Tribunal also noted that Dr Ghazzawi now has a different regime in terms of his timekeeping and attitude to remaining on shift which will ensure the risk of repetition remains low.

34. The Tribunal had regard to the testimonial of Mr S who stated, *'He is never late for a board round and during the board round ensures that all the junior staff are happy with their own patient care.'*

35. Dr T and Dr U stated, *'Since working with us, Dr Ghazzawi has been flexible and reliable regarding his shift patters,... We have had no cause to believe that the behaviours alleged have been demonstrated whilst working at Worcestershire Acute.'*

36. Dr Ghazzawi in his reflection has admitted that his conduct was wrong, has apologised to Dr I and Dr J and has set out the steps he has taken to ensure there will be no repetition of the conduct. In his reflection he has stated, *'I make sure the charge nurse knows when I go for a break and I make sure juniors are not left alone and know how to contact/find me.'*

37. The Tribunal considered the context of Dr Ghazzawi's working environment at LVH and noted the personal problems he was experiencing at the time. The Tribunal also noted that there had been some degree of confusion about the circumstances in which it was acceptable for Dr Ghazzawi to leave early. The Tribunal considered that this combination of factors was unlikely to arise again given Dr Ghazzawi's reflection and insight. The Tribunal did not consider that Dr Ghazzawi was a risk to patients or the wider public and indeed the evidence before the Tribunal was that he was fulfilling a valuable role.

38. The Tribunal considered that the public interest has been addressed during the examination of Dr Ghazzawi's conduct throughout these proceedings. The Tribunal did not consider it was necessary for a finding of impairment to be made on this basis alone.

39. Accordingly, the Tribunal determined that Dr Ghazzawi is not currently impaired by reason of his misconduct.

Determination on Warning - 16/04/2021

115. As the Tribunal determined that Dr Ghazzawi's fitness to practise was not impaired it considered whether, in accordance with s35D(3) of the 1983 Act, a warning was required.

Submissions

116. On behalf of the GMC, Mr Horgan referred the Tribunal to the 'Guidance on Warnings' (2021) (GOW). He submitted that Dr Ghazzawi's actions of stopping seeing patients at the Hospital prior to the end of his shifts on 7 May 2018, 18 May 2018 and 8 June 2018 fell seriously below the standard expected and that this had the potential to put patients at risk. Mr Horgan stated that these actions placed an additional burden on Dr Ghazzawi's junior colleagues.

117. Mr Horgan submitted that Dr Ghazzawi's misconduct should be highlighted as being unprofessional with a warning which would also protect the public interest.

118. On behalf of Dr Ghazzawi, Mr Day submitted that there is no requirement for a warning to be issued in this case as the Tribunal's finding of misconduct and Dr Ghazzawi's rigorous disciplinary assessment during the course of these proceedings is sufficient to

maintain public confidence in the medical profession and to promote proper standards of conduct.

119. Mr Day reminded the Tribunal that there is significant mitigation present in this case and as such, a warning would neither be appropriate nor proportionate.

The Tribunal’s Determination on Warning

120. The Tribunal bore in mind that Dr Ghazzawi’s actions of stopping seeing patients at the Hospital prior to the end of his shifts on 7 May 2018, 18 May 2018 and 8 June 2018 was a significant departure from the standards expected of a doctor. However, it also bore in mind that there were no further transgressions and that Dr Ghazzawi provided detailed reflections of the events and also positive testimonials from his colleagues.

121. In its deliberations, the Tribunal had regard to Dr K’s evidence that if the hospital department was deemed to have been safe then it was acceptable for Dr Ghazzawi to leave his shift early.

122. The Tribunal also had regard to paragraph 32 of the GOW which states:

‘32. If the decision makers are satisfied that the doctor’s fitness to practise is not impaired or that the realistic prospect test is not met, they can take account of a range of factors to determine whether a warning is appropriate. These might include:

a. the level of insight into the failings

b a genuine expression of regret/apology

c. previous good history

d. whether the incident was isolated or whether there has been any repetition

e. any indicators as to the likelihood of the concerns being repeated

f. any rehabilitative/corrective steps taken

g. relevant and appropriate references and testimonials’

123. The Tribunal considered all of the above matters to be engaged in this case and noted that Dr Ghazzawi was genuinely remorseful in his oral evidence and in his reflective statement. The Tribunal reminded itself of its determination on impairment and in particular paragraphs 30 to 39.

124. The Tribunal was aware that one purpose of a warning would be to highlight to the wider profession that the misconduct identified in this case was unacceptable. However, it

considered that these proceedings are sufficient to achieve this as they will be published. In addition, they will have a continuing impact on Dr Ghazzawi’s career as he will be required to disclose such a finding if asked. In all these circumstances, the Tribunal took the view that imposing a warning would not be appropriate or proportionate in this case.

125. The Tribunal therefore determined not to impose a warning.

Confirmed
Date 16 April 2021

Mrs Emma Boothroyd, Chair

ANNEX A – 16/04/2021

1. Having made no finding of impairment, the Tribunal determined to revoke the current interim order on Dr Ghazzawi's registration with immediate effect.
2. That concludes the case.

SCHEDULE 1

<u>Date</u>	<u>Scheduled start time of shift</u>	<u>Arrival time</u>
4 April 2018	11.00	12.00
15 May 2018	11.00	11.30
26 June 2018	11.00	12.15
13 July 2018	08:00	12.27

SCHEDULE 2

<u>Date</u>	<u>Scheduled end time of shift</u>	<u>Time stopped seeing patients</u>
7 May 2018	23.00	21.00
18 May 2018	23.00	19.00
8 June 2018	23.00	16.30