

PUBLIC RECORD

Date: 18/12/2023

Medical Practitioner's name: Dr Humair NASIM

GMC reference number: 7028593

Primary medical qualification: MB BS 1991 University of Punjab (Pakistan)

Type of case **Outcome on impairment**

Review - Misconduct Not Impaired

Summary of outcome

Suspension revoked

Tribunal:

Legally Qualified Chair:	Miss Samantha Gray
Lay Tribunal Member:	Ms Gail Mortimer
Medical Tribunal Member:	Dr Shehleen Khan
Tribunal Clerk:	Miss Emma Saunders

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Ms Sarah Przybylska, Counsel, instructed by Medical Protection
GMC Representative:	Mr Neil Shand, 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 Impairment - 18/12/2023

1. At this review hearing the Tribunal has to decide, in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), whether Dr Nasim's fitness to practise is impaired by reason of misconduct.

The Outcome of Application made during the Impairment Stage

2. The Tribunal granted Dr Nasim's application, made pursuant to Rule 34(1) of the Rules, for the admission of two additional testimonial letters dated 12 and 14 December 2023. The GMC did not object to the admission of this evidence. The Tribunal determined that it was fair and relevant to admit these two letters.

Background

3. Dr Nasim qualified in 1991 from the University of Punjab and, prior to the events which are the subject of the hearing, he was working as a Locum Specialist Registrar in Leeds. At the time of the events, Dr Nasim was practising as a Locum Associate Specialist in General & Colorectal Surgery at Noble's Hospital in the Isle of Man ('the Hospital').

4. The facts found proved at Dr Nasim's hearing, which took place from 31 October to 14 November 2022, relate to his inappropriate and/or unprofessional behaviour between August 2018 and November 2019 towards three female colleagues whilst at work: Ms A, Ms B and Ms C.

5. The 2022 Tribunal found proved that Dr Nasim behaved inappropriately and/or unprofessionally towards Ms A in that he said that he was available to fulfil any sexual needs she may have, and that it was ok in his culture to be with another woman when married. In respect of Ms B, Dr Nasim's actions included asking to take her on a date and making a number of comments including asking Ms B about him having a threesome with her and her partner, whether she would *'ever be with a man again'*, and telling Ms B that she looked pretty.

6. In respect of Ms C, Dr Nasim's actions included telling her that he was allowed to have a relationship and sex outside of his marriage, obtaining her personal mobile telephone

number from the medical rota system, asking her if she was in a relationship, and - after inviting Ms C to his on-site staff accommodation - attempted to kiss Ms C on the lips, and then having kissed Ms C on the face, ejaculated, and told her not tell anyone.

7. The 2022 Tribunal found that Dr Nasim's conduct was sexually motivated and amounted to sexual harassment pursuant to s.26 of the Equality Act 2010, in that he engaged in unwanted conduct of a sexual nature, which had the purpose or effect of violating the dignity of Ms A, Ms B and Ms C, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

8. The 2022 Tribunal noted that Dr Nasim was older and much more senior than all three of the complainants and found that his misconduct constituted an abuse of his position. The 2022 Tribunal was aware that it would be difficult for Dr Nasim to demonstrate insight or remediation immediately after the facts he denied were found proved, however on the evidence available it could only conclude that there was a current lack of insight into the general impact of his misconduct. It found that Dr Nasim's actions, individually and collectively, amounted to serious misconduct. The 2022 Tribunal found Dr Nasim's fitness to practise to be impaired.

9. In terms of aggravation, the 2022 Tribunal found that Dr Nasim harassed Ms A, Ms B, and Ms C in their workplace, and Ms C within his hospital accommodation where she would have felt isolated and vulnerable. It also found that Dr Nasim falsely claimed that two of the complainants demonstrated racist attitudes, in a bid to attribute potential false motivation to his accusers. In terms of mitigation, the 2022 Tribunal found that Dr Nasim had been able to put forward many testimonials in support of his character and worth as a doctor, including very recent references from his current employers, and that there had been no previous findings of impaired fitness to practise and no repetition of events in the three years since they took place.

10. The 2022 Tribunal found that Dr Nasim had not demonstrated sufficient recognition of the reasons for his behaviour or its potential to cause enduring harm or the actual impact on Ms A, Ms B, and Ms C. The 2022 Tribunal found that Dr Nasim's insight was, at best, minimal, although the Tribunal did accept the difficulty arising from his having exercised his right to deny the majority of the Allegation. It was also satisfied that Dr Nasim could make steps to reflect and develop insight.

11. The 2022 Tribunal determined to suspend Dr Nasim’s registration for 12 months. It was of the view that the suspension would publicly mark the gravity of Dr Nasim’s misconduct and protect and uphold standards and maintain public trust and confidence in the medical profession. The 2022 Tribunal indicated that it might assist this Tribunal if Dr Nasim were to provide:

- A detailed written reflection on his misconduct and its impact on the profession and the wider public;
- Evidence of his attendance on courses or eLearning modules, particularly targeted at sexual misconduct and harassment;
- Evidence that he has maintained his medical skills and knowledge;
- Any other information that he considers will assist.

12. This is the first review of the order.

The Evidence

13. The Tribunal has taken into account all the evidence received, both oral and documentary.

Documentary Evidence

14. Dr Nasim provided his own reflections in the statement dated November 2023. Within this, Dr Nasim stated that he had taken time over the past twelve months to reflect on the Tribunal’s findings and his errors. He said that he would like to express his sincere apologies to the women he offended. Dr Nasim stated that he fully acknowledged the impact that his words and actions had had on them.

15. Dr Nasim stated that, initially, he realized that the miscommunication stemmed from a lack of understanding about the sensitivity and seriousness of the matter. He said that he failed to grasp the importance of clear, respectful, and empathetic communication in such situations. Dr Nasim stated that, as he delved deeper into the matter, he came to understand that he had not educated himself enough and this lack of knowledge was a significant contributor to his miscommunication and behaviours. He talked of the impact of sexual harassment and stated that he wanted to apologise to his colleagues and the GMC as well. Dr Nasim stated that he was very sorry that his actions undermined public trust and confidence in the profession.

16. Dr Nasim referred to the online accredited sexual harassment courses he had completed. He said that he found them beneficial in the reflection process and in terms of really understanding what constituted sexual harassment, its impact on individuals, and the legal and ethical dimensions surrounding it.

17. Dr Nasim also stated that he had also tried to keep up with his medical knowledge and improve his skill set. He stated that he had completed courses in medical writing which will help him in his research and publications. Dr Nasim stated that he had maintained a regular programme of Continuing Medical Education (CME) to keep his clinical knowledge and awareness up to date and had documented his learning.

18. Dr Nasim stated that he felt his self-reflection over the past twelve months had been a catalyst for his personal growth. He stated that it had taught him the significance of taking extra care in his choice of words and approach when addressing sensitive matters. Dr Nasim stated that he had made a concerted effort to educate himself further, actively listening to the experiences of those affected, and engaging in more empathetic and constructive conversations. He stated that he would avoid and decline any social interactions or events in future and keep work colleagues' interactions more professional, respectful and dignified. He stated that he also planned to take regular sexual harassment courses and training as part of mandatory training exercises. Dr Nasim stated that he was committed to ensuring that he continuously developed his awareness and would continue to strive for clear, compassionate communication in all aspects of his life.

19. The online learning relevant to sexual harassment included: *'Prevention of sexual harassment and abuse of authority'* (UNICEF/UN), *'Sexual Harassment in the Workplace'* (edapp) both 28 January 2023, *'Sexual Harassment in the Workplace'* (Alison) 28 March 2023, *'Code of Practice on Sexual Harassment and Harassment at Work'* (IHREC) 3 April 2023, *'Sexual Harassment in the Workplace'* 21 May 2023, *'Ethics, Professionalism, and the Physician Social Media Influencer'* 23 June 2023, *'Sexual Harassment at the Workplace'* (Get Licensed) 29 June 2023, and *'Sexual harassment training for Employees'* (High speed training) 17 August 2023. There was also reference to many online courses regarding general medical learning too, with the total CME hours listed of 284.56, and a list of 46 items of other reading also provided.

20. The Tribunal also had regard to the two additional testimonial letters dated 12 and 14 December 2023.

Oral Evidence

21. Dr Nasim gave oral evidence at the hearing. In response to questions from Ms Przybylska (Counsel on behalf of Dr Nasim), Dr Nasim stated that he accepted the findings of the 2022 Tribunal, that he had spent a great deal of time considering his misconduct and its impact on others and the profession, and that he had maintained his medical skills and knowledge.

22. Dr Nasim also took the Tribunal through what he intended to do on a return to work. He stated that, at the time of the 2022 Tribunal hearing, he was working as a locum for the Royal Cornwall Hospitals NHS Trust and was reemployed there for the 28 days before his suspension came into effect. Dr Nasim stated that he hoped to be able to return to work at this Trust. He also spoke about his difficult personal financial situation.

23. In response to questions from Mr Shand (Counsel on behalf of the GMC), Dr Nasim stated that he had learned that it was the perception, rather than the intention, that mattered. He stated that no unwanted behaviour should take place. Dr Nasim stated that he had not appealed the decision of the 2022 Tribunal, had accepted the findings, and learned from them.

24. Dr Nasim answered that it was important to maintain professional boundaries, to be respectful of others. He said that he now had an appreciation that body language could be misread. He further stated that he would not interact with work colleagues socially, and keep his professional and social life separate. Dr Nasim stated that he would not repeat the misconduct in the future or do anything that could undermine him, the profession, or the regulator. Dr Nasim also spoke about the courses he had undertaken and his understanding of the misconduct and of sexual harassment. He said that the courses had made it clear that a culture of respect from everyone was required, that he would keep his social and professional life separate, respect others, and maintain professional boundaries.

Submissions

Submissions on behalf of the GMC

25. Mr Shand stated that, with regard to the material submitted, Dr Nasim had provided information according to the items suggested by the 2022 Tribunal and there appeared to be no issues in terms of Dr Nasim maintaining his medical skills and knowledge. Mr Shand stated

that the material provided in relation to the work done regarding sexual harassment appeared to be comprehensive and the reflective statement appeared to demonstrate an understanding of sexual harassment.

26. Mr Shand submitted that one of the important issues for this Tribunal would be the depth and sincerity of the personal reflections of Dr Nasim and having regard to the evidence as to whether it is considered that his fitness to practise is still impaired. Mr Shand submitted that, as those are matters essentially for the judgement and impression of the Tribunal, the GMC was adopting a neutral position in respect of impairment.

27. Mr Shand stated that one of the matters that the Tribunal might wish to give consideration to was the extent to which the reflection piece and the evidence addressed the findings of the 2022 Tribunal in relation to Ms C. He stated that the findings regarding Ms C went beyond simple miscommunication or a misunderstanding of words that may cause someone distress or to feel uncomfortable. Mr Shand stated that the Tribunal had the benefit of additional explanations given by Dr Nasim as to the depth and sincerity of his insight in order to make its decision.

Submissions on behalf of Dr Nasim

28. Ms Przybylska, with reference to the Sanctions Guidance (16 November 2020) ('the SG'), stated that there were four key matters to be considered at a review hearing. These were: whether the doctor fully appreciates the gravity of the offence, whether he has reoffended, whether he has maintained his skills and knowledge, and whether patients would be placed at risk by the resumption of practice. Ms Przybylska submitted that Dr Nasim had not reoffended and that he has maintained his skills and knowledge. She referred to the bank of CPD work that Dr Nasim has completed, and that the 2022 Tribunal found that there was no risk to patients occasioned by the nature of the misconduct. Ms Przybylska submitted that there was no risk now and so the question, as set out by Mr Shand, was whether the Tribunal was satisfied that Dr Nasim fully appreciates the gravity of the offence such that his fitness to practise is no longer impaired.

29. Ms Przybylska stated that the misconduct related to a 15 month period in 2018 and 2019, that Dr Nasim is a professional man, and that this was out of character. In respect of how the Tribunal can be satisfied that the misconduct would not happen again, Ms Przybylska submitted that the Tribunal could look at the change in attitude demonstrated most reliably by Dr Nasim's behaviour. She stated that there had been no repetition in the

three years it took for the matter to come before the 2022 Tribunal or during the 28 days that he was allowed to return to work before the suspension took effect. Ms Przybylska referred to the testimonials and submitted that they were an effective indicator of the type of man that Dr Nasim is and what sort of attitude he has. She submitted that she hoped that the Tribunal would find, in consideration of all of the material, that Dr Nasim has fully acknowledged, and sufficiently addressed, his past impairment.

30. Ms Przybylska stated that case law was clear that admitting misconduct, in the sense of agreeing with all of the GMC's evidence, was not a condition precedent to establishing that a doctor understands the gravity of the offending and is unlikely to repeat it. She submitted that Dr Nasim accepted the findings, understood what was found against him, and did not seek to go behind it. Ms Przybylska stated that Dr Nasim has explained what he would do differently now.

31. Ms Przybylska stated that Mr Shand was right to point out that some aspects of the Allegation regarding Ms C related to physical contact rather than inappropriate words. She stated that Dr Nasim had said that he would need to keep professional boundaries, to respect others, to not misread body language and to avoid social interactions where some difficulty could arise. Ms Przybylska stated that Dr Nasim recognised, as part of his learning, that he may misunderstand things and, in order to avoid that situation in the future, he has thought very deeply about his level of understanding and sought to improve it.

32. Ms Przybylska submitted that Dr Nasim has sought to embed what he describes as a '*culture of respect*' and to participate in the culture of respect, but also recognises that, in some situations, the safest option is simply not to participate in events that may blur the boundaries between social and professional. She submitted that this was a responsible approach.

33. Ms Przybylska submitted that she hoped that the Tribunal would find that there was a depth and sincerity to Dr Nasim's reflection such that it could be satisfied that he has changed his attitude, that his fitness to practise is no longer impaired, and that he may safely return to work.

The Relevant Legal Principles

34. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a

future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

35. This Tribunal must determine whether Dr Nasim's fitness to practise is impaired today, taking into account Dr Nasim's 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 Impairment

36. The Tribunal considered whether Dr Nasim's fitness to practise is currently impaired by reason of his misconduct.

37. The Tribunal referred to the various items that the 2022 Tribunal indicated that this Tribunal might be assisted by. It has seen the written reflection document that was supported by Dr Nasim's oral evidence, the extensive courses and CPD learning undertaken, the various testimonials and details of research and reading completed.

38. With regards to remediation, the Tribunal had regard to the various course certificates, CPD, research and reading undertaken by Dr Nasim. It also had regard to the positive testimonials received on Dr Nasim's behalf. The Tribunal noted that there were a large number of courses regarding sexual harassment and that the learning undertaken was completed in a consistent way throughout the whole year. The Tribunal concluded that Dr Nasim had done everything that could have been required of him to remediate his misconduct.

39. It was also clear that Dr Nasim has maintained his medical skills and knowledge in the last 12 months, and had heard that - availability permitting - his previous employer had indicated that they would employ him again.

40. In respect of insight, the Tribunal noted that the 2022 Tribunal had found that Dr Nasim's insight was minimal and he had not demonstrated sufficient recognition of the reasons for his behaviour or its potential to cause enduring harm or the actual impact on Ms A, Ms B, and Ms C. This Tribunal had regard to the evidence of insight before it, including primarily the written reflection document and Dr Nasim's oral evidence. The Tribunal found Dr Nasim to be sincere and that he has shown an appreciation of the gravity of his offending. The Tribunal thought that Dr Nasim had shown that he had thought about how to handle

situations in the future and how he would approach such matters. The Tribunal noted that there has been no repetition of the misconduct and acknowledged Dr Nasim's oral evidence that he finds it difficult to understand body language, and that he will refrain from attending social situations with colleagues. The Tribunal determined that Dr Nasim had shown insight into his actions and addressed them.

41. Having regard to the risk of repetition, the Tribunal considered its conclusions on insight and remediation and all of the evidence before it. The Tribunal determined that, in the light of all of this, the risk of repetition was now unlikely. The Tribunal took into consideration the recent correspondence received from the Royal Cornwall Hospitals NHS Trust confirming that they would be happy to reemploy Dr Nasim. The letters also gave testimony to Dr Nasim's professionalism, hard work and his conscientiousness in relation to his conduct with colleagues. The Tribunal did not consider that patients, colleagues or others would be placed at risk by Dr Nasim resuming practice given his current thinking as a result of the learning undertaken and insight developed.

42. The Tribunal has therefore determined that Dr Nasim's fitness to practise is not impaired by reason of misconduct. It concluded that a finding of impaired fitness to practise was not required and that such a decision would satisfy the overarching objective: 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.

43. The Tribunal noted that the suspension of Dr Nasim's registration is due to expire on 22 December 2023. The Tribunal was clear that the suspension period had, as set out by the 2022 Tribunal, publicly marked the gravity of Dr Nasim's misconduct and had protected and upheld standards and maintained public trust and confidence in the medical profession. In the light of its findings on impairment, the Tribunal determined to revoke the order of suspension with immediate effect. It was of the view that this was both appropriate and proportionate in the circumstances of this case.

44. That concludes this case.