

PUBLIC RECORD

Date: 29/01/2024

Medical Practitioner's name: Dr Khalid SHENDI
GMC reference number: 4324630
Primary medical qualification: MB BS 1983 University of Khartoum

Type of case Outcome on impairment
Review – Misconduct Impaired

Summary of outcome

Erasure

Tribunal:

Legally Qualified Chair	Ms Jane Kilgannon
Medical Tribunal Member:	Dr John Garner
Medical Tribunal Member:	Dr Prashanth Nandhabalan
Tribunal Clerk:	Ms Evelyn Kramer

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 - 29/01/2024

The Outcome of Applications Made during the Impairment Stage

1. The Tribunal accepted the GMC's submissions, made pursuant to Rules 20 and 40 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') and paragraph 8 of Schedule 4 of the Medical Act 1983, that notice of this hearing had properly been served on Dr Shendi, and granted its application, made pursuant to Rule 31 of the Rules, that this hearing should proceed in his absence. The Tribunal's full decision on these applications is included at Annex A.

Background

2. Dr Shendi qualified from the University of Khartoum, Sudan with an MBBS in March 1983. At the time of the Allegation, Dr Shendi was practising as a Staff Grade speciality doctor in Urology at Kings Mill Hospital ('the Hospital'), part of Sherwood Hospital NHS Trust ('the Trust').

The 2020 Tribunal

3. Dr Shendi's case was initially considered by a Medical Practitioners Tribunal (MPT), at a hearing which took place in January 2020, ('the 2020 Tribunal').

4. The facts found proved at Dr Shendi's hearing can be summarised as on 18 March 2016, when treating Patient A as an inpatient at the Hospital, Dr Shendi had acted dishonestly by recording incorrect statements in Patient A's medical records regarding advice he purported to have sought from Dr B, the Consultant Urologist on call, and Dr C, a middle grade doctor at Derby Hospital. Separately, in or around July 2015, Dr Shendi, who knew he was not diabetic, was found to have dishonestly told a colleague, Ms D that he was diabetic and needed to go for his lunch at 12:00.

5. The 2020 Tribunal found Dr Shendi's conduct described above to be dishonest and that this dishonesty occurred within the context of a clinical environment, fell short of the standards expected and had the potential to adversely impact on patient care. As such, the 2020 Tribunal determined that Dr Shendi's fitness to practise was impaired by reason of his misconduct.

6. The 2020 Tribunal determined that, whilst Dr Shendi's conduct was unbefitting of a registered doctor and undermined public confidence in the medical profession, it was not conduct which was fundamentally incompatible with continued registration. It therefore determined a period of 12 months' suspension was the most appropriate and proportionate sanction.

Appeal

7. On 14 February 2020, the GMC wrote to Dr Shendi to acknowledge that he had lodged an appeal into the 2020 Tribunal's decision. On 22 April 2020, the High Court dismissed Dr Shendi's appeal. The GMC wrote to Dr Shendi, on 23 April 2020, to state *'[...] your name was suspended from the medical register, for a period of 12 months, with effect from 22 April 2020, until 21 April 2021'*.

The March 2021 Tribunal

8. On 31 March 2021, an MPT ('the March 2021 Tribunal) reviewed Dr Shendi's case. Dr Shendi was not present and was not represented and the March 2021 Tribunal determined that it was not in the public interest, nor was it in Dr Shendi's own interests, to proceed in his absence. It determined to extend Dr Shendi's suspension until 21 May 2021 to ensure proper notice could be served upon him and to maintain public confidence in the medical profession.

The May 2021 Tribunal

9. On 14 May 2021, an MPT ('the May 2021 Tribunal') reviewed Dr Shendi's case. Dr Shendi was not present and was not represented. The May 2021 Tribunal noted that Dr Shendi had not presented it with any evidence of insight or remediation and took the view that Dr Shendi had completely disengaged with the GMC. It considered that Dr Shendi had been given sufficient time to address the concerns raised by the 2020 Tribunal and had not done so. The May 2021 Tribunal therefore determined that Dr Shendi's fitness to practise remained impaired by reason of his misconduct.

10. Given Dr Shendi's complete lack of engagement with the GMC and his failure to provide any evidence suggested by the 2020 Tribunal, the May 2021 Tribunal determined to impose a further period of suspension on his registration. It took the view that nine months suspension was appropriate to allow Dr Shendi sufficient time to re-engage with the GMC, to demonstrate insight and to remediate his misconduct.

The 2022 Tribunal

11. On 6 January 2022, an MPT ('the 2022 Tribunal') reviewed Dr Shendi's case. Dr Shendi was not present and was not represented. The 2022 Tribunal found that Dr Shendi provided no evidence of insight, remediation, reflection or remorse into his misconduct or dishonesty since the review hearing in May 2021. It also noted that he has not engaged with the GMC since April 2020. The 2022 Tribunal therefore determined that Dr Shendi's fitness to practise was impaired by reason of his misconduct.

12. The 2022 Tribunal concluded that Dr Shendi's dishonesty was not covered up nor persistent but that his lack of engagement since the last review hearing may indicate a persistent lack of insight. It determined that a suspension for a period of 12 months was the appropriate sanction in order to allow Dr Shendi sufficient time to re-engage with the GMC and to demonstrate how he has remediated his misconduct and developed insight.

The 2023 Tribunal

13. On 27 January 2023, an MPT ('the 2023 Tribunal') reviewed Dr Shendi's case. Dr Shendi was not present and was not represented. The 2023 Tribunal found that there had been no material change in circumstances since the previous review hearing and no new evidence had been received from Dr Shendi. The 2023 Tribunal concluded that in the absence of any new information from Dr Shendi, his fitness to practise remained impaired by reason of misconduct.

14. At the sanction stage, the 2023 Tribunal found that Dr Shendi's misconduct was not fundamentally incompatible with continued registration and took the view that he should be given the opportunity to re-engage with the regulatory process. The 2023 Tribunal determined to impose a further period of suspension on Dr Shendi's registration for a period of 12 months. The 2023 Tribunal directed a review hearing and stated that the next reviewing Tribunal may be assisted by:

- Evidence that Dr Shendi has kept his knowledge and skills up to date;
- A reflective statement from Dr Shendi demonstrating his insight;
- Evidence of any Continuing Professional Development; and
- Details of any courses or study Dr Shendi had undertaken to further his understanding of his misconduct and the initial Tribunal's findings;
- Other information that he considers will assist any reviewing Tribunal.

This Hearing

15. 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 Shendi's fitness to practise is impaired by reason of misconduct.

The Evidence

16. The Tribunal has taken into account all of the documentary evidence received. This included, but was not limited to:

- All previous Records of Determinations in Dr Shendi's case;
- Various correspondence sent by the GMC and MPTS to Dr Shendi's GMC registered address, on dates in both 2023 and 2024.

Submissions

17. On behalf of the GMC, Mr Halliday referred the Tribunal to the background of this case. Mr Halliday submitted that, given Dr Shendi's continued lack of engagement and the serious nature of his dishonest conduct that he has yet to address, Dr Shendi's fitness to practise remains impaired by reason of misconduct.

The Relevant Legal Principles

18. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgment alone. As noted above, the 2023 Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal acknowledged that it is for Dr Shendi to satisfy it that he would be safe to return to unrestricted practice.

19. This Tribunal must determine whether Dr Shendi'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 Impairment

20. The Tribunal acknowledged that Dr Shendi's lack of engagement with these proceedings, and any previous review hearings, meant that there was no new information for it to consider in assessing whether Dr Shendi's fitness to practise was no longer impaired by reason of his misconduct. As such there was no material change in circumstances since the last review hearing.

21. In the absence of any evidence from Dr Shendi to demonstrate that he has reflected on and appreciates the nature, gravity and impact of his misconduct, the Tribunal determined that there was no evidence upon which it could conclude that Dr Shendi has developed further insight into, or remediated his dishonest conduct. Therefore, it could not be satisfied that the previously identified risk of repetition had been reduced.

22. Further, the Tribunal was mindful of the significant attrition of Dr Shendi's clinical skills and knowledge as he has not been practising since at least 2020. There was no evidence of any Continuing Professional Development (CPD) to demonstrate that Dr Shendi has

attempted to keep his clinical skills and knowledge up to date. Accordingly, the Tribunal could not be satisfied that Dr Shendi could return to practise safely without restriction.

23. The Tribunal concluded that there had been no engagement since Dr Shendi's substantive hearing in 2020. In such circumstances, the Tribunal has determined that Dr Shendi's fitness to practise remains impaired by reason of misconduct.

Determination on Sanction - 29/01/2024

1. Having determined that Dr Shendi'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 Shendi'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 Shendi's registration. No further evidence was adduced.

Submissions

3. On behalf of the GMC, Mr Halliday submitted that the appropriate and proportionate sanction was erasure. He submitted that Dr Shendi's dishonest conduct was serious, he had falsified entries in a patient's notes and falsely stated he had a serious health condition. Mr Halliday submitted that there had been a persistent non-engagement by Dr Shendi following a finding of impaired fitness to practise due to his misconduct. Mr Halliday referred the Tribunal to the Sanctions Guidance (2020) ('the SG'). He submitted that given Dr Shendi's non-engagement, paragraph 109j of the SG was now engaged (set out below).

4. Mr Halliday submitted that Dr Shendi had demonstrated a persistent lack of insight into the seriousness of his actions and their consequences. He has had plenty of opportunities to engage with the GMC, the MPTS and this Tribunal and had chosen not to do so. Mr Halliday submitted that there was no evidence to suggest that Dr Shendi could safely return to practising at his previous level given the time elapsed since he last practised and the lack of any CPD to confirm his clinical knowledge and skills are up to date. Mr Halliday submitted that Dr Shendi had failed to engage with his regulator and consequently failed to demonstrate any insight into his misconduct. He submitted that for these reasons, erasure was now the appropriate and proportionate sanction to impose.

The Tribunal's Determination

5. The decision as to the appropriate sanction, if any, to impose in this case is a matter for the Tribunal exercising its own judgment. In reaching its decision, the Tribunal has taken the SG into account and borne in mind the overarching objective.

6. The Tribunal reminded itself that the main reason for imposing any sanction is to protect the public and that sanctions are not imposed to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Shendi's interests with the public interest.

Aggravating and Mitigating Factors

7. This is Dr Shendi's fifth review hearing. The Tribunal acknowledged the aggravating and mitigating factors set out by the previous Tribunals. In addition, it considered that Dr Shendi's non-engagement with the GMC and MPTS for almost four years was a further aggravating factor as it demonstrated a persistent unwillingness to engage with the findings of the 2020 Tribunal.

No action

8. The Tribunal first considered whether to conclude the case by taking no further action. Taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances. The Tribunal determined that there are no exceptional circumstances in this case. Further, given Dr Shendi's lack of engagement with the seriousness of previous Tribunals' findings and lack of evidence that he could safely return to unrestricted practice, it would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

Conditions

9. The Tribunal considered that, in the specific circumstances of this case, it would be neither appropriate nor proportionate to impose conditions on Dr Shendi's registration at this stage. It could not be satisfied, given his persistent lack of engagement, that he would comply with any conditions it could impose. In any event, the Tribunal was not satisfied that conditions would mark the seriousness with which it viewed Dr Shendi's original dishonest conduct and his unwillingness to engage and demonstrate any further insight and remediation since 2020.

Suspension

10. The Tribunal had regard to the history of Dr Shendi's case. Dr Shendi did attend the 2020 hearing and had made some admissions. At the time of the 2020 Tribunal, Dr Shendi had not fully accepted its findings and his insight and remediation was found not to be complete. He has been suspended since the conclusion of his substantive hearing in 2020. After his appeal was unsuccessful, Dr Shendi completely disengaged from the regulatory

process. This means that he has not provided any of the information recommended by previous Tribunals. He has not demonstrated any further insight or remediation into his misconduct, so the identified risk of repetition remains. Further, in the absence of any evidence that Dr Shendi has kept his clinical skills and knowledge up to date, the Tribunal could not be satisfied that he could safely resume unrestricted practice given the length of time he has been suspended.

11. The Tribunal concluded that Dr Shendi has had almost four years to address the findings of the 2020 Tribunal and has not done so. In such circumstances, the Tribunal concluded that a further period of suspension would serve no useful purpose. The Tribunal determined that a further period of suspension would not be the appropriate or proportionate sanction in this case.

Erasure

12. In considering erasure, the Tribunal had regard to paragraphs 107 to 111 of the SG. In particular it had regard to paragraph 109j of the SG:

'109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

j Persistent lack of insight into the seriousness of their actions or the consequences.'

13. The Tribunal concluded that given the time elapsed since Dr Shendi's fitness to practise was first found to be impaired by reason of misconduct, his lack of insight into the seriousness of his actions and their consequences is now persistent and is evident in his unwillingness to engage with the GMC or the MPTS.

14. The Tribunal concluded that to have failed to engage for such an extended period of time and in view of findings of dishonesty and serious misconduct, Dr Shendi's conduct was now fundamentally incompatible with continued registration.

15. The Tribunal acknowledged that erasure is the most serious sanction it can impose and that it will have reputational and financial impacts on Dr Shendi. However, the Tribunal determined that in the specific circumstances of this case, and considering the number of opportunities Dr Shendi has had to engage but not taken, the only appropriate and proportionate sanction that could uphold all three limbs of the overarching objective was erasure.

16. Therefore, the Tribunal determined that Dr Shendi's name should be erased from the Medical Register.

17. The Tribunal has directed to erase Dr Shendi's name from the Medical Register. The MPTS will send Dr Shendi a letter informing him of his right of appeal and when the direction

and the new sanction will come into effect. The current suspension will remain in place during the appeal period.

ANNEX A – 29/01/2024

Service of Notice of the Hearing

1. Dr Shendi is neither present nor represented at this hearing.
2. Mr Halliday, Counsel, on behalf of the GMC, provided the Tribunal with details about the background to this case and referred it to documents regarding service of these proceedings on Dr Shendi. The Tribunal was given a copy of the Medical Practitioners Tribunal Service (MPTS) Notice of Hearing letter, dated 14 December 2023, which was posted to Dr Shendi's GMC registered address by Royal Mail Special Delivery. Royal Mail Track and Trace documentation confirmed that the Notice of Hearing letter was delivered and signed for by someone by the name of 'SHENDI' on 15 December 2023. The Tribunal was also provided with a copy of the GMC Information letter sent to Dr Shendi's postal address, dated 18 December 2023. Royal Mail Track and Trace documentation confirmed that the GMC Information letter had been refused and was delivered back to sender on 22 December 2023. On 15 January 2024, the GMC posted a copy of the final hearing bundle provided to the Tribunal to Dr Shendi's registered address via a process server. A proof of delivery report confirmed delivery on 18 January 2024.
3. Dr Shendi had not kept his email or his telephone numbers up to date with the GMC and therefore the GMC and MPTS considered it inappropriate to contact him through these means. That is why service was made only via post.
4. The Tribunal had regard to the case of *General Medical Council v Adeogba; General Medical Council v Visvardis* [2016] EWCA Civ 162 which confirms that the GMC has a duty to communicate with a doctor at the registered address they provide. The Tribunal needed to be satisfied that the GMC and MPTS had taken all reasonable steps to serve notice of this hearing on Dr Shendi.
5. The Tribunal had regard to the service bundle provided by the GMC, as well as Mr Halliday's submissions. Having considered all of the evidence before it, particularly the confirmation that someone by the name of 'SHENDI' had signed for the Notice of Hearing, the Tribunal was satisfied that notice of the hearing had been served in accordance with Rules 20 and 40 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended) ('the Rules') and paragraph 8 of Schedule 4 to the Medical Act 1983 (as amended).

Proceeding in Dr Shendi's absence

6. The Tribunal went on to consider whether it would be appropriate to proceed with this hearing in Dr Shendi's absence pursuant to Rule 31 of the Rules. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with appropriate care and caution, balancing the interests of the doctor with the wider public interest.

7. Mr Halliday invited the Tribunal to proceed in Dr Shendi's absence. Mr Halliday submitted that all reasonable efforts had been made to serve notice of this hearing on Dr Shendi. Mr Halliday submitted that Dr Shendi had been given plenty of opportunities to attend, but he continued to absent himself voluntarily from these proceedings. Mr Halliday submitted that there was no indication that an adjournment would be of benefit to these proceedings as Dr Shendi has not engaged with the GMC or the MPTS since 2020.

8. The Tribunal was satisfied that Dr Shendi had previously engaged with the GMC, but had not done so since 2020. The Tribunal concluded that Dr Shendi knew or ought to have known that this review hearing is taking place today. It concluded that Dr Shendi has voluntarily absented himself from these proceedings and that there was no indication that an adjournment would secure his attendance at a future date. The Tribunal determined that, balancing the interests of Dr Shendi against the public interest, it was in the public interest to proceed with this hearing today.

9. Therefore, in accordance with Rule 31, the Tribunal has determined to proceed in Dr Shendi's absence.