

Date: 08/10/2018

Medical Practitioner's name: Dr Ihtesham SABRI

GMC reference number: 6026841

Primary medical qualification: MB BS 2001 University of London

Type of case
New - Misconduct

Outcome on impairment
Consideration of impairment not reached

Summary of outcome

Adjourned to a new tribunal. XXX

Tribunal:

Legally Qualified Chair	Mrs Laura Paul
Lay Tribunal Member:	Mrs Katriona Crawley
Medical Tribunal Member:	Dr Edward Doyle
Tribunal Clerk:	Ms Jennifer Hatch

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Matthew McDonagh, Counsel, instructed by RadcliffesLeBrasseur
GMC Representative:	Ms Rosalind Emsley-Smith, 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.

Record of Determinations – Medical Practitioners Tribunal

Determination on Recusal of Tribunal Members - 08/10/2018

1. This determination will be read in private but a redacted version, with references to those matters which resulted in this recusal application removed, will be published in due course.
2. At the outset of the hearing, it became apparent that the Tribunal had been provided with a bundle in advance of the hearing which contained some information which should have been redacted. XXX.
3. In light of this, Mr Matthew McDonagh, Counsel, on behalf of Dr Sabri, made an application for the Tribunal to recuse itself. He submitted that some of the information in the bundle is sensitive and relates to matters which are no longer part of the Allegation. He submitted that even if it were possible for the Tribunal members to put the contentious matters out of the minds, there would remain a perception of bias and therefore it would not be wise for this Tribunal to proceed.
4. Mr McDonagh went on to confirm that the MPTS have indicated that alternative Tribunal members are available from Wednesday 10 to Tuesday 16 October 2018, and both he and the GMC are satisfied that the case would be able to conclude within these five days.
5. Ms Rosalind Emsley-Smith, Counsel, on behalf of the GMC, did not oppose Mr McDonagh's application. She agreed with Mr McDonagh that the public interest with regards to any delay would be met since the hearing should still finish on time.
6. The Tribunal bore in mind the statutory overarching objective to protect the public, which includes to:
 - a protect and promote the health, safety and wellbeing of the public*
 - b promote and maintain public confidence in the medical profession*
 - c promote and maintain proper professional standards and conduct for the members of the profession.'*
7. The Tribunal applied the case of *Porter and Magill [2002] 2 AC 357* in which Lord Hope of Craighead at paragraph 103 set out the test for apparent bias as follows:

'The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.'
8. The Tribunal was of the view that it would be capable of putting the matter out of its mind when considering the Allegation before it, and so there would be no actual bias.

Record of Determinations – Medical Practitioners Tribunal

9. However, the Tribunal determined that a fair minded observer, in possession of all of the information, would not consider the hearing to be fair to Dr Sabri given that they had seen the sensitive information in the bundle provided. It therefore determined to recuse itself in its entirety and for a fresh Tribunal to hear the case.

Confirmed

Date 08 October 2018

Mrs Laura Paul, Chair