

## PUBLIC RECORD

Dates: 03/06/2024 - 07/06/2024

Medical Practitioner's name: Dr Mahjabeen ASIM

GMC reference number: 7031711

Primary medical qualification: MB BS 2003 University of Baluchistan

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired

## Summary of outcome

Suspension, 2 months.

## Tribunal:

Legally Qualified Chair	Miss Megan Larrinaga
Lay Tribunal Member:	Mr Andrew Waite
Medical Tribunal Member:	Dr David Mabin

Tribunal Clerk:	Ms Jemine Pemu
-----------------	----------------

## Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr David Morris, Counsel, instructed by Medical Protection Society
GMC Representative:	Ms Jade Bucklow, 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.

## 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 Facts and Impairment - 06/06/2024

1. This determination will be read in private. However, as this case concerns Dr Asim's misconduct a redacted version will be published at the close of the hearing.

## Background

2. Dr Asim qualified with MBBS in 2003 from the University of Baluchistan. Prior to moving to the UK, she worked as a House Officer in General Medicine at the Bolan Medical Complex Hospital in Quetta, Pakistan, gaining experience in cardiology, endocrinology, dermatology and obstetrics and gynaecology. In 2010 Dr Asim moved to the UK and registered with the GMC. Between 2012 and 2018, Dr Asim worked as a Junior Clinical Fellow in Accident and Emergency at the West Middlesex University Hospital in Isleworth. In February 2018, Dr Asim started her GP training based at Worthing Hospital on an approved Health Education England Training Scheme. In April 2024, she completed her GP training. At the time of the matters giving rise to the hearing, Dr Asim was working at the Victoria Road Surgery in Worthing ('the Practice'), part of the Kent, Surrey and Sussex deanery. At the time of the Allegation she was working four clinical sessions, one tutorial session and attended Vocational Training Session (VTS) once a week.

3. The allegation that has led to Dr Asim's hearing can be summarised as, on or around 21 March 2023 Dr Asim submitted her recorded consultations for the Recorded Consultation Assessment ('RCA') examination. It was alleged that she knew that one or more of the recordings submitted had been sped up in order to give the appearance that the consultations were shorter than they were. It was also alleged that her actions were dishonest.

4. The Royal College of General Practitioners ('RCGP') is the professional membership body for GPs in the UK. There are a number of ways to become a GP in the UK but for most individuals it involves completing a minimum of three years speciality training on a GP

approved programme and passing Membership of the RCGP exams ('MRCGP'). MRCGP exams have three separate components, the Applied Knowledge Test ('AKT'), Workplace-Based Assessments ('WPBA') and an assessment of consultation skills. Prior to the Covid-19 pandemic, consultation skills assessments were undertaken in person at the RCGP's headquarters in Euston, London by way of an objective structured clinical examination. However, during the pandemic, in person simulated assessments were not possible and the Recorded Consultation Assessment ('RCA') was introduced.

5. At the time the matters giving rise to this hearing, the RCA required candidates to submit 13 different recorded patient consultations which could be audio, video or face to face. The consultations had to be with real patients covering one of a number of clinical areas including an acute condition, management of a chronic condition, a case to do with reproductive health, a case of a child and a case of mental health. In recording consultations, candidates could either use a platform known as Fourteen Fish ('14Fish') or they could record their consultations using another method but had to upload the recorded consultation onto the 14Fish platform.

6. The RCA had a number of specific criteria including that the consultations should be recorded continuously and that where the consultation was being video recorded the camera should not be turned off during the consultation and the recording should not be edited. Consultations were also limited to 12 minutes. If a consultation exceeded the maximum 12 minutes, candidates would not achieve marks for anything occurring after the 12-minute mark. RCAs were marked by individual examiners working from home who accessed the consultations through 14Fish. While the RCA was being marked, there were a group of marshals available within a Zoom meeting who would monitor what was happening and who individual examiners could approach if there was a problem. In the event an examiner raised a problem with an assessment, a marshal team, usually consisting of at least three marshals would independently look at the recording to verify if there was a problem.

7. On 21 March 2023 Dr Asim submitted her consultations for the RCA. During the marking of one of Dr Asim's consultations the examiner approached a marshal, Professor A, Clinical Lead for the RCA at the RCGP raising concerns about the recording and the timing of it. One of Dr Asim's consultations showed an analogue clock on the wall behind a patient. The timing on the clock did not match with the timing of the video consultation which showed the consultation beginning at 11:36:30 and finishing at 11:50:30 while showing a video time of 12:34. Professor A agreed there appeared to be a discrepancy in the timing of the consultation. As a result of this discrepancy all 13 of Dr Asim's consultations were reviewed and it was suspected that four of the 13 consultations had been sped up.

8. On 27 April 2023 Mr B, Clinical Skills Examination Manager at the RCGP wrote, by email, to Dr Asim stating that concerns were raised about her submission for the RCA. In particular he stated that there were concerns that the submission may have breached the rule regarding staged, rehearsed or edited consultations. The email confirmed that an investigation would take place and the RCGP would be unable to release the results of her RCA until the investigation had concluded. Mr B also wrote to Professor C, Primary Care Dean and Deputy Postgraduate Dean for Kent, Surrey and Sussex outlining the concerns in relation to Dr Asim's consultation. He asked that the concerns and details of the investigation be forwarded to Dr Asim's lead employer. It is not clear when the concerns were forwarded from Professor C but on 28 April 2023 at 21:07, Dr D, Patch Associate Dean for the GP School at West Sussex contacted Dr E, a GP Trainer, Partner at the Practice, and Dr Asim's Educational Supervisor.

9. On 2 May 2023, a meeting took place between Dr D, Dr E and Dr Asim by MS Teams ('the 2 May meeting'). In that meeting the discrepancies in the timing of Dr Asim's consultations were put to her and she was described as being shocked, surprised and unable to offer an explanation for discrepancies. Dr E explained to Dr Asim that she needed to be truthful and give an honest account of what had happened. Dr E asked her to think about what was said in the meeting and contact him again if there were any changes to her story. Dr D also followed up the 2 May meeting with an email on the same day at 11:20 setting out the concerns in respect of Dr Asim's consultations and asking for a statement from both Dr E and Dr Asim. Dr D specifically requested that Dr Asim write a detailed statement of the process she followed for recording and uploading the consultations and requested that she demonstrate "*insight into why these concerns have been raised*".

10. It was Dr Asim's evidence that later that same afternoon she spoke to Dr E admitting fully what she had done and that she had sped up the recordings. Dr E's recollection of Dr Asim coming to him that afternoon was slightly different. He stated that she admitted compressing the files but did not recall Dr Asim admitting that she had sped up the recordings. In any event it was agreed that she would write a statement setting out her admissions. Although that statement was undated, there was evidence before the Tribunal that it was sent to Dr E on 3 May 2023. In her statement, Dr Asim stated that she used her mobile phone to record all the audio and video and used apps to compress the file size. She stated that while using apps to compress the file size she also found the option to speed up the videos. She admitted that she used the speeding up function for some of the recordings but she did not remember which of the recordings she compressed or sped up. She stated that aside from compressing or speeding up the recordings she did not perform any additional editing on the recordings. She later accepted in her oral evidence that she used

her personal computer to speed up the recordings having transferred them from her mobile phone.

11. In her statement Dr Asim stated that she was under a great deal of stress such that she considered quitting her training and failed to recognise the consequences of her actions at the time. She stated that she did not wish to provide any justification for her actions, apologised, acknowledged that she had a duty to act honestly and ethically and that her actions violated that duty. She self-referred to the GMC on 5 May 2023. She was also referred to the GMC by Professor C on 10 May 2023.

### The Outcome of Applications Made during the Facts Stage

12. On day 2 of the hearing, Mr Morris, Counsel, on behalf of Dr Asim, made an application pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), for parts of Dr Asim's evidence to be heard in private. Mr Morris stated that part of Dr Asim's evidence related to the XXX. Ms Bucklow, Counsel, on behalf of the GMC did not oppose the application.

13. The Tribunal granted the application as it was satisfied that a public hearing disclosing the XXX would adversely affect XXX. Further the Tribunal was satisfied in all the circumstances, including the public interest, that it was appropriate to hear evidence in relation to XXX in private.

### The Allegation and the Doctor's Response

14. The Allegation made against Dr Asim is as follows:

That being registered under the Medical Act 1983 (as amended):

1. On or around 21 March 2023 you submitted your recorded consultations for the Recorded Consultation Assessment ('RCA') examination. **Admitted and found proved**
2. You knew that one or more of the recordings submitted by you for the RCA examination had been sped up in order to give the appearance that your consultations were shorter than they were. **Admitted and found proved**
3. Your actions at paragraph 1 were dishonest by reason of paragraph 2. **Admitted and found proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.

### The Admitted Facts

15. At the outset of these proceedings, through her Counsel, Mr Morris, Dr Asim made admissions to the entirety of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced all paragraphs of the Allegation as admitted and found proved.

### The Evidence

#### Witness Evidence

16. On behalf of the GMC, the Tribunal received a witness statement from Professor A and Dr E both dated 10 January 2024. It also heard oral evidence from Dr E.

17. The Tribunal also received a witness statement from Dr Asim dated 20 May 2024 and she also gave oral evidence at the hearing.

#### Documentary Evidence

18. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Dr Asim’s self-referral, dated 5 May 2023;
- Referral from Professor C, dated 10 May 2023;
- RCGP Examination Team Report, undated;
- Email correspondence from Professor C to the GMC, dated 26 July 2023;
- Email correspondence between Mr B and the GMC between 25 October 2023 and 10 January 2024;
- RCA Policy dated 18 January 2023;
- Dr Asim’s RCA examiner assessment marksheets;
- Email from Dr D to Dr E, dated 28 April 2023;
- Email from Dr D to Dr E and Dr Asim, dated 2 May 2023;
- Dr E’s statement, dated 4 May 2023;
- Email correspondence between Dr D, Dr E and Dr Asim, between 4 May and 19 June 2023;

- Email from Professor A, dated 13 June 2023;
- Evidence of CPD including learning logs and reflections by Dr Asim between 22 June 2023 and 17 April 2024;
- Dr Asim’s Development and Restoration Plan, dated 16 April 2024;
- Testimonials on behalf of Dr Asim, various dates.

19. In her witness statements and again in her oral evidence to the Tribunal, Dr Asim apologised for her actions and stated that there was no excuse or justification for her behaviour. She accepted that she did not admit what she had done at the first meeting with Dr E and Dr D and that she should have done so. She also accepted that she had been dishonest. Dr Asim stated that at the time of submitting her consultations she had been experiencing a great deal of stress and that she had told Dr E that she was considering quitting her GP training. Dr Asim accepted that she had not told Dr E the extent of her stress but that matters had been difficult at home. XXX. She stated that although she felt under extreme pressure she had not taken any time off work nor had she discussed the pressures she was facing with anyone.

20. Dr Asim also stated in her evidence that having failed the exam on two previous occasions she was concerned that her next attempt would be her final attempt and she would not get a further extension to complete her training. She stated that she was recording all her consultations over a two-month period which felt like a continuous exam. Dr Asim stated that she was concerned her consultations were not complex enough to meet the criteria to pass the RCA. She further stated that there were technological challenges in submitting consultations and that she chose to use her mobile phone to record the consultations as using 14Fish and paying for the exams was becoming too expensive for her.

21. Dr Asim accepted that when she let Dr E know she XXX from stress and considering quitting her GP training, measures were put in place to help her. The measures included reducing the number of her consultations and she was given additional catch-up time between consultations. She said that although these measures helped, it resulted in her having fewer consultations which meant she felt greater pressure in finding suitable consultations for her RCA submission. She stated that although she could discuss with Dr E and other colleagues the consultations and get their feedback on whether they were suitable to be submitted, the final decision on which consultations to submit were her own. She also stated that she received conflicting feedback from colleagues about which consultations would be suitable for submission.

22. Dr Asim was asked about the process of uploading and speeding up the consultation videos. Dr Asim stated that the videos were submitted on 21 March 2023 and there was a

period of two to three days over a one-week period where she finalised her submissions. She stated that on reviewing the videos she did not think there was enough [in the 12-minute limit] to cover the mandatory criteria to pass the exam. Dr Asim admitted that during the compression of the videos she realised that the videos could be sped up. She stated that she then panicked and chose random videos to speed up. She stated that she transferred the videos from her mobile phone to a computer and sped up one video to check that it worked. When she realised the speeding up had worked she then sped up other videos but she had not sped up all of them nor had she done any other editing to them.

23. Dr Asim in her written and oral evidence accepted that she was wrong, failed to act honestly and ethically and that her actions violated her duties. She apologised for her actions, for being dishonest and acknowledged that her actions damaged public confidence in the medical profession. She also offered an apology to her colleagues especially Dr E and acknowledged that her actions harmed not only her credibility but the organisation as a whole. She stated that she had reflected on her conduct and had attended a number of courses including Maintaining Professional Ethics and had written a statement setting out her learning from the course. She also stated that he had attended other courses and reflected on what those courses had taught her. Dr Asim gave evidence that she had created a development plan identifying the root causes of her actions and putting in place measures to prevent a recurrence. Dr Asim stated that she was now more open and was accessing support from her Professional Support Unit as well as her friends who she was now spending more time with. She was also more open and honest about her stress XXX. Dr Asim stated that she was determined there would be no repeat of her dishonesty.

## Submissions

### On behalf of the GMC

24. Ms Bucklow reminded the Tribunal that at this stage of the proceedings, it must have regard to the statutory overarching objective. She accepted that this was not a case where there was a risk to patient safety and neither were there any concerns regarding Dr Asim's clinical skills. Ms Bucklow submitted that Dr Asim's conduct breached paragraph 65 of Good Medical Practice (2013 edition) (GMP) which provides:

*'65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'*

25. Ms Bucklow stated that all acts of dishonesty undermined public confidence and breached a fundamental tenet of the profession. Ms Bucklow submitted that the RCA was



one component of the requirement to become a GP and had Dr Asim not been caught it would have resulted in her gaining a role for which she was not qualified.

26. Ms Bucklow further stated that Dr Asim's actions in speeding up the recordings gave her an unfair advantage over other candidates as she would have had more content assessed and more opportunity to meet the criteria for passing the exam. She submitted that Dr Asim's conduct was sophisticated, premediated and occurred over a period of time. Ms Bucklow stated that Dr Asim's conduct could not be described as a moment of panic as she logged on to a computer to speed up the footage. Ms Bucklow reminded the Tribunal that dishonesty by doctors is treated seriously because it significantly undermines public confidence in the profession. She reminded the Tribunal that the public expected doctors to not only be trustworthy and honest but qualified and capable.

27. Ms Bucklow urged the Tribunal to consider the issue of insight, question when such insight developed and whether it was complete. She reminded the Tribunal that a month had passed between Dr Asim submitting the consultations and concerns being raised about them. Ms Bucklow stated there was no evidence that Dr Asim would ever have admitted her conduct had she not been caught. She reminded the Tribunal that Dr Asim did not immediately admit to her conduct when asked about it in the meeting on the morning of 2 May 2023. She also reminded the Tribunal that in that meeting Dr Asim was described as being shocked and surprised but she should not have been as she knew what she had done and had already received the email from the RCGP on 27 April 2023. Ms Bucklow further submitted that it was not until the statement of 3 May 2023 that Dr Asim fully admitted what she had done. Ms Bucklow acknowledged that Dr Asim had apologised for her actions and attributed her conduct to a period of stress and thinking this was her final opportunity to pass the exams. However, Ms Bucklow submitted that the stress being experienced by Dr Asim was not exceptional or persuasive and that many of her peers would also be experiencing periods of stress but did not resort to cheating.

28. Ms Bucklow reminded the Tribunal that dishonesty was difficult to remediate as it was fundamentally an attitudinal problem which could not be remedied by taking courses and reflections. She accepted that Dr Asim had testimonials and was considered a valued doctor, but those factors could not mitigate her dishonesty. Ms Bucklow submitted that there remained a risk of repetition as Dr Asim's dishonesty occurred in circumstances where she was being heavily supported and was unable to give any evidence on what further help or support could have been provided to her.

29. Ms Bucklow stated that public confidence in the profession and the system of regulation would be undermined if a finding of impairment was not made. She also submitted

that a finding of impairment was required to send a message to the profession about the conduct befitting those seeking to be on the medical register.

On behalf of Dr Asim

30. Mr Morris stated that Dr Asim accepted that her conduct fell seriously below the standards expected of doctors and amounted to misconduct which was serious. He also accepted that dishonesty was at the higher end of seriousness and that there were a number of factors which aggravated Dr Asim's dishonesty. Mr Morris accepted that the dishonesty occurred within her clinical role and that there had been an attempt to conceal her professional deficiency. He also accepted that she had resorted to improper methods to help her pass the exam and that if she had been successful she would have undermined the integrity of the exam and there would have been an improper completion of her training. However, he submitted that these factors should be balanced against a number of other factors including that, at most, four videos were found to have been sped up. He submitted that this was an isolated episode, that the dishonesty had not been persistent and that there was little evidence of the speeding up being concealed. He submitted that Dr Asim's actions were done in a sense of panic with little thought or planning. Mr Morris stated that there was no real risk to patient safety and that if Dr Asim had been successful this would have led to a competent but slow GP being admitted to the register.

31. Mr Morris submitted to the Tribunal that Dr Asim was of previous good character with no previous adverse regulatory findings. He reminded the Tribunal of Dr Asim's personal circumstances in the time leading up to the RCA and while he submitted Dr Asim did not rely on it as an excuse it explained why she had found recording the consultations so difficult. He stated that a combination of pressures had resulted in Dr Asim acting out of the ordinary.

32. Mr Morris submitted that Dr Asim had virtually immediately accepted her dishonesty, she had shown remorse and had offered apologies. Mr Morris accepted that dishonesty was difficult to remediate but that Dr Asim had accepted her actions and had taken significant steps to remediate and to ensure there was no risk of repetition. He stated that she had shown insight and acknowledged that her actions had caused damage to the profession and the wider public. He reminded the Tribunal of the courses she had attended and the extensive reflections and learnings she had taken from those courses. He also reminded the Tribunal that Dr Asim had put in place a development plan and had been working towards it, had recognised the need to be more open and would approach her GP and friends in whom she can confide if she found herself in similar difficulty.

33. Mr Morris stated that Dr Asim had a natural tendency to integrity and that her actions were out of character. He stated that the GMC investigation and these proceedings had been a painful reminder to her of her conduct, that her insight was fully developed and that she was a wiser and more contrite doctor. Mr Morris stated that it was not necessary for a finding of impairment to be made in this case.

### The Relevant Legal Principles

34. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof, and the decision on impairment is a matter for the Tribunal's judgement alone.

35. In approaching its decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct which is serious and then whether the finding of misconduct could lead to a finding of impairment.

36. The Tribunal must determine whether Dr Asim's fitness to practise is impaired today, taking into account her conduct at the time of the events and any relevant factors since then such as whether the matters are remediable and, have been remedied and any likelihood of repetition.

37. The Tribunal reminded itself of the statutory overarching objective which is 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 the profession.

38. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. In particular, the Tribunal considered whether its findings of fact showed that Dr Asim's fitness to practise is impaired in the sense that she:

- a. *'Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. *Has in the past or is liable in the future to bring the medical profession into disrepute; and/or*
- c. *Has in the past breached or is liable to breach in the future one of the fundamental tenets of the medical profession; and/or*
- d. *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

39. The Tribunal also had regard to the case of *Cohen v GMC [2008] EWHC 581* where the courts said, “it must be highly relevant in determining if a doctor’s fitness to practise is impaired that first his or her conduct which led to the charge is easily remediable, second it has been remedied and third that it is highly unlikely to be repeated.”

## The Tribunal’s Determination

### Misconduct

40. In determining whether Dr Asim fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts admitted and found proved amounted to misconduct.

41. The Tribunal noted that Dr Asim accepted that she had cheated on the RCA by speeding up her consultations. The Tribunal considered that Dr Asim’s conduct was an attempt to gain an advantage over her peers who were sitting the exam in the same difficult circumstances. It also had regard to the fact that her conduct took place over a number of days and involved speeding up more than one consultation. The Tribunal was of the view that Dr Asim’s actions sought to undermine the system of examination and admission to the GP register. The Tribunal concluded that Dr Asim’s conduct was planned and protracted over a period of days with the aim of helping her to pass professional exams.

42. The Tribunal considered that the following paragraphs of GMP are engaged in this case:

*‘1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.*

...

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

....

*71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading*

*a You must take reasonable steps to check the information is correct.*

*b You must not deliberately leave out relevant information.*

*72 You must be honest and trustworthy when giving evidence to courts or tribunals. You must make sure that any evidence you give or documents you write or sign are not false or misleading.*

*a You must take reasonable steps to check the information.*

*b You must not deliberately leave out relevant information.'*

43. While the Tribunal accepted that Dr Asim was not writing a report, signing forms or giving evidence to a court or Tribunal as set out in paragraphs 71 or 72, it was satisfied that she did not act honestly and was not trustworthy in submitting her consultations for the RCA. It also determined that in speeding up the consultations and making them appear shorter than they were, she sought to mislead the RCA examiners.

44. The Tribunal accepted Mr Morris' submission that Dr Asim's conduct was serious. While the Tribunal accepted that this was an isolated episode of dishonesty, in light of Dr Asim's evidence, it did not accept that it occurred in a moment of panic. The Tribunal accepted that Dr Asim was worried about the exam and that she had a genuinely held belief that this was her final opportunity to pass it.

45. The Tribunal considered that fellow practitioners would consider Dr Asim's conduct deplorable. It concluded that her actions fell far short of the standards of conduct reasonably expected of a doctor and amounted to misconduct which was serious.

### Impairment

46. The Tribunal having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that conduct, Dr Asim's fitness to practise is currently impaired.

47. In determining impairment, the Tribunal considered whether the misconduct could be remedied while noting that matters of dishonesty are difficult to remediate. It looked for evidence of insight and remediation, and the likelihood of repetition, balanced against the three elements of the overarching statutory objective.

48. The Tribunal acknowledged that Dr Asim accepted early on that she had sped up the videos. The Tribunal noted there was some dispute whether Dr Asim had accepted her conduct on the afternoon of 2 May 2023 when she went back to Dr E, or not until she had written her statement. The Tribunal did not consider that this was particularly pertinent as it was clear from the evidence before it that she had written her statement fully accepting her conduct and apologising for her actions by 3 May 2023. Further Dr Asim had fully accepted the Allegation as put to her in the GMC's Rule 7 letter and again fully admitted her conduct at the outset of these proceedings.

49. The Tribunal noted that in addition to her full admissions, Dr Asim had repeatedly apologised for her actions for the impact it had on her colleagues and the damage she had done to the reputation of the medical profession. The Tribunal accepted that Dr Asim's apologies were genuine and heartfelt and that she appreciated the gravity of her conduct. The Tribunal was satisfied that Dr Asim had reflected extensively on her conduct including in writing and had taken time to consider the circumstances leading up to her dishonesty. It was also satisfied that she had put in place steps to prevent a recurrence. The Tribunal was satisfied that the reflections undertaken and the steps taken to prevent a recurrence were appropriate. The Tribunal determined that Dr Asim's insight was well developed.

50. The Tribunal went on to consider the issue of remediation. It accepted that it was difficult to remediate dishonesty. However, it noted that Dr Asim had undertaken a number of courses since her dishonest conduct including Maintaining Professional Ethics, Probity and Ethics for Healthcare Professionals and Insight. It further noted that Dr Asim had provided extensive reflections on her learnings from those courses, identified her own learning needs as a result of undertaking the courses and had put in place a development plan with which she was actively engaged in completing. The Tribunal was satisfied that the courses undertaken by Dr Asim were relevant and appropriate and was impressed with the extensive CPD undertaken by Dr Asim. The Tribunal considered that Dr Asim had made substantial efforts to remediate her conduct.

51. The Tribunal assessed the risk of repetition. It noted from the evidence that Dr Asim was going through a difficult period in her home life, XXX. It also accepted that she was worried about passing the exam having failed it on two previous occasions and that she had not confided in anyone in detail about her difficult circumstances XXX. The Tribunal noted

that Dr Asim did not seek to use her personal circumstances or worry as an excuse for her dishonesty but as an explanation for why she acted in the way she did. The Tribunal had regard to the evidence that Dr Asim was now more open with those around her, had friends in whom she would confide and was actively monitoring her stress levels XXX. The Tribunal was also reassured by her evidence that in the event where she was faced with a spur of the moment decision which presented an opportunity to be dishonest, she would not act immediately. It accepted her evidence that she would pause to take some time to think about things before taking any action.

52. The Tribunal also had regard to the positive testimonials provided on behalf of Dr Asim including from the Practice. It noted that the testimonials were provided in full knowledge of the Allegation made against her. It was clear to the Tribunal that Dr Asim was a well-regarded doctor and that those providing testimonials considered her conduct to be out of character.

53. The Tribunal was satisfied that Dr Asim had done all she could do remediate her misconduct. It also considered that Dr Asim's insight was well developed and as such determined that the risk of repetition was low.

54. In considering the test in *Grant*, the Tribunal was satisfied that there was no risk of harm to patients. However, the Tribunal concluded that Dr Asim's actions had brought the medical profession into disrepute, had breached a fundamental tenet of the profession and that she had admitted to acting dishonestly.

55. The Tribunal also balanced its assessment of the low risk of repetition against the statutory overarching objective. The Tribunal concluded that Dr Asim's admitted dishonesty was so serious that it would damage public confidence in the medical profession and the system of regulation if a finding of impairment were not made. The Tribunal was satisfied that a member of the public in full knowledge of the facts of this case would be concerned to learn of a doctor acting in the way she did. The Tribunal determined that in light of its findings of serious misconduct a finding of impaired fitness to practise was necessary to promote and maintain proper standards of conduct for members of the medical profession.

56. The Tribunal therefore determined that Dr Asim's fitness to practise is currently impaired by reason of misconduct.

**Determination on Sanction - 07/06/2024**

57. Having determined that Dr Asim’s fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

## The Evidence

58. The Tribunal has taken into account evidence received during the earlier stages of the hearing, where relevant, to reaching a decision on sanction.

## Submissions

### On behalf of the GMC

59. Ms Bucklow reminded the Tribunal that the decision on sanction is a matter for it alone, exercising its own judgment. She reminded the Tribunal that when determining the appropriate sanction, it needed to impose the least restrictive sanction to protect the public. She referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (February 2024 edition) (‘the SG’), the relevant case law and its findings on impairment.

60. Ms Bucklow submitted that the second and third limb of the statutory overarching objective are engaged and that action needed to be taken to mark the seriousness of Dr Asim’s dishonest conduct. She stated that Dr Asim’s conduct was serious, fell short of the standards expected of doctors and sought to circumvent the rigorous examination process. Ms Bucklow submitted that Dr Asim was not an inexperienced doctor whose actions could be explained by naivety. She reminded the Tribunal that Dr Asim was admitted on to the GMC’s register in 2010 and has been working in an NHS setting ever since. She accepted that Dr Asim had difficult personal circumstances at the time and she believed this was her final opportunity to pass the exam. However she submitted that this did not justify her conduct.

61. Ms Bucklow submitted that there were no exceptional circumstances which would justify taking no action. She further submitted that conditions and undertakings were not appropriate as both are better suited to cases where there are clinical concerns or concerns related a doctor’s health. In any event, Ms Bucklow submitted that neither conditions nor undertakings would mark the seriousness of Dr Asim’s conduct.

62. Ms Bucklow submitted that the appropriate and proportionate sanction in this case was a period of suspension. She further stated that a period of suspension would mark the seriousness of the misconduct and would send a message to the profession about the



standards of behaviour expected of registered doctors. Ms Bucklow stated that a sanction short of suspension risked undermining public confidence in the profession and would not set proper standards. Ms Bucklow submitted that a review at the end of the period of suspension was not necessary. Ms Bucklow submitted that erasing Dr Asim's name from the medical register would be disproportionate. She accepted that while Dr Asim's misconduct was serious, it was not fundamentally incompatible with continued registration.

#### On behalf of Dr Asim

63. Mr Morris reminded the Tribunal of its findings in respect of misconduct and impairment and further reminded the Tribunal of the significant remediation undertaken by Dr Asim. He stated that Dr Asim had well developed insight and that the Tribunal had assessed her risk of repetition as being low. Mr Morris accepted that Dr Asim's conduct fell far short of what was expected of doctors and that her actions were deplorable. Mr Morris also reminded the Tribunal that no patients had come to harm as a result of Dr Asim's actions and of the aggravating and mitigating factors that he had previously identified. He also referred the Tribunal to the positive testimonials from Dr Asim's colleagues. Mr Morris stated that Dr Asim accepted that taking no action and imposing conditions on her registration would not be appropriate in this case.

64. Mr Morris submitted that the appropriate action in this case was a short period of suspension and that such action would maintain public confidence and maintain proper standards of conduct. He further submitted that in light of Dr Asim's well-developed insight and extensive remediation a review was not necessary at the conclusion of any period of suspension. Mr Morris stated that erasing Dr Asim's name from the register was not appropriate or proportionate. He stated that the aggravating factors present in the SG were not engaged in Dr Asim's case and that erasure would deprive the NHS of a competent doctor.

#### **The Tribunal's Determination on Sanction**

65. The Tribunal reminded itself that the decision as to the appropriate sanction to impose, if any, was a matter for it alone, exercising its own judgement. In reaching its decision on sanction, the Tribunal had regard to the SG, its findings on misconduct and impairment and the submissions made by Ms Bucklow and Mr Morris. It bore in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it recognised that any sanction imposed may have a punitive effect. It

reminded itself that in deciding what sanction, if any, to impose, it should start with the least restrictive.

66. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Asim's interests with the public interest. It considered and had regard to the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promotion and maintenance of proper professional standards and conduct for members of the profession.

#### Aggravating and Mitigating Factors

67. Before considering what action, if any, to take in respect of Dr Asim's registration, the Tribunal identified what it considered to be the aggravating and mitigating factors in this case.

68. The Tribunal identified the following aggravating factors:

- The dishonesty occurred over a number of days;
- The dishonesty involved forethought, planning, was rehearsed and had an element of sophistication;
- The consequences of the dishonesty had the potential to undermine the system of examination.

69. Having identified aggravating factors in this case, the Tribunal identified the mitigating factors to be:

- Dr Asim is of previous good character with no adverse regulatory history;
- Dr Asim made early admissions;
- Dr Asim is contrite and has expressed repeated apologies which the Tribunal considered were genuine and heartfelt;
- Dr Asim's insight is well developed and she has undertaken extensive remediation;
- There is no evidence of repetition;
- Dr Asim has positive testimonials, including those from colleagues at the Practice who were directly involved and affected by her dishonest conduct;
- Dr Asim was under significant pressure and stress at the time of her dishonest conduct and she has put steps in place to prevent recurrence.

70. The Tribunal balanced the aggravating and mitigating factors throughout its deliberations and went on to consider each sanction in order of ascending severity, starting with the least restrictive.

### No Action

71. The Tribunal first considered whether to conclude the case by taking no action. It noted that taking no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

72. The Tribunal determined that there were no exceptional circumstances in Dr Asim's case which would justify it taking no action. It considered that given the seriousness of the misconduct and its findings of impaired fitness to practise, taking no action would not be sufficient, proportionate, or in the public interest.

### Conditions

73. The Tribunal next considered whether to impose conditions on Dr Asim's registration. The Tribunal took note that any conditions would need to be appropriate, proportionate, workable and measurable. The Tribunal determined that no measurable or workable conditions could be formulated in this case. Further, the Tribunal did not consider that a period of conditional registration would be sufficient to mark the seriousness of the misconduct found and would not satisfy the overarching objective, public interest or uphold public confidence in the profession.

### Suspension

74. In giving weight to the aggravating and mitigating factors previously identified, the Tribunal was satisfied that action must be taken to mark the seriousness of the misconduct and to maintain public confidence in the profession. The Tribunal considered whether it should impose a period of suspension on Dr Asim's registration. The Tribunal had regard to paragraphs 91, 92, 93 and 97(a), (e), (f) and (g) of the SG which provide:

*'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*

92 *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).*

93 *Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions.*

...

97 *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

*a A serious breach of Good medical practice, but where the doctor’s misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.*

...

*e No evidence that demonstrates remediation is unlikely to be successful, e.g. because of previous unsuccessful attempts or a doctor’s unwillingness to engage.*

*f No evidence of repetition of similar behaviour since incident.*

*g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.’*

75. The Tribunal also had regard to paragraph 120 SG :

**‘120** *Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients’ trust in them and the public’s trust in the profession.’*

76. The Tribunal considered the circumstances of the dishonesty and its conclusions that the dishonesty was planned, sophisticated and took place over a period of days. It also had

regard to its findings that Dr Asim breached a number of paragraphs of GMP, breached a fundamental tenet of the profession and had brought the medical profession into disrepute.

77. The Tribunal balanced this against Dr Asim’s well-developed insight, her extensive remediation, the steps she has taken and continued to take to prevent a recurrence and its assessment that the risk of repetition is low. In light of this, the Tribunal determined that a period of suspension would be an appropriate and proportionate sanction in this case. It considered that a period of suspension would mark the seriousness of the misconduct and satisfy the overarching objective by maintaining public confidence in the profession and maintaining proper professional standards for doctors. It was also satisfied that a period of suspension would send a clear message to the public and the medical profession that this type of behaviour was not acceptable.

### **Erasure**

78. While the Tribunal considered a period of suspension would satisfy the overarching objective, it went on to consider the sanction of erasure. Having balanced the aggravating and mitigating factors and considered all the circumstances of this case, the Tribunal accepted the submission of both parties that Dr Asim’s conduct was not fundamentally incompatible with continued registration. The Tribunal considered that to erase Dr Asim’s name from the register would be wholly disproportionate and that erasure, was not the least restrictive sanction to protect the public interest and would deprive the public of an otherwise competent and well-regarded doctor.

### **Length of Suspension**

79. Having determined that a period of suspension was the appropriate and proportionate sanction, the Tribunal went on to determine the length of the suspension. In doing so, it had regard to paragraph 100 of SG which states:

*‘100 The following factors will be relevant when determining the length of suspension:*

- a the risk to patient safety/public protection*
- b the seriousness of the findings and any mitigating or aggravating factors...*
- c ensuring the doctor has adequate time to remediate.’*

80. The Tribunal had regard to the need to mark the seriousness of Dr Asim’s misconduct and to declare and uphold proper standards of behaviour. It had regard to the fact there was

no risk of harm to patients as well as the aggravating and mitigating factors in this case. Having taken all these matters into account the Tribunal determined to impose a two month period of suspension on Dr Asim's registration. It considered that a period of suspension of any greater length would be disproportionate in light of Dr Asim's insight, remediation and the low risk of repetition. The Tribunal considered that suspension for a period of two months would be sufficient to send a signal to Dr Asim, the wider profession and the public about conduct which is regarded as unbecoming a registered doctor.

## Review

81. The Tribunal considered whether to direct a review hearing. It bore in mind the guidance at paragraph 164 of the SG which advises that:

*'..in most cases where a period of suspension is imposed... the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):*

*a) they fully appreciate the gravity of the offence*

*b) they have not reoffended*

*c) they have maintained their skills and knowledge*

*...'*

82. The Tribunal is not directing a review in Dr Asim's case. It was satisfied that she fully appreciated the gravity of, and had extensively reflected on, her misconduct and the circumstances giving rise to it. In addition, given that there were no clinical concerns with Dr Asim, the Tribunal did not consider that a review was necessary in this case.

## Determination on Immediate Order - 31/05/2024

83. Having determined that Dr Asim's registration be suspended for a period of two months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Asim's registration should be subject to an immediate order.

## Submissions

84. On behalf of the GMC, Ms Bucklow submitted that an immediate order is not necessary in this case.

85. On behalf of Dr Asim, Mr Morris submitted that an immediate order is not necessary in this case.

## The Tribunal's Determination

86. In reaching its decision, the Tribunal has exercised its own judgement, and has taken account of the principle of proportionality. The Tribunal has borne in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public or otherwise in the public interest or is in the best interests of the practitioner. It has also borne in mind the guidance given in paragraphs 172, 173, and 178 of the SG, which states:

*'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.'*

*173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.*

*178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'*

87. The Tribunal considered that an immediate order was not necessary to protect members of the public or otherwise in the public interest. It noted that there were no clinical concerns in respect of Dr Asim. Accordingly, it determined not to impose an immediate order.

88. This means that Dr Asim's registration will be suspended from the Medical Register 28 days from the date on which written notification of this decision is deemed to have been served, unless she lodges an appeal. If Dr Asim does lodge an appeal she will remain free to practise unrestricted until the outcome of any appeal is known.

89. That concludes the case.