

PUBLIC RECORD

Date: 24/05/2024

Medical Practitioner's name: Dr Keyur BUCH
GMC reference number: 4160896
Primary medical qualification: MB BS 1987 Gujarat

Type of case Outcome on impairment
Review Impaired
Summary of outcome

Suspension, 12 months.

Tribunal:

Legally Qualified Chair	Mr Angus Macpherson
Medical Tribunal Member:	Dr Paul Mitchell
Medical Tribunal Member:	Dr Kamran Shahid
Tribunal Clerk:	Ms Keely Crabtree

Attendance and Representation:

Medical Practitioner:	Not present, not represented
GMC Representative:	Mr James Halliday, 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 - 24/05/2024

1. At this review hearing the Tribunal now 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 Buch's fitness to practise is impaired by reason of misconduct.

The Outcome of Applications Made during the Impairment Stage

2. The Tribunal determined that service of the notice of this hearing had been effected in accordance with Rule 40 of the Rules, and paragraph 8 of Schedule 4 to the Medical Act 1983, as amended. The Tribunal determined to proceed with the hearing in Dr Buch's absence in accordance with Rule 31 of the Rules. The Tribunal's full decision on this matter is included at Annex A.

Background

3. Dr Buch qualified in India in 1987 and registered with the GMC in February 1995. In April 2000, Dr Buch joined the Specialist Register as a Consultant in Trauma and Orthopaedic surgery. Dr Buch subsequently left the UK in 2016 and has not held a licence to practise since January 2018.

4. The facts found proved at Dr Buch's hearing, which took place in December 2023, relate to posts on the social media platform Twitter. Dr Buch was not present or represented at the hearing but did provide written evidence by email and testimonials.

5. The 2023 Tribunal found proved that in or around September 2022, Dr Buch had posted inappropriate comments on social media from his Twitter account whilst representing himself as a doctor. It found proved that these comments were motivated by racial/religious hostility, demonstrated hostility based on race/religion and encouraged racial/religious hostility.

6. The 2023 Tribunal noted that Dr Buch had a significant number of followers on Twitter and therefore had a large audience for his social media posts. It found that Dr Buch's social media posts had been motivated by an opposition to the religion of Islam and the Pakistani race and were for that reason hostile. The Tribunal also found that the posts had encouraged hostility towards Islam, Muslims and Pakistanis.

7. The 2023 Tribunal was mindful that at least one member of the medical profession had found Dr Buch's social media posts so offensive as to prompt a complaint to the GMC. This demonstrated to the 2023 Tribunal that these posts were capable of being found deplorable by other members of the profession.

8. The 2023 Tribunal determined that Dr Buch's actions amounted to misconduct and given the nature of his social media posts and the offence he had caused colleagues, his misconduct was serious. It found that Dr Buch's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor.

9. The 2023 Tribunal considered that Dr Buch's explanations as set out in his emails lacked consistency. He stated that he had a strong emotional reaction to events in Leicester and his account oscillated between acceptance of his own wrongdoing and attempts to deflect responsibility onto unknown others.

10. The 2023 Tribunal acknowledged that Dr Buch had shown some remorse for his actions and had recognised how they could have been considered by others to be offensive. However, the 2023 Tribunal concluded that there had not been a candid and full acceptance of wrongdoing by Dr Buch. He had not acknowledged the seriousness of his actions or their impact. It also concluded that Dr Buch's acknowledgement of his wrongdoing had become more diluted with the passage of time. It concluded that Dr Buch had some insight into his misconduct, but his insight was not complete.

11. The 2023 Tribunal was not persuaded that Dr Buch's assertion that his increased phone security amounted to remediation. It found that Dr Buch had not fully and genuinely accepted responsibility for his actions and their impact on others. He had also not demonstrated that he had taken steps to remediate his misconduct and address the offence that he had caused. Given Dr Buch's limited insight and lack of remediation, the 2023 Tribunal concluded that there remained a risk of repetition, particularly if Dr Buch was again faced with a situation which provoked a strong reaction.

12. The 2023 Tribunal concluded that Dr Buch's actions, as a publicly identifiable medical practitioner, in sharing posts on social media, to a wide audience, had been motivated by,

demonstrated and encouraged racial and religious hostility, brought the profession into disrepute and breached fundamental tenets of the profession. It concluded that in all the circumstances, a finding of impairment was required 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.

13. The 2023 Tribunal determined that a period of suspension was an appropriate and proportionate sanction in Dr Buch's case. It considered that a suspension marked the seriousness of Dr Buch's behaviour and had a deterrent effect. It also considered that a suspension protected public confidence in the medical profession and was sufficient to promote and maintain proper standards of conduct and behaviour.

14. The 2023 Tribunal determined that 4 months would be sufficient to mark the serious nature of Dr Buch's departure from GMP. In determining this period, it had regard to the brief time period within which Dr Buch's Twitter posts were made. It also had regard to testimonials in favour of Dr Buch and the fact that Dr Buch's posts coincided with events in Leicester at the time.

15. The 2023 Tribunal further considered that a suspension of 4 months would give Dr Buch time to develop his insight and to provide evidence of remediation. It also directed this review hearing, and suggested that this reviewing Tribunal would be assisted if Dr Buch were to provide:

- evidence of remedial steps to better understand equality and diversity;
- demonstration of an appreciation of the guidance entitled 'Doctor's use of social media'
- any other evidence relevant to Dr Buch's insight;
- any other information that Dr Buch considered would assist.

This Hearing

16. This is the first review of the order.

The Evidence

17. The Tribunal has taken into account the evidence received which details all attempts made by the GMC and MPTS to contact Dr Buch. Dr Buch has not replied to any correspondence and has not provided any evidence to this Tribunal.

Submissions

18. On behalf of the GMC, Mr Halliday reminded the Tribunal of the background of the case. He referred the Tribunal to the 2023 Tribunal's decision to direct a review hearing and the suggestions made to Dr Buch (as detailed above). Mr Halliday stated that attempts had been made to contact Dr Buch requesting him to provide evidence in relation to those suggestions, however, nothing had been received.

19. Mr Halliday said that in light of the burden that had been placed on Dr Buch to show his insight and how he has remediated, he submitted that Dr Buch's fitness to practise remained impaired due to his misconduct and the lack of evidence that had been provided.

20. Mr Halliday stated that Dr Buch's misconduct had been particularly unpleasant and consisted of posts made on Twitter which demonstrated racial and religious hostility, and which encouraged racial and religious hostility.

21. Mr Halliday reminded the Tribunal of the three limbs of the overarching objective. He invited the Tribunal to find that, Dr Buch's fitness to practise remained impaired on all three grounds.

22. Mr Halliday stated that there was no evidence to suggest that Dr Buch had remediated or learned anything in respect of his actions on Twitter. He acknowledged, however, there was no evidence of any further tweets of this nature.

23. Mr Halliday stated that Dr Buch's actions were found to amount to misconduct and submitted that the Tribunal should not go beyond that. He stated that in relation to the public interest, Dr Buch was outwardly and publicly declaring himself as a doctor on public social media accounts and tweeting messages, which the 2023 Tribunal found to be motivated by and demonstrating religious and racial hostility.

24. Mr Halliday submitted that the public interest demands that a finding of impairment was continued to be found in this case, given the lack of remediation. Furthermore, there had been no engagement, either with the disciplinary process in the first instance or during the suspension period.

25. In relation to upholding standards within the profession, Mr Halliday reminded the Tribunal of the GMC's guidance in relation to social media for doctors. He stated that Dr Buch's conduct was in clear and flagrant breach of this guidance. Mr Halliday submitted that it was in the public interest to find Dr Buch's fitness to practice impaired on that ground. He

stated that these standards need to be upheld and that policy and guidance needs to be enforced in a correct and proper way.

26. Mr Halliday stated that given the lack of remediation, the original conduct and the lack of insight that has been demonstrated, he invited the Tribunal to find that Dr Buch's fitness to practice remained impaired.

The Relevant Legal Principles

27. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous 2023 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 practice.

28. This Tribunal must determine whether Dr Buch's fitness to practise is impaired today, taking into account Dr Buch'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

29. The Tribunal noted that the 2023 Tribunal determined that Dr Buch's actions in sharing posts on social media to a wide audience had been motivated by racial and religious hostility, that they had demonstrated that hostility and encouraged it. The 2023 Tribunal had found that those actions had brought the profession into disrepute and breached fundamental tenets of the profession and that, therefore, a finding of impairment was necessary 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. When imposing the sanction of a four month's suspension order, the 2023 Tribunal stated that period would give Dr Buch time to develop his insight and to provide evidence of remediation. It determined to review the sanction shortly before the end of the period of suspension. It informed Dr Buch that the reviewing Tribunal could be assisted if he provided:

- evidence of remedial steps to better understand equality and diversity;
- demonstration of an appreciation of the MPTS Guidance entitled "Doctor's use of social media";
- any other evidence relevant to Dr Buch's insight;
- any other information that Dr Buch considers will assist.

30. Dr Buch has not submitted any evidence of any remedial steps or provided any information which tells on his insight into his misconduct; nor has he responded in any way to the notice of this review. These matters were of a very serious nature. In particular Dr Buch was found by the 2023 Tribunal to have breached paragraph 65 of the relevant edition of GMP which reads as follows:

‘You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession.’

31. The Tribunal considered that Dr Buch’s misconduct is something which requires remediation by him, and that in order to demonstrate that remediation, he needs to engage with the MPTS. This is a matter which concerns the reputation of the medical profession and the conduct of members of that profession. It is not something which can be passed over lightly. The 2023 Tribunal had acknowledged that Dr Buch had in fact begun a process of remediation. In an email dated 27 February 2023, Dr Buch acknowledged that his opinions in social media posts were themselves *hurtful, offensive and could undermine “patients and colleagues from offended group backgrounds” confidence in me and / or my profession*”. In addition, there was some evidence of remorse and a form of reflection and apologies. But the 2023 Tribunal regarded his position as somewhat equivocal given his denial of the facts. The review which the 2023 Tribunal directed gave Dr Buch the opportunity to make good his earlier attempts at remediation. He has signally failed to seize that opportunity.

32. In these circumstances, the Tribunal find Dr Buch’s fitness to practise remains impaired on the wider public interest aspects of the overarching objective, namely the need 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 Sanction - 24/05/2024

1. Having determined that Dr Buch’s fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to Dr Buch’s registration.

The Evidence

2. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr Buch’s registration.

Submissions

3. On behalf of the GMC, Mr Halliday referred the Tribunal to the case of *Bevan v GMC 2005 EWHC 174 (Admin)*. He said that the decision as to the appropriate sanction to impose in this case was a matter for the Tribunal exercising its own independent judgment.

4. Mr Halliday said that in light of the Tribunal's earlier findings, he submitted that the current suspension should be extended for up to a period of an additional six months.

5. Mr Halliday reminded the Tribunal of Dr Buch's original suspension of four months up to this point. He stated that there had been very little, if any, remediation on the part of Dr Buch since.

6. Mr Halliday referred the Tribunal to the 2023 Tribunal's decision on sanction. In relation to the deterrent effect, he stated that this Tribunal may think that this had already been affected by the original sanction in this case. However, Mr Halliday said that it may also be the case that there needs to be a continued deterrent effect to encourage other practitioners in these circumstances to consider engagement with the MPTS and further Tribunals if a further review order was to be made.

7. Mr Halliday stated that the 2023 Tribunal acknowledged that there had been a process of remediation that had commenced in some form. However, there were contradictions in Dr Buch's position, given his denial of the facts.

8. Mr Halliday stated that this review had been directed to allow a further opportunity for remediation, reflection and insight. However, Dr Buch has failed to seize that opportunity. Mr Halliday submitted that in these circumstances paragraph 97 (a) of the Sanctions Guidance (SG) was still a relevant factor for this Tribunal to consider. He stated that this was a continued serious breach of Good medical practice (GMP) where there had been no remediation of substance and no progress which had been demonstrated by Dr Buch.

9. Mr Halliday conceded that there was no evidence to show that there had been any repeated behaviour and no evidence to suggest that remediation was likely to be unsuccessful.

10. Mr Halliday said that the Tribunal may find that there was not a significant risk of repetition. However, there was no evidence of insight on behalf of Dr Buch. Mr Halliday said that this was a significant feature that he would invite the Tribunal to consider.

11. Mr Halliday stated that ultimately there had been no progress in this case, a lack of engagement both in terms of the GMC and the MPTS and a lack of engagement with today's hearing.
12. Mr Halliday submitted that in these circumstances he invited the Tribunal to further suspended Dr Buch's registration.
13. Mr Halliday stated that this was not a case where there was a willingness to engage with an order of conditions which may be able to remediate or help Dr Buch on his journey. Furthermore, given the lack of engagement, the Tribunal may consider conditions to be unworkable.
14. Mr Halliday stated that this was not a case where taking no action would be appropriate.
15. Mr Halliday stated that it was however not a case where the continued actions of Dr Buch were incompatible with continued registration.

The Tribunal's Determination

16. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement.
17. In reaching its decision, the Tribunal has taken account of the SG and of the overarching objective. It has borne in mind that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.
18. The Tribunal has now the task to consider what, if any, sanction to impose. It does so on the basis that it should be concerned to meet the two limbs of the overarching objective in play in this case, namely the need to protect and maintain confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the profession. It must exercise the principle of proportionality. It is mindful of the fact that this is a case which concerns discrimination. The SG includes the following paragraph:

'141 More serious outcomes are likely to be appropriate where a case involves discrimination (as defined by equality legislation) against patients, colleagues or other

people who share protected characteristics, either within or outside their professional life...'

Such a case is in the category where more serious action is likely to be required. The GMC submits that a further suspension order is appropriate of up to six months.

19. According to his e-mail dated 22 November 2023, quoted in the 2023 Tribunal determination, Dr Buch left the NHS and the British healthcare system medical practice in April 2016. He has not held a licence to practise since February 2018. However, he registered with the GMC in February 1995 and joined the Specialist Register as a Consultant in Trauma and Orthopaedic surgery in April 2000. He was in practice in the UK for just under 20 years. He therefore has a duty to act responsibly towards his profession in the UK.

20. Notwithstanding that he acknowledged a degree of contrition for his conduct, Dr Buch chose not to engage personally with the MPTS at the hearing in December 2023 and has adopted the same course in respect of this review hearing. He had a duty to do so which he did not discharge. In the Tribunal's view that is an aggravating factor which it must take into account.

21. The Tribunal has not been made aware of any mitigating factors since the hearing in December 2023.

22. The 2023 Tribunal determined that the four months suspension order was sufficient "to mark the serious nature of Dr Buch's departure from GMP", and because a period of suspension would have a deterrent effect. It is acknowledged that Dr Buch has not engaged in similar behaviour, but he has failed to provide evidence of remediation and to demonstrate that he has insight. These are the reasons why his fitness to practise has now been found impaired. They will have been easily addressed – given his earlier contrition- but if not addressed they develop into an increasingly serious situation which damages confidence in the profession, and impugns the collective integrity of its members.

23. This is not a case where taking no action could be appropriate. Dr Buch's fitness to practise has been found impaired. Nor is the sanction of an order of conditions appropriate. It does not involve clinical matters; moreover, Dr Buch is not working in this country so conditions are not practicable or measurable.

24. The Tribunal considered whether a further period of suspension would be appropriate. It was mindful of paragraph 92 of the SG as follows:

‘Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).’

25. That paragraph eloquently demonstrates that the Tribunal could reach the conclusion that Dr Buch should not practise again *to protect the reputation of the profession*.

26. However, the Tribunal accepts that it would be inappropriate to reach that conclusion at this point. Dr Buch has had a four-month suspension order imposed on his registration. He has been given an opportunity to put things right in that time scale. He has not. In the view of the Tribunal, it is fair to give him a further opportunity to do so. It has determined to impose the maximum suspension order - 12 months to signify to Dr Buch and the profession that it takes Dr Buch’s complacency very seriously. He continues to display lack of remediation and lack of insight in respect of his demonstrated racial and religious hostility; and this at a time when racial and religious tensions run very high. If Dr Buch is experiencing difficulty in addressing his shortcomings, then twelve months suspension will be sufficient for him to resolve them.

27. The Tribunal did consider an erasure order, but determined that this would be disproportionate at this juncture.

28. The Tribunal determined to direct a review of Dr Buch’s case. Accordingly, a review will be convened shortly before the end of the suspension. At the review the onus will be on Dr Buch to demonstrate how he has remediated and developed insight. It will assist the reviewing Tribunal if Dr Buch engaged with it and attended the hearing albeit remotely.

29. The Tribunal therefore directs that the current period of suspension be extended for a further 12 months from the time that it would otherwise expire. The MPTS will send Dr Buch a letter informing him of his right of appeal and when the direction and the new sanction will come into effect. The current order of suspension will remain in place during the appeal period.

ANNEX A – 24/05/2024

Service and Proceeding in Absence

Service

62. Dr Buch is neither present nor legally represented at this hearing.

63. The Tribunal was provided with a copy of a Service bundle from the General Medical Council (GMC). This included the Medical Practitioners Tribunal Service (MPTS) notification of listing letter dated 21 February 2024 sent by email, an MPTS notice of hearing letter (NOH) sent by Special Delivery dated 3 April 2024 and a GMC information letter with draft bundle dated 8 April 2024 sent by email and Special delivery.

64. The Tribunal was also provided with proof of delivery of the MPTS NOH letter dated 8 April 2024. It also received an email delivery receipt of the GMC letter with draft bundle dated 8 April 2024 and proof of delivery dated 13 April 2024.

65. Mr Halliday, Counsel on behalf of the GMC, referred to relevant case law (*GMC v Adeogba [2016] EWCA Civ 162*), which confirmed that the GMC has a duty to communicate with a doctor at the registered address that they provide. Mr Halliday stated that Dr Buch's registered address was in India and therefore DHL had been used as the provider.

66. Mr Halliday submitted that the Tribunal could be satisfied that the relevant correspondence had been sent to Dr Buch and that he had been given notice of this hearing in accordance with the relevant rules.

67. The Tribunal had regard to the service documentation provided by the GMC. The Tribunal noted that the signature on the proof of delivery of the MPTS NOH letter dated 8 April 2024 stated 'kunjan Buch'.

68. Mr Halliday stated that unfortunately this was one of those situations where a photograph had not been taken of the person who received it. He stated that it can be the case sometimes that the name was not correctly noted down by the person making the delivery. However, the letter had been sent to Dr Buch's registered address and invited the Tribunal to conclude that the criteria under Rule 40 had been met.

69. The Tribunal accepted that signatures on delivery paperwork are not always correct. It concluded that the MPTS NOH and the GMC letter with draft bundle had been sent to Dr

Buch's registered address which was his responsibility to keep up to date. The Tribunal noted that the correspondence sent to Dr Buch contained the relevant information.

70. The Tribunal therefore determined that notice of this hearing had been served on Dr Buch in accordance with Rule 40 of the GMC's (Fitness to Practise) Rules 2004, as amended, ('the Rules'), and paragraph 8 of Schedule 4 to the Medical Act 1983, as amended.

Proceeding in Absence

71. The Tribunal then went on to consider whether it would be appropriate to proceed with this hearing in Dr Buch's absence pursuant to Rule 31 of the Rules.

72. Mr Halliday invited the Tribunal to proceed with the hearing in Dr Buch's absence. He stated that the Tribunal may be again assisted by the case of *Adeogba*.

73. Mr Halliday stated that it was important to bear in mind that there was a difference between continuing a criminal trial in the absence of a defendant and the decision under Rule 31 of the Rules to continue a disciplinary hearing. He said that the latter decision must also be guided by the context provided by the main statutory objective of the GMC, namely the protection, promotion and maintenance of the health and safety of the public as set out in the Medical Act 1983.

74. Mr Halliday stated that the Tribunal will note in the case of *Adeogba* the main obligation was to communicate with the practitioner at the address he has provided. He said that practitioners have an obligation to ensure that the address was up to date.

75. Mr Halliday reminded the Tribunal that the 2023 Tribunal had proceeded in Dr Buch's absence. However, there was communication with Dr Buch via email before the hearing.

76. Mr Halliday stated that the GMC investigating officer, had made efforts to email Dr Buch to confirm that the email address that he had used previously was still active. Mr Halliday referred the Tribunal to the email address Dr Buch used during his communications for his 2023 hearing.

77. Mr Halliday stated that the MPTS case management team had sent the notification of listing letter dated 21 February 2024 by email to the email address previously used by Dr Buch.

78. Mr Halliday stated that this demonstrated that there had been attempts made with more than one type of communication method to inform Dr Buch of this hearing.

79. Mr Halliday invited the Tribunal to consider the fact that Dr Buch did not attend the original hearing despite clearly being aware of it but only engaged in the process prior to the actual hearing itself.

80. Mr Halliday invited the Tribunal to conclude that Dr Buch had voluntarily absented himself from these proceedings having been properly served with notice of the hearing today. Furthermore, he invited the Tribunal to exercise its discretion under Rule 31 of the Rules and proceed today in the doctor's absence.

81. In deciding whether to proceed with this hearing in Dr Buch's absence, the Tribunal carefully considered all the information before it, including the service documentation and Mr Halliday's submissions. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with the appropriate care and caution, balancing the interests of the doctor with the wider public interest.

82. The Tribunal balanced Dr Buch's interests with the public interest in deciding whether to proceed in his absence. In all of the circumstances and in accordance with Rule 31 of the Rules, the Tribunal determined that it was appropriate to proceed in Dr Buch's absence because he has voluntarily absented himself, no application is made for an adjournment, and it is in the public interest for this hearing to proceed expeditiously.