

PUBLIC RECORD

Dates: 19/08/2024 - 23/08/2024

Medical Practitioner's name: Dr Mohammad DURRANI
GMC reference number: 7994508
Primary medical qualification: Ptychio Iatrikes 2022 University of Nicosia
Medical School

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Not Impaired

Summary of outcome

No warning

Tribunal:

Legally Qualified Chair	Mr Graham White
Medical Tribunal Member:	Dr Anup Singh
Medical Tribunal Member:	Dr Gabrielle Downey

Tribunal Clerk:	Miss Maria Khan
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Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Ms Catherine Stock, Counsel
GMC Representative:	Mr Alan Taylor, 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 - 22/08/2024

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

Background

2. Dr Durrani qualified in 2022 from University of Nicosia Medical School. He is currently working in a locally employed doctor role at FY2 level in General Medicine, at Macclesfield District General Hospital.

3. The allegation that has led to Dr Durrani's hearing can be summarised as follows. On or around 19 July 2022, Dr Durrani submitted an online application form ('the form') to the GMC for full registration and failed to declare that he had been the subject of a Fitness to Practise investigation ('the Investigation') by the University of Nicosia Medical School Board ('the Board'), which resulted in disciplinary action. It is alleged that Dr Durrani's conduct in failing to declare the Investigation was dishonest.

4. During Dr Durrani's final year of medical school in 2021, whilst he was based in Barnsley District General Hospital, concerns around probity and professionalism were raised following Dr Durrani's submission of six '*Case Based Discussion*' forms. Instead of having these filled in by the relevant clinicians, Dr Durrani had filled in five of them himself, fabricating names of clinicians and forging their signatures. Additionally, due to other reasons, Dr Durrani was unable to complete certain rotations in his final year.

5. An internal investigation was carried out by the University. As this was still ongoing at the time Dr Durrani was due to sit his final exams, he was not permitted to take them that year. The outcome of the Investigation was that Dr Durrani was permitted to undertake the final year exams the following year and complete the missed rotations. He was also required to submit a satisfactory Reflective Statement and to attend monthly sessions with his mentor. These sessions involved discussions around probity, integrity and Dr Durrani's wellbeing. Dr Durrani sat his final exams in 2022 and graduated in June 2022, with no further concerns from the medical school.

6. On 19 July 2022, Dr Durrani applied for, and gained, full registration with the GMC. Sometime between then and 7 September 2022, Dr Durrani applied to Holt Doctors locum

agency and was sent a registration form to complete. He answered ‘no’ to the question, ‘have you been or are you currently the subject of any ‘Fitness to Practise’ proceedings by an appropriate licensing or regulatory body in the UK or any other country?’

7. The Responsible Officer at Holt Doctors, Dr A, having seen the form and spoken to one of Dr Durrani’s referees from the University of Nicosia, contacted Dr Durrani to discuss the Investigation. Following this discussion, and on the advice of Dr A, Dr Durrani contacted the GMC on 7 September 2022, initially via a telephone call to the GMC Contact Centre. After explaining his situation, Dr Durrani was advised by the Contact Centre operative to make a self-referral. Dr Durrani submitted the self-referral on 7 September 2022, advising that he believed he had made the GMC aware of the Investigation when he first applied for a licence to practise. The GMC contacted Dr Durrani on 6 October 2022 to inform him that it had not been made aware of the Investigation.

The Outcome of Applications Made during the Facts Stage

8. The Tribunal granted the application made by Mr Alan Taylor, Counsel, on behalf of the GMC, made pursuant to Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’), that two typographical errors in the Allegation be amended. The first proposed amendment was that the ‘s’ at the end of ‘paragraphs’ in Paragraph 4 be removed, the second being that the first sentence in Schedule 1 be correctly written as ‘Has a medical school or university raised concerns about your professionalism or behaviour, that led to a formal process..’ instead of ‘Has a medical school, university or employer raised concerns about your professionalism or behaviour, that led to a formal process?’

9. There was no objection to the amendments from Ms Catherine Stock, Counsel on behalf of Dr Durrani, and the Tribunal determined that the amendments were simply to provide accuracy and reflected properly the facts which had been set out, and could be made without any injustice to Dr Durrani.

The Allegation and the Doctor’s Response

10. The Allegation made against Dr Durrani is as follows:

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

1. Between March 2021 and September 2021, you were the subject of a Fitness to Practise investigation (‘the Investigation’) by the University of Nicosia Medical School Board (‘the Board’) which resulted in disciplinary action.
Admitted and found proved
2. On or around 19 July 2022 you submitted an online application form (‘the form’) to the General Medical Council (‘GMC’) for Full Registration to the medical register and you:

- a. answered 'no' to the question as set out at Schedule 1;
Admitted and found proved
- b. completed/agreed to the declaration as set out at Schedule 2.
Admitted and found proved
3. When you acted in the manner described at paragraph 2 you knew that you had been the subject of the Investigation which had resulted in disciplinary action.
Admitted and found proved
4. Your conduct as described at paragraphs 2 was dishonest by reason of paragraph 3.
Amended under Rule 17(6)
To be determined

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

The Admitted Facts

11. At the outset of these proceedings, through his counsel, Ms Stock, Dr Durrani made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

The Facts to be Determined

12. In light of Dr Durrani's response to the Allegation made against him, the Tribunal is required to determine whether Dr Durrani's conduct in answering 'no' to the question as set out at Schedule 1, and completing/agreeing to the declaration as set out at Schedule 2, was dishonest.

Witness Evidence

13. The Tribunal received evidence on behalf of the GMC from the following witnesses:
 - Ms B, International Liaison and Illegal Practice (ILIP) Manager at the GMC. Ms B provided a witness statement dated 24 November 2023 and also gave oral evidence via video link;
 - Mr C, Senior Project Manager at the GMC. Mr C provided a witness statement dated 27 November 2023 and also gave oral evidence via video link.

14. Dr Durrani provided his own witness statement dated 2 April 2024 and also gave oral evidence at the hearing.

Documentary Evidence

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

- Investigation Officer’s Report of the Investigation, undated;
- Student progress meeting minutes, dated 7 May 2021;
- Dr Durrani’s GMC application form, dated 19 July 2022;
- EPIC report, dated 19 July 2022;
- Automated emails sent to Dr Durrani re his application, various dates;
- GMC Guidance, *Achieving good medical practice: guidance for medical students*;
- Recording of Dr Durrani’s call to the GMC Contact Centre, and Contact Centre operative’s post-call notes, dated 7 September 2022;
- Dr Durrani’s self-referral form, dated 7 September 2022;
- Declaration form NHS East Cheshire, dated 30 September 2022;
- Signed CX1 form, dated 21 October 2022;
- Dr Durrani’s Fitness to Practise Statement to the GMC, dated 9 November 2022;
- Dr Durrani’s Rule 7 response, dated 17 August 2023;
- Email thread between Dr Durrani’s legal team and the GMC re requesting access to a dummy run of the GMC application form, various dates from January – March 2024;
- Character references, various dates.

The Tribunal’s Approach

16. The Tribunal received and accepted legal advice from the Legally Qualified Chair (‘LQC’).

17. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Durrani does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the events occurred.

18. The Tribunal may draw inferences from the evidence before it, that is to say, to draw common sense conclusions from reliable evidence that it accepts. However, it must not speculate as to matters about which it has not heard evidence or sufficient evidence.

19. Where relevant to its decision-making process, the Tribunal will have regard to the test for dishonesty set out in *Ivey v Genting Casinos (UK) Limited (t/a Crockfords Club)* [2017] UKSC 67, which states:

‘When dishonesty is in question the fact-finding Tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.’

20. Care needs to be taken in considering the previous admitted dishonesty. This does not in itself prove that Dr Durrani was dishonest in submitting the form to the GMC in the way he did. In *McLennan v GMC* [2020] CSIH 12, the Lord President (Lord Carloway) said that, as with evidence of good character, proof of bad character will equally have no direct relevance to a central issue of dishonesty in a particular setting. Even if it had a direct bearing on whether the individual had a propensity to act in the manner alleged that is not relevant to proof of the particular act.

21. It has been established that factors such as the seriousness of an allegation or its intrinsic improbability means that the evidence in relation to such an allegation should be examined more critically before a tribunal concludes that it has been proved. This does not alter in any way, the burden or standard of proof but as pointed out in the case of *Moseka v NMC* [2014] EWHC 846 (Admin), the severity of the consequences is a factor which a regulatory authority or tribunal will need to bear in mind when applying the civil standard of proof. Where dishonesty is an issue, particular care should be applied, bearing in mind the likelihood of a severe sanction.

22. In the case of *Lawrence v GMC* [2015] EWHC 586 (Admin), the judge referred to the need for a direction to a panel that they should only find dishonesty established if they were satisfied that there was cogent evidence of dishonesty. The civil standard applies, but where dishonesty or particularly a serious offence is alleged, the decision maker must be aware of the need for such cogent evidence.

23. In *Sharma v GMC* [2014] EWHC 1471 (Admin), His Honour Judge Pelling, sitting as a judge of the High Court said that he agreed that the principal identified by Lord Nicholls of Birkenhead in *Re H (Minors) (Sexual Abuse: Standard of Proof)* 1996 AC 563 that in assessing the probabilities, the more serious the allegation the less likely it is that the event occurred and hence the stronger should be the evidence applies in relation to allegations of dishonesty.

24. In the case of *Uddin v GMC* [2012] EWHC 1763 Mr Justice Singh said “*the real issue in many cases may be whether the conduct took place and with what state of mind. For example was a false representation made. But, even if it was, was it done knowing that it was false or may have been, for example, innocent or even a negligent mistake?*”

25. The Tribunal is, of course, entitled to take into account the references provided by senior doctors in respect of Dr Durrani's character but should bear in mind that they have not provided oral evidence to the Tribunal.

26. Ordinarily, it should be possible for a Tribunal to reach a decision one way or another whether an allegation is more likely to be right or more likely to be wrong on the evidence it has received. There may, however, be occasions when a Tribunal feels that the evidence provides little ground for deciding either way. It is for the GMC to prove the allegation and if this Tribunal is not satisfied either way it must find the particular or particulars concerned not proved.

27. In addition to the evidence, the Tribunal has heard submissions from Mr Taylor for the GMC and Ms Stock for Dr Durrani. Submissions are not in themselves evidence, but they will be given such weight as the Tribunal thinks fit.

The Tribunal's Analysis of the Evidence and Findings

28. The Tribunal has considered the outstanding paragraph of the Allegation that alleges dishonesty and has evaluated the evidence in order to make its findings on the facts.

29. The Tribunal took into account Dr Durrani's oral evidence in which he told the Tribunal that he knew it was incumbent on him to declare the Investigation on his application form for full registration with the GMC. It also considered Dr Durrani's evidence that he believed that the GMC, on receiving the completed form, would carry out any necessary background checks to verify the information he had provided. As far as Dr Durrani was concerned, the University of Nicosia Registrar had provided a letter dated 31 May 2022 confirming his good standing and that there were no concerns regarding his fitness to practise. Dr Durrani also explained that he had completed the EPIC Form (Electronic Portfolio of International Credentials) issued on 19 July 2022 and the GMC would therefore have been able to contact the University's Registrar.

30. The Tribunal had regard to the fact that Dr Durrani contacted the GMC immediately following his discussion with Dr A. In the phone call to the Contact Centre on 7 September 2022, Dr Durrani plainly stated that he believed he had declared the Board fitness to practise proceedings on his application form and asked if the operative could access his form to see what he had written. The Tribunal considered that if Dr Durrani had acted dishonestly, he would not have raised the GMC full registration application when he called the Contact Centre. It was of the view that the phone call demonstrated Dr Durrani's state of mind at that time, namely that he genuinely believed he had completed the form correctly.

31. The Tribunal rejected Mr Taylor's submission that the form was straightforward and easily completed. It conceded that while this may be the case if a doctor has nothing to declare, this would not be applicable when there are issues that need to be disclosed and further information required.

32. Dr Durrani, in oral evidence, explained to the Tribunal that he was going backwards and forwards from the '[XXX] Declaration' section to the 'Fitness to Practise' section of the form, and he was unsure which one he would be best to declare the Investigation in. He said he had made a mistake in eventually clicking on 'no' to both sections rather than 'yes' to one of them. Dr Durrani had initially input the necessary information in one of the sections but when he had changed his mind and selected 'no', intending to disclose in the other section, all the content in the free text box disappeared. Dr Durrani thought he had submitted the form answering 'yes' in the XXX section with the relevant information included in the free text box.

33. The Tribunal had regard to Mr Taylor's submission that Dr Durrani had provided an alternative explanation to information on the form not being retained, only after hearing Mr C's evidence that once a 'yes' has been changed to a 'no', any narrative previously input in the free text box disappears.

34. The Tribunal rejected Mr Taylor's submission that Dr Durrani's evidence had been "*opportunistically tailored*" to match Mr C's evidence. It accepted that Mr C's evidence had triggered Dr Durrani's memory and he was therefore now able to remember moving from one box to another.

35. Overall, the Tribunal considered Dr Durrani to be a consistent, logical and credible witness. It was of the view that, after already having been subject to fitness to practise proceedings at medical school and learning from the experience of being dishonest, it was unlikely that Dr Durrani would soon after behave dishonestly again. While it was Dr Durrani's responsibility to fill in the form correctly and check such an important form thoroughly, the Tribunal concluded that Dr Durrani believed he had provided all the necessary information and signed the declaration with that belief.

36. The Tribunal concluded that by the objective standards of ordinary decent people, Dr Durrani's conduct had not been dishonest.

37. In all the circumstances and given the burden and standard of proof, the Tribunal was of the view that Dr Durrani should be given the benefit of the doubt and found paragraph 4 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

38. The Tribunal has determined the facts as follows:

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

1. Between March 2021 and September 2021, you were the subject of a Fitness to Practise investigation ('the Investigation') by the University of Nicosia Medical School Board ('the Board') which resulted in disciplinary action.

Admitted and found proved

2. On or around 19 July 2022 you submitted an online application form ('the form') to the General Medical Council ('GMC') for Full Registration to the medical register and you:
 - a. answered 'no' to the question as set out at Schedule 1;
Admitted and found proved
 - b. completed/agreed to the declaration as set out at Schedule 2.
Admitted and found proved
3. When you acted in the manner described at paragraph 2 you knew that you had been the subject of the Investigation which had resulted in disciplinary action.
Admitted and found proved
4. Your conduct as described at paragraphs 2 was dishonest by reason of paragraph 3.
Amended under Rule 17(6)
Not proved

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

Determination on Impairment - 22/08/2024

1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Durrani's fitness to practise is impaired by reason of misconduct.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received unredacted versions of a number of the character references provided at the previous stage.

Submissions

3. On behalf of the GMC, Mr Taylor advised the Tribunal that he had no submissions to make on the matter of impairment.

4. On behalf of Dr Durrani, Ms Stock invited the Tribunal to consider that Dr Durrani's actions as set out at paragraphs 1-3 of the Allegation did not amount to misconduct in the circumstance of this case and his fitness to practise was not impaired.
5. Ms Stock submitted that the matters as set out in the relevant paragraphs were facts, and Dr Durrani's admissions to paragraphs 1-3, made at the outset of this hearing, were simply an acceptance of these as facts.
6. Ms Stock referred the Tribunal to its previous determination. She reminded the Tribunal that it had considered Dr Durrani to be a consistent, logical and credible witness, and its conclusion that after already being subject to the previous fitness to practise disciplinary process at medical school, and learning from this, it was unlikely that Dr Durrani would repeat the behaviour.
7. Ms Stock submitted the Tribunal had also concluded that although it was Dr Durrani's responsibility and obligation to check he had completed the form correctly, he believed he had provided all the necessary information and signed the declaration on the form in that belief and that by the civil standard, Dr Durrani's conduct had not been dishonest.
8. Ms Stock cited relevant case law pertaining to misconduct and impairment. This included: *Cheatle v GMC* [2009] EWHS 645 (Admin); *Roylance v General Medical Council (No 2)* [2000] 1 AC 311; and *Remedy UK Ltd v General Medical Council* [2010] EWHC 1245 (Admin).
9. Ms Stock submitted that taking that case law and the circumstances of this case into account, Dr Durrani's conduct could not amount to serious misconduct and would never be considered so by colleagues, the profession, or the public.
10. Ms Stock reminded the Tribunal that the purpose of these fitness to practise proceedings is not to punish the doctor but to protect the public against acts of omission of those not fit to practise. The Tribunal should, therefore, look forwards, not back. An assessment of current impairment would involve consideration of past misconduct and steps taken to remediate.
11. Ms Stock submitted that the only aggravating factor in this case was that Dr Durrani had not been diligent. Mitigating factors included Dr Durrani's remorse, expressed in his initial response to the GMC on 9 November 2022, and in his oral evidence in which he described his mistake as "*horrific and horrible*". Ms Stock further submitted that despite these issues, Dr Durrani's university had deemed him fit to practise at the point of graduating. His mentors and referees were of the view that Dr Durrani had reflected at length and fully remedied the misconduct that led to the investigation.
12. Ms Stock told the Tribunal that since qualifying, Dr Durrani has been working as a junior doctor without incident. She drew the Tribunal's attention to the "*shining*" references provided by his seniors and submitted Dr Durrani has now completed his FY2 contract in

medicine and was working as a locum in General Medicine, his career ambition being to enter the field of Psychiatry.

13. Ms Stock concluded by submitting there was no risk to the public and the public interest concern was not such that a finding of impairment would be justified, Ms Stock invited the Tribunal to find Dr Durrani's fitness to practise not currently impaired.

The Relevant Legal Principles

14. The Tribunal received and accepted legal advice from the LQC.

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

16. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted. This is first to decide whether the facts as found proved amounted to misconduct which was serious and, if so, to then decide whether as a consequence Dr Durrani's fitness to practise is currently impaired.

17. In relation to misconduct, the Tribunal bore in mind the case of *Roylance v General Medical Council (No.2)* [2000] 1 A.C. 311, where it was said that:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [medical] practitioner in the particular circumstances.'

and

'It is not any professional misconduct which will qualify. The professional misconduct must be serious.'

18. The Tribunal also took account of the case of *Nandi v GMC* [2004] EWHC (Admin) as to seriousness where, having referred to the case of *Roylance*, Collins J said the *'adjective 'serious' must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners. It is of course possible for negligent conduct to amount to serious professional misconduct but the negligence must be to a high degree.'*

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

20. The Tribunal reminded itself of the statutory overarching objective 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.

The Tribunal's Determination on Impairment

Misconduct

21. The Tribunal took into account its findings at the previous stage as well as Ms Stock's submissions and the unredacted character references.

22. The Tribunal had regard to paragraph 71 of *Good medical practice* (2013 edition) ('GMP'):

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.

23. The Tribunal considered its previous conclusion that while it was Dr Durrani's responsibility to fill in the form correctly and check such an important form thoroughly, Dr Durrani believed he had provided all the necessary information and signed the declaration with that belief.

24. The Tribunal formed the view that Dr Durrani's conduct, although careless, was not sufficiently serious to qualify as misconduct that was serious. The Tribunal had accepted Dr Durrani's explanation that what he had done was not intentional and considered that the level of carelessness would have to be high to amount to serious misconduct in this case.

25. The Tribunal considered carefully the paragraph of GMP set out above. Although it acknowledged that Dr Durrani had not fully complied with the principles set out in the paragraph, the particular breach which it had found, while falling short of the standards expected, was not of the level that it found this to be serious professional misconduct.

26. The Tribunal has concluded that Dr Durrani's conduct did not fall so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious professional misconduct.

27. Accordingly, there was no ground for going on to consider impairment. The Tribunal therefore determined that Dr Durrani's fitness to practise is not impaired.

Determination on Warning - 23/08/2024

1. As the Tribunal determined that Dr Durrani's fitness to practise was not impaired it considered whether in accordance with s35D(3) of the 1983 Act, a warning was required.

Submissions

2. Mr Taylor, on behalf of the GMC, had no submissions to make on the matter of issuing a warning to Dr Durrani.

3. On behalf of Dr Durrani, Ms Stock invited the Tribunal to consider that a warning would not be appropriate.

4. Ms Stock submitted that Dr Durrani had always accepted it was solely his responsibility to check that the information provided is correct. She reminded the Tribunal of its finding that Dr Durrani's conduct, although careless, was not sufficiently serious to qualify as misconduct that is serious.

5. Ms Stock submitted that the *Guidance on warnings* describes warnings as a deterrent, intended to remind doctors that their conduct or behaviour has fallen '*significantly*' below the standards expected, and that a repetition is likely to lead to a finding of impaired fitness to practise. Warnings also highlighted to the wider profession that certain conduct or behaviour is unacceptable.

6. Ms Stock argued that in this case Dr Durrani's conduct relating to the GMC application form did not fall significantly below the expected standards and did not warrant a formal response from the Tribunal.

7. Ms Stock reminded the Tribunal that it had found no dishonesty in this case. It had further found the particulars of the Allegation that were admitted and found proved did not amount to serious misconduct and, subsequently, concluded Dr Durrani's fitness to practise is not impaired.

8. Ms Stock concluded by submitting that Dr Durrani is on the threshold of his career. To impose a warning would be wholly disproportionate and not appropriate. The warning would be published on the Medical Register for a two-year period and would be kept on record and disclosed to employers on request indefinitely. To have a warning for two years would be excessively punitive and not within the '*spirit*' of the legislation.

The Relevant Legal Principles

9. The Tribunal received and accepted legal advice from the LQC.

10. The need for a warning must flow from the factual findings in respect of the allegation made in the particular case.

11. The purpose of a warning is to allow a Tribunal to indicate to a doctor that any given conduct, practice or behaviour represents a departure from the standards expected of a member of the profession and should not be repeated.

12. A warning will be appropriate if there is evidence to suggest that the practitioner's behaviour or performance has fallen below the standard expected, to a degree which warrants a formal response by the Tribunal. It will be appropriate where there has been a significant departure from GMP. There is no definition of the word "*significant*" in the Medical Act or the *Guidance on warnings* and it should be given its ordinary meaning.

13. The Tribunal should have regard to the current *Guidance on warnings* issued by the GMC in April 2024. The factors to be taken into account include:

1. A clear and specific breach of guidance
2. The practitioner's conduct approaches, but falls short of, the threshold for a finding of impairment
3. The concerns being sufficiently serious that if there were a repetition they would likely result in a finding of impaired fitness to practise.
4. A need to formally record the particular concerns.

The Tribunal's Determination on Warning

14. The Tribunal had regard to paragraphs 14, 16, 20, 26 and 32 of the *Guidance on warnings* (2024):

14 *Warnings should be viewed as a deterrent. They are intended to remind the doctor that their conduct or behaviour fell significantly below the standard expected and that a repetition is likely to result in a finding of impaired fitness to practise. Warnings may also have the effect of highlighting to the wider profession that certain conduct or behaviour is unacceptable.*

16 *A warning will be appropriate if there is evidence to suggest that the practitioner's behaviour or performance has fallen below the standard expected to a degree warranting a formal response by the GMC or by a MPTS tribunal. A warning will therefore be appropriate in the following circumstances:*

- *there has been a significant departure from Good medical practice, or*
- *there is a significant cause for concern following an assessment of the doctor's performance.*

20 *The decision makers should take account of the following factors to determine whether it is appropriate to issue a warning.*

- a There has been a clear and specific breach of Good medical practice or our supplementary guidance.*
- b The particular conduct, behaviour or performance approaches, but falls short of, the threshold for the realistic prospect test or in a case before a tribunal, that the doctor's fitness to practise has not been found to be impaired.*
- c A warning will be appropriate when the concerns are sufficiently serious that, if there were a repetition, they would likely result in a finding of impaired fitness to practise. Warnings may be an appropriate response to any type of allegation (subject to the comments in paragraph 7 regarding cases solely relating to a doctor's health); the decision makers will need to consider the degree to which the conduct, behaviour or performance could affect patient care, public confidence in the profession or the reputation of the profession. If the decision makers consider that a warning is appropriate, the warning should make clear the potential impact of the conduct, behaviour or performance in question, accordingly.*
- d There is a need to record formally the particular concerns (because additional action may be required in the event of any repetition).*

26 *In deciding whether to issue a warning the decision maker should apply the principle of proportionality, weighing the interests of the public with those of the practitioner. * It is important to bear in mind, of course, that warnings do not restrict the practitioner's practice and should only be considered once the decision maker is satisfied that the doctor's fitness to practise is not impaired.*

32 *If the decision makers are satisfied that the doctor's fitness to practise is not impaired or that the realistic prospect test is not met, they can take account of a range of factors to determine whether a warning is appropriate. These might include:*

- a the level of insight into the failings*
- b a genuine expression of regret/apology*
- c previous good history*
- d whether the incident was isolated or whether there has been any repetition*
- e any indicators as to the likelihood of the concerns being repeated*
- f any rehabilitative/corrective steps taken*
- g relevant and appropriate references and testimonials.*

15. The Tribunal had found in this case that Dr Durrani's omissions and failure to check the information on the GMC registration form did not constitute misconduct. While the Tribunal considered that paragraph 71 of GMP had been engaged, there had been no significant departure from this principle. Dr Durrani had not lacked honesty or trustworthiness and information had not been deliberately omitted.

16. The Tribunal took into account Dr Durrani's reflections and was of the view that these showed his level of insight into his actions and also that he would be more careful in the future in a similar situation. Dr Durrani had made an isolated mistake, albeit on a form of

great importance, in which he had been reliant on drop-down boxes to select 'yes' or 'no'. The Tribunal also had regard to Dr Durrani's expressions of regret and was satisfied that Dr Durrani had learned from this experience.

17. The Tribunal considered that Dr Durrani is at a very early stage in his career and a warning would be both punitive and disproportionate.

18. The Tribunal concluded that the circumstances of this case do not warrant a formal response, and it would therefore not be appropriate to issue a warning.

19. There is no interim order to be revoked.

20. That concludes this case.

Schedule 1

'Has a medical school or university ~~or employer~~ raised concerns about your professionalism or behaviour, that led to a formal process? The formal process could be to support you, or to investigate the concerns. Usually a committee, hearing or similar decides what action to take after the process has finished. If you received a verbal warning that didn't lead to any action or an investigation against you, answer 'no.'

Amended under Rule 17(6)

Schedule 2

'I understand that: 1. the General Medical Council (GMC) will make any enquires it considers appropriate to establish my fitness to practise 2. the GMC, their representatives, and any other agent that the GMC ask to carry out checks on its behalf, will make any necessary checks to verify the information I have given 3. enquiries will be made before and while I am registered, including enquiries overseas, which may involve the transfer of my personal data outside the European Economic Area 4. the recipient of any enquires will provide the information requested 5. my personal data will be given to my referees, government bodies and other third parties as may be reasonably necessary. The information I have provided in my application is correct and true. I understand that if I have made a false declaration, or provided false information or documents to support my application, the GMC may withhold or remove my registration and licence to practise and report the matter to the police. I understand that to protect the public, the GMC may share my registration and licensing information with UK and international regulators and law enforcement organisations. I have read Good medical practice. I understand that I must work in line with the principles and values set out in it, and its explanatory guidance and have a duty to tell the GMC about any criminal or regulatory proceedings. I acknowledge that serious or persistent failure to follow this guidance will put my registration at risk. I have in place, or will have in place, at the point at which I practise in the UK, insurance or indemnity arrangements appropriate to the areas of my practice. I confirm I understand and accept the statements in the Final Declaration'