

## PUBLIC RECORD

Date: 29/03/2021

Medical Practitioner's name: Dr Khalid KHAN

GMC reference number: 4458999

Primary medical qualification: MB BS 1989 Aga Khan University

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

**Summary of outcome**  
Suspension to remain in effect until date of expiry

**Tribunal:**

Legally Qualified Chair	Ms Sharmistha Michaels
Lay Tribunal Member:	Miss Victoria Goodfellow
Medical Tribunal Member:	Mr Mike Hayward

Tribunal Clerk:	Ms Jan Smith Miss Kanwal Rizvi
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**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Kevin McCartney, Counsel, instructed by Hempsons Solicitors
GMC Representative:	Ms Harriet Tighe, 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. 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 - 29/03/2021**

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

### **Background**

2. Dr Khan's case was first considered before a Medical Practitioners Tribunal in February and March 2020 ('the 2020 Tribunal'). Dr Khan was present and was legally represented. The Tribunal has noted the full background to Dr Khan's case and has had regard to the determinations of the 2020 Tribunal.

3. At the time of the events which brought him to the attention of the GMC, Dr Khan was a Professor of Women's Health and Clinical Epidemiology at Queen Mary University London ('QMUL') and had been working there since April 2010. He also held an Honorary Consultant Obstetrician-Gynaecologist post with St Bartholomew's Hospital ('Barts') and The London School of Medicine and Dentistry. He was the Editor in Chief at the British Journal of Obstetrics and Gynaecology until August 2018.

### 2020 Tribunal

4. The 2020 Tribunal announced its finding of facts and found proved that, on 24 October 2014, whilst attending the International Pelvic Pain Society Conference in Chicago Dr Khan met a colleague (Ms B) for a drink and touched her inappropriately. It also found proved that, on 20 November 2015, whilst having a drink in a bar with another colleague (Ms D), Dr Khan

made intimate and personal remarks and attempted to kiss her. The 2020 Tribunal found that Dr Khan's behaviour on those two occasions was sexually motivated.

5. The 2020 Tribunal went on to determine whether Dr Khan's fitness to practise was impaired by reason of misconduct. First, it considered whether the facts found proved amounted to misconduct.

6. The 2020 Tribunal was of the view that Dr Khan's sexually motivated touching of a colleague was wholly inappropriate conduct and breached professional standards as outlined in Good Medical Practice (GMP). The 2020 Tribunal had found that Dr Khan's 'vulgar' and 'obscene' comments to, and questioning of, Ms D about sexual topics were for his sexual gratification only. It considered that Dr Khan's sexually motivated behaviour was serious in that it was a sustained and deliberate course of conduct. The 2020 Tribunal was also of the view that Dr Khan's actions could have had an adverse impact over time in deterring people from attending conferences and/ or benefitting from professional networking.

7. The 2020 Tribunal considered that Dr Khan's sexually motivated behaviour would be considered deplorable by members of the profession and a fair minded and reasonably informed member of the public. It concluded that Dr Khan's actions breached a fundamental tenet of the medical profession and a number of principles of GMP and had the effect of bringing the profession into disrepute. Therefore, the 2020 Tribunal determined that Dr Khan's behaviour towards Ms B and Ms D amounted to misconduct.

8. In determining whether a finding of impairment of fitness to practise was necessary, the 2020 Tribunal looked for evidence of insight, remediation and the likelihood of repetition. It had regard to evidence from Dr Khan of activities and reflection and noted that he had attended the 'Maintaining Professional Boundaries' course and 'Maintaining Professionalism: The Fourth Day' in 2018. The 2020 Tribunal took account of the reflective material Dr Khan produced following his attendance at those courses. He also attended a series of professional counselling sessions in 2019.

9. The 2020 Tribunal had regard to Dr Khan's evidence when he acknowledged that he used alcohol to feel disinhibited in social situations. It was of the view that Dr Khan had reflected on this where he recognised that alcohol had an impact on his behaviour. The 2020 Tribunal acknowledged that Dr Khan had taken steps to address this problem as outlined in his Personal Development Plan (PDP).

10. The 2020 Tribunal noted that there was no evidence of repetition of sexually motivated behaviour. It had regard to the testimonial evidence which attested to Dr Khan's good character and his ongoing collaboration with female and junior colleagues. Nevertheless, the 2020 Tribunal considered that, whilst Dr Khan had taken some positive steps, those steps were insufficient as he had not addressed the central issues of his case. It considered that Dr Khan had made only limited progress towards remediating his behaviour due to his lack of full insight into his wrongdoing.

11. The 2020 Tribunal reminded itself that paragraph 1 of GMP makes it clear that acting with integrity is a cornerstone of the medical profession and the public expect doctors to meet this standard. A failure to act with integrity towards colleagues is a serious breach of the standards expected of a doctor and inevitably brings the medical profession into disrepute, especially when it involves sexually motivated misconduct. Bearing this principle in mind, the 2020 Tribunal concluded that a finding of impairment of fitness to practise was necessary in order to maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of that profession.

12. Therefore, the 2020 Tribunal concluded that Dr Khan's fitness to practise was impaired by reason of misconduct.

13. In deciding on the appropriate sanction to impose, the 2020 Tribunal had borne in mind that Dr Khan's conduct was a serious breach of GMP. However, it also noted that Dr Khan had had a long and otherwise unblemished medical career and the index events took place some more than five years ago. The 2020 Tribunal had not been presented with any evidence which demonstrated that Dr Khan had repeated his sexually motivated behaviour since 2015. Furthermore, it noted Dr Khan's efforts to gain insight and undertake remediation, albeit with limited success. The level of Dr Khan's efforts to remediate his behaviour persuaded the 2020 Tribunal that, with a further opportunity, Dr Khan had the potential to develop fully his insight into his behaviour, and to remediate it.

14. The 2020 Tribunal determined that suspension was the appropriate and proportionate sanction. It considered that serious action had to be taken and was necessary in order to reflect the gravity of Dr Khan's misconduct and to satisfy the overarching statutory objective. It was of the view that a period of suspension would allow Dr Khan to make further efforts at reducing his risk of repeating the misconduct. In the opinion of the 2020 Tribunal, no lesser sanction would be adequate to meet those requirements.

15. The 2020 Tribunal concluded that the maximum period of 12 months was the appropriate sanction. This would reflect the gravity of Dr Khan's sexually motivated conduct, and send out a clear signal to Dr Khan, the profession and the wider public that this was serious misconduct unbefitting of, and unacceptable in, a registered doctor. At the same time, it would allow Dr Khan the time and opportunity to further reflect and gain full insight into his sexually motivated behaviour, whilst ultimately not depriving the public of an otherwise clinically competent doctor for any longer a period than necessary.

#### Review Hearing

16. The 2020 Tribunal directed shortly before the end of the period of Dr Khan's suspended registration, his case will be reviewed by a Medical Practitioners Tribunal. The 2020 Tribunal considered that a future reviewing Tribunal would be assisted by receiving:

- A reflective statement from Dr Khan demonstrating insight into his sexually motivated misconduct and his view of the findings made by this Tribunal;
- Evidence of any Continuing Professional Development; and
- Any other evidence Dr Khan considers might assist a reviewing Tribunal.

#### **Today's Review Hearing**

17. This Tribunal has reviewed Dr Khan's case and has considered, in accordance with Rule 22 (1)(f), whether his fitness to practise is currently impaired by reason of misconduct.

#### **Evidence**

18. The Tribunal has taken account of all the documentary evidence provided which included, but was not limited to

- Record of Determinations from the MPT Hearing held between 20 February and 17 March 2020;
- Email correspondence between Dr Khan and the GMC between 30 April and 21 December 2020;
- Dr Khan's reflective statement, dated 25 March 2021;
- Dr Khan's updated CV;
- Attendance certificates from courses on boundaries;
- Dr Khan's boundaries log;

- Dr Khan’s professional counselling notes;
- PDP log and review;
- Appraisal documentation 2018;
- Appraisal documentation 2019; and
- Testimonial evidence.

19. The Tribunal has also taken account of Dr Khan’s oral evidence, given under oath at today’s hearing.

20. In his oral evidence Dr Khan told the Tribunal that, during the period of his suspension, he has been working at the University of Medicine in Granada, Spain, where he has been supporting research projects and engaging with students studying for degrees. He said that he has undertaken some new projects and met new professional colleagues; in particular, he has participated in a European project relating to domestic violence, in collaboration with professional colleagues in Denmark. Dr Khan stated that he was invited to join a group in Pakistan, working on aspects of the coronavirus and encouraging the Pakistani people to have the Covid-19 vaccines.

21. In relation to the future, Dr Khan told the Tribunal that he will continue to work under his contract at the University in Granada, which is a four-year contract, and if allowed to return to the Medical Register he would wish to work as a clinical principal in research.

22. Dr Khan explained that he had examined his own personal conduct towards others and had concentrated on aspects relating to touch and contact with people, disclosure of personal information and the power differential between senior and more junior members of staff.

23. Dr Khan referred to the boundaries courses he has attended and told the Tribunal that he has learned to modify his behaviour. He continues to meet colleagues socially in his work in Spain but now does not initiate physical contact. He avoids conversation topics which may not be appropriate, he has limited his alcohol intake in those situations and he keeps conversations on a professional level, rather than on a personal level. Dr Khan said that he had attended a conference in Denmark which lasted several days and he spent time with colleagues who were aware of the allegations made against him and the GMC’s regulatory process and discussed these matters with them. He told the Tribunal that he had come to understand that boundaries are not rigid and there is a “grey” zone. Entrance to the grey zone at a social event is relevant for development of relationships between co-workers.

However, what is critical is not to deviate beyond the grey zone. Dr Khan told the Tribunal that he had learnt how to retract back into the safe social zone and had been practising these techniques.

24. In relation to working with junior female colleagues, Dr Khan says that he interacts with senior and junior colleagues, many of whom are female, and he has learnt to remain as objective and professional as possible, whether in the workplace or outside of working hours, by maintaining boundaries. He recognised the importance of his boundary-related personal development. He said he has it constantly in his mind when engaging with colleagues specifically in relation to touch, mutual disclosure of information and the power differential. Dr Khan said that these three things were constantly at the forefront of his mind when dealing with colleagues, whether senior or junior.

### **GMC Submissions**

25. Ms Tighe submitted that the GMC's position is that Dr Khan's fitness to practise remains impaired. She acknowledged the most recent reflective piece that Dr Khan has produced in which, she submitted, Dr Khan continues to deny his responsibility for his misconduct. It was Ms Tighe's contention that Dr Khan has not addressed the main issue of his misconduct and has not demonstrated that he appreciates the gravity of the findings of the previous Tribunal. She also submitted that much of the material provided to this Tribunal was the same as that provided to the Tribunal in 2020 and therefore should be accorded little weight.

26. Ms Tighe referred to Dr Khan's agreement with the concept of the 'Me Too' movement but submitted that such agreement does not address the gravity of his own misconduct and any responsibility taken was "at arm's length". She submitted that Dr Khan has not expressed remorse, he continues to lack insight and, therefore, there remains a risk of repetition of his previous behaviour.

### **Submissions on behalf of Dr Khan**

27. Mr McCartney referred to the decision of the previous Tribunal to impose a period of suspension 12 months, which was designed to address and mark the regulator's disapproval and to meet the deterrent element. He submitted that the period of the suspension has achieved the maintenance of public confidence in the medical profession and the promotion and maintenance of proper professional standards within the profession.

28. Mr McCartney disagreed with the assertion because the material provided today was in part the same as that provided at Dr Khan's original hearing, that it therefore carried little weight. He submitted that Dr Khan took remedial action prior to the commencement of the original hearing and he continues to build on that "developmental journey". Mr McCartney referred to Dr Khan's updated CV and submitted that CPD activities are not restricted solely to courses attended and that Dr Khan has undertaken some highly significant work over the past 12 months. Mr McCartney stated that it cannot be said that he has become deskilled when the evidence shows the important contributions he has made in his work, including his research work. He referred to the testimonial evidence which, he submitted, provided commentary from those who have given an independent assessment of Dr Khan and how he has conducted himself during the period of his suspension.

29. Mr McCartney submitted that the mere fact that a doctor does not accept the allegation against him does not mean that their fitness to practise remains impaired or that they do not have insight into those things which need to be addressed. He submitted that, if a doctor denied allegations and had not done anything to address their conduct or examine the way they behave or questioned the areas of touch, personal disclosure and recognition of the power differential, their fitness to practise may be impaired. However, Mr McCartney submitted, Dr Khan has looked at the way he has behaved previously and made changes to his behaviour, thus demonstrating real insight into his misconduct.

30. Mr McCartney reminded the Tribunal that Dr Khan is at the top end of his profession and engages with colleagues at all levels, recognising boundaries and understanding the professional standards of his profession. He referred to Dr Khan's assertion in his reflective piece that he "is taking responsibility" which has been evidenced by the intensive remedial action he has already taken. Mr McCartney submitted that Dr Khan has gone beyond what is required to show that he is ready to return to the Medical Register and has engaged in some highly important projects during the period of his suspension.

31. Mr McCartney reminded the Tribunal that the allegations were made in 2014 and 2015 and that there have been no complaints raised since then and no evidence of repetition of his previous behaviour between 2015 and 2021. Mr McCartney submitted that there is considerable evidence to show that Dr Khan has been proactive during the period of his suspension, he has shown that he is a professional that the public can trust and there has been no repetition of the behaviour found provided in 2020.

32. Mr McCartney's submission was that Dr Khan's fitness to practise is no longer impaired by reason of his misconduct.

### Relevant Legal Principles

33. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and it is for the practitioner to demonstrate that they have sufficiently remediated any past misconduct. The decision of impairment is a matter for the Tribunal's judgement alone.

34. The Tribunal must decide whether Dr Khan'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.

35. The Tribunal must also have regard to the overarching objective, as follows:

- a. Protect, promote and maintain the health, safety and well-being of the public,
- b. Promote and maintain public confidence in the medical profession, and
- c. Promote and maintain proper professional standards and conduct for members of that profession.

### Tribunal Decision

36. The Tribunal considered whether Dr Khan's fitness to practise remains impaired by reason of his misconduct.

37. The Tribunal has taken account of all the oral and documentary evidence presented to it along with the submissions made by Ms Tighe on behalf of the GMC, and those made by Mr McCartney on behalf of Dr Khan.

38. The Tribunal has had regard to Dr Khan's most recent reflective statement and the oral evidence he gave to this Tribunal today. He attended two courses on professional boundaries in 2018 and has recognised those areas of his behaviour which needed to be addressed. The Tribunal considered that Dr Khan has continued to develop these strategies

and taken active steps to moderate his behaviour. The Tribunal acknowledged that Dr Khan has demonstrated some insight by devising techniques and strategies to enable him to handle situations with professional colleagues in the future. Indeed, during his oral evidence, he gave examples of how he has used these, both in a social and professional setting, and, in particular, in a conference setting. The Tribunal further noted the very supportive testimonials of his colleagues, written in 2021, which evidenced his conduct with both male and female senior and junior colleagues since the 2020 Tribunal's findings.

39. The Tribunal recognised that CPD activity is not just about courses attended and noted Dr Khan's comprehensive CV.

40. The Tribunal accepted the GMC's view that Dr Khan views his personal responsibility for his previous behaviour "at arm's length" and has not fully accepted the findings of the previous Tribunal. However, it was of the view that he is now actively taking responsibility for his actions and interactions with colleagues. Therefore, having taken account of all the evidence provided to it today and Mr McCartney's submissions on Dr Khan's behalf, the Tribunal is persuaded that the risk of repetition is very low. On balance therefore Dr Khan's deficit in taking responsibility for his previous behaviour did not satisfy the Tribunal that a finding of impairment was necessary.

41. The Tribunal is satisfied that the period of suspension for 12 months has satisfied the public interest, has maintained public confidence in the profession and upheld proper professional standards within the profession. It has taken into account that the allegations against Dr Khan were made in 2014 and 2015 and accepted that there is no evidence of any repetition of his previous behaviour.

42. Accordingly, the Tribunal has concluded, having taken account of the overarching objective, that Dr Khan's fitness to practise is no longer impaired by reason of his misconduct.

43. The Tribunal has noted that the current suspension of Dr Khan's registration will expire on 20 April 2021. The Tribunal has taken into account that the previous Tribunal imposed a suspension of 12 months in order to mark the gravity of the misconduct found. Therefore, this Tribunal has determined that the current suspension of Dr Khan's registration should remain in effect until its expiry on 20 April 2021.

44. That concludes this case.

Record of Determinations –  
Medical Practitioners Tribunal

Confirmed  
Date 30 March 2021

Ms Sharmistha Michaels, Chair