

## PUBLIC RECORD

Date: 01/06/2022

Medical Practitioner's name: Dr Mohsan ANWAR  
GMC reference number: 7671906  
Primary medical qualification: MB BCh 2019 Cardiff University

Type of case Outcome on impairment  
Review - Conviction Not Impaired

Summary of outcome  
Suspension to expire

## Tribunal:

Legally Qualified Chair	Mr William Hoskins
Lay Tribunal Member:	Mr Andrew Waite
Medical Tribunal Member:	Dr Ranjana Rani

Tribunal Clerk:	Ms Olivia Moy
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## Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Christopher Geering, Counsel, instructed by direct access
GMC Representative:	Ms Sophie Quinton-Carter, Counsel

## Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

## Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

## Determination on Impairment - 01/06/2022

1. At this review hearing the Tribunal has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Anwar's fitness to practise remains impaired by reason of his conviction.

## Background

### The 2021 Hearing

2. Dr Anwar's case was first considered by a Medical Practitioners Tribunal in February 2021 ('the 2021 Tribunal'). The hearing went part-heard twice and concluded on 21 May 2021.

3. Dr Anwar gained his primary medical qualification from Cardiff University in 2019. At the time of the events which give rise to the allegation, Dr Anwar was a fifth-year medical student undertaking his final year of placements in Bangor, North Wales.

4. The facts found proved at the 2021 hearing can be summarised as follows: on 8 June 2020, at Caernarfon Magistrates' Court, he was convicted of possessing three extreme pornographic images (XXX), which were grossly offensive, disgusting or otherwise of an obscene character and possession of an indecent image, namely a Category A photograph of a child, between 16 October 2018 and 28 January 2019. On 7 July 2020 Dr Anwar was sentenced to a Community Order to carry out unpaid work for 300 hours within 12 months in respect of each charge and to register with the police in accordance with the Sexual Offences Act 2003 for five years.

5. At the time of his arrest on 13 October 2019, police seized Dr Anwar's phone. The police investigation showed that the images in question, were in fact, four videos. The

Category A indecent image XXX. The remaining three videos all show adults engaging in sexual activity with animals. Some content appears to show distress either by the human or the animal involved.

6. The images were circulated by members of two separate group chats on the 'WhatsApp' messaging application. One group was from a local rugby club and comprised 54 men and the other group were members of a local gym and comprised 19 men. Dr Anwar was a member of both groups.

7. During the course of his first police interview on 13 October 2019, Dr Anwar denied receiving or watching the images and any other wrongdoing. Following his arrest and interview he was released on police bail pending further investigation. Dr Anwar was interviewed again on 18 February 2020 when he again denied any wrongdoing and he also denied knowing how the images came to be on his mobile phone. He denied watching the videos in question and told the police that others may have accessed his telephone and caused the images to be downloaded. Within two days of this interview, Dr Anwar contacted the police requesting a further interview. This interview took place on 13 March 2020 when he fully admitted being in possession of the videos, although he maintained he did not download them. He stated that they were downloaded by virtue of the automatic settings in the 'WhatsApp' application. Dr Anwar also admitted watching the videos in question.

8. Dr Anwar was charged on 3 April 2020 with the offences as set out in the allegation, he pleaded guilty on 8 June 2020 and was sentenced on 7 July 2020.

9. On 3 April 2020, Dr Anwar referred himself to the General Medical Council (GMC) and thereafter kept the GMC updated on the progress of his case by email.

10. At the outset of the 2021 hearing, through his counsel, Mr Christopher Geering, Dr Anwar made admissions to all paragraphs and sub-paragraphs of the Allegation and the Tribunal announced the paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

11. The 2021 Tribunal was satisfied that while Dr Anwar's viewing and commenting on the videos did not pose a direct risk to patient safety, it considered that his actions perpetuated the market for such images including the market for indecent images of children. Additionally, the Tribunal was of the view that Dr Anwar failed to acknowledge or to act on his safeguarding responsibilities. The 2021 Tribunal also considered that in failing to

report the images to the authorities, Dr Anwar failed to protect, promote or maintain the health, safety and well-being of the public. The 2021 Tribunal further considered that Dr Anwar's conviction was such as to damage public confidence in the medical profession and was inconsistent with the promotion and maintenance of proper professional standards of conduct for the members of that profession. In addition, the 2021 Tribunal considered that Dr Anwar's conduct and conviction breached fundamental tenets of the profession as well as Good Medical Practice (GMP).

12. The 2021 Tribunal considered that in light of the serious nature of Dr Anwar's conviction, public confidence in the medical profession would be seriously undermined if a finding of impaired fitness to practise were not made and in light of this the 2021 Tribunal concluded that Dr Anwar's fitness to practise was impaired by reason of his conviction.

13. The 2021 Tribunal determined to suspend Dr Anwar for a period of 12 months. It considered that a 12 month suspension was the minimum period to mark the seriousness of the misconduct found and would send a signal to Dr Anwar, the profession and the public about what it regarded as behaviour unbecoming a registered doctor. The Tribunal also considered that a 12-month suspension would ensure that Dr Anwar had adequate time to further develop his insight and undertake further remediation.

14. The 2021 Tribunal determined to direct a review of Dr Anwar's case. It considered that it would assist a reviewing Tribunal if Dr Anwar provided:

- Evidence of how his insight has developed further;
- Evidence of Dr Anwar putting into practice his various coping mechanisms, for example, any continuing engagement with relevant professionals and details of any updated assessments they may have made in relation to his insight, remediation and future risk;
- A further reflective statement clearly demonstrating any action taken and addressing why he missed such obvious signs in respect of the illegality of the content or the necessity to safeguard the child and why this element of his behaviour was so lacking. A future tribunal would also benefit from evidence of Dr Anwar's reflections on the animal welfare issues raised in the case;
- evidence that there has been no repetition of the conduct giving rise to the conviction;
- evidence of continuing professional development and how he has kept his medical skills and knowledge up to date;

- any other relevant evidence he wishes to present to assist the reviewing tribunal.

### Today's Review Tribunal

#### **The Evidence**

15. The Tribunal has taken into account all the evidence received, including:

- Record of Determinations from Dr Anwar's 2021 hearing
- Various email correspondence between the GMC and Dr Anwar
- A defence bundle containing:
  - Reflections and further reading
  - Testimonials
  - Qualifications
  - Certificates

#### **Submissions of Ms Quinton-Carter, on behalf of the GMC**

16. On behalf of the GMC, Ms Quinton-Carter submitted that the GMC is neutral on the matter of impairment in the case of Dr Anwar and submitted that the GMC will not be advancing a positive case that Dr Anwar remains impaired at this stage in proceedings.

17. Ms Quinton-Carter went on to accept that there has been 'significant development' in Dr Anwar's insight during the 12 month period of suspension and that the remediation work he has undertaken has demonstrated his deep remorse into his conduct.

18. Ms Quinton-Carter concluded that given the particulars of this case, impairment is a matter for this Tribunal to determine as the GMC are neutral.

#### **Submissions of Mr Geering, on behalf of Dr Anwar**

19. On behalf of Dr Anwar, Mr Geering submitted that Dr Anwar is no longer impaired by reason of his conviction.

20. Mr Geering reminded the Tribunal that the 2021 Tribunal found that the conduct was not driven by sexual gratification, that the risk of repetition was low and that Dr Anwar had 'developing' insight.

21. Mr Geering stated that it has been almost three and a half years since the initial conduct took place and submitted that although Dr Anwar has been subject to a great deal of stress due to these proceedings, he has not engaged in any similar behaviour during this time.

22. Mr Geering submitted that the Tribunal can be confident that Dr Anwar's actions in trying to seek social acceptance was the product of immaturity and stupidity and does not represent the man before the Tribunal today nor the doctor he hopes to become.

23. Mr Geering submitted that it is clear that Dr Anwar has reflected further on these proceedings by reading 'voluminously' on child exploitation and the impact on the children and animals involved in such crime. Mr Geering drew the Tribunal's attention to Dr Anwar's reflective statement where he speaks in depth about what he now understands those impacts to be. Mr Geering also drew the Tribunal's attention to Dr Anwar's references and testimonials where a very large number of professional colleagues, friends, and neighbours who were fully aware of the nature of Dr Anwar's conviction spoke highly of Dr Anwar as an individual.

24. On the subject of Dr Anwar having to sign the sex offenders register until 2025, Mr Geering submitted that there is no principle which states that a doctor cannot return to unrestricted practice whilst being on the sex offenders register. Mr Geering referred the Tribunal to paragraph 58 of *Obukofe v General Medical Council* [2014] EWHC 408 (Admin), in which Popplewell J stated, with regard to the well-known principle in *Fleischmann [CRHCP v The General Dental Council and Fleishmann]* [2005] EWHC 87 (Admin) that a professional should not normally be permitted to resume practice whilst serving a sentence for a serious criminal offence:

*'It appears to me that the important element of the reasoning of Newman J in paragraphs 53 and 54 of his judgment relate to the sex offender's treatment programme to which Dr Fleischmann was subject for 3 years rather than his subjection to the notification requirements of the Sex Offenders Register for 5 years. If, in this case the Panel had thought that the Fleischmann case required it to continue the suspension until Dr Obukofe's criminal sentence had been completed (including the period during which he remained subject to the notification requirements of the Sex Offenders Register) that would, in my view have been an error of law.'*

25. He emphasised that the requirement to sign the Register was an automatic consequence of the conviction and that it was significant that the sentencing Court had not required Dr Anwar to participate in a treatment or rehabilitation programme. He reminded the Tribunal of the separate but consistent conclusions of Safer Lives, the Probation Service and the DBS. Safer Lives stated:

*'The likelihood of these or similar offences recurring seems slight as common indications of risk are absent – he is able to make and maintain intimate relationships, there is no significant trauma history other than his experience of racism and arrest, and the function of the relevant behaviour does not seem to include sexual interest in the image. Risk factors were likely to have been low, even at the time, and are likely further reduced through Dr Anwar's experience of investigation and his learning and reflection from it'*

The Probation Service assessment stated:

*'Following the application of static general offending risk assessment tools currently used by the National Probation Service, I can confirm that on the Offender Group Reconviction Scale (OGRS 3) tool he is assessed as posing low risk of general reoffending, based on the lack of previous offending. In terms of the risk of serious recidivism, the validated Risk of Serious Recidivism (RSR) assessment tool places him also at a low risk of committing further serious offence.'*

The decision letter from DBS stated

*'XXX.'*

26. He therefore submitted that it would be unlawful for the Tribunal to conclude that Dr Anwar's fitness to practise was impaired solely on the ground that he was a subject to a continuing requirement to sign the Sexual Offenders Register.

27. He further submitted that there is a public interest in Dr Anwar being able to serve the community. Mr Geering stated that any further period of sanction would be disproportionate at this stage, bearing in mind the steps taken by the doctor.

28. In relation to a question from the Tribunal with regard to a requirement for CPD, Mr Geering indicated that he had taken the view that Dr Anwar's recent passing of his necessary

examinations was the best evidence of CPD that could be provided and that if Dr Anwar was permitted to return to practice, he would be in the position of a supervised trainee at the most junior level.

### **The Relevant Legal Principles**

29. In a review case, in practical terms, there is a persuasive burden upon the doctor to demonstrate that all the concerns which have been identified have been adequately addressed, and that remediation has taken place. If so, a Tribunal might then conclude that the doctor's fitness to practise is no longer impaired.

30. The Tribunal reminded itself that the decision in relation to impairment is a matter for the Tribunal's judgement alone. As noted above, the 2021 Tribunal set out the evidence that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practice.

31. This Tribunal must determine whether Dr Anwar's fitness to practise is impaired today, taking into account his efforts to remediate his conviction.

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

32. In reaching its decision, the Tribunal bore in mind that its primary responsibility is to the statutory overarching objective which is as follows:

- To protect, promote and maintain the health, safety and well-being of the public;
- To promote and maintain public confidence in the medical profession;
- To promote and maintain proper professional standards and conduct for members of that profession.

33. The Tribunal first considered the evidence put before it in relation to Dr Anwar's continuing professional development. It noted that since his 12 month period of suspension, in order to start his foundation year programme, Dr Anwar has had to retake his exams. The Tribunal took the view that this is good evidence of continuing professional development as he has passed those exams. The Tribunal saw evidence of the assessments into Dr Anwar's competence that had been undertaken.

34. The Tribunal moved on to consider Dr Anwar's further reflections on the impact of his conviction on the wider public interest. The Tribunal had regard to Dr Anwar's reflective statement where he stated:

*'Through extensive research, reading and synthesizing of journal articles I acquired knowledge and understanding of the devastating impact that such predatory behaviour has on both the child and the animals involved. Gaining an insight into how such behaviour comes to fruition, and the dark acts that contribute to the sickening market of such imagery. Upon continued reflection of my actions, I am utterly ashamed at the fact that the children in such videos which are circulating, have been groomed and coerced into such sickening acts. I am appalled at the thought that this abuse has been instigated by someone close to them. It is sickening to think that such behaviour by the abusers is so methodically pre-calculated. It is clear to see from my reading that the abuse of trust has long-lasting ramifications on the child's mental and physical health. I understand now that the victim struggles to create and maintain both friendships and relationships due to the deep-seated trust issues.'*

And

*'I am ashamed that I did not recognise the individuals and animals within those videos as the victims at the time the offences took place, I foolishly viewed the images through the screen of the phone and therefore failed to create an emotional or physical connection to the abuse. This was a glaring oversight, and I failed in my moral obligation to safeguard those from harm, as is my duty as a Doctor. I cannot begin to truly understand the mental anguish thrust upon the victims. The betrayal of trust, and being left with the consequences themselves. I cannot comprehend how an individual would be able to rebuild following their trust being abused in such a traumatic manner. Let alone how they would be able to trust again. I am utterly ashamed that my behaviour and actions perpetuate the market, and have indirectly placed more individuals and animals in danger of predatory behaviour.'*

35. The Tribunal considered that Dr Anwar has now developed an appropriate level of insight into the very damaging impact that images of this kind have upon the children and others involved, and indeed, on the animals concerned.

36. The Tribunal considered Dr Anwar's level of remediation and insight to be all that could be asked of a practitioner in his position and was of the view that at this point in

proceedings, the risk of Dr Anwar repeating such behaviour was low. This conclusion was consistent with the expert assessments to which reference has already been made. The Tribunal remained concerned in regard to Dr Anwar having to sign the sex offenders register until 2025 and how this feature of the case would impact the public interest.

37. The Tribunal heard separate submissions from both parties on this subject and referred to the 2021 Tribunal's determination and relevant guidance, in particular paragraphs 151-158 of the Sanctions Guidance.

38. On behalf of the GMC Ms Quinton-Carter did not submit that the fact that Dr Anwar would need to continue to sign the Sex Offenders Register until 2025 led inevitably to a finding of current impairment of fitness to practise. She reiterated that the GMC was neutral on the question of impairment and was of the view that any finding of impairment would be on public interest grounds alone. She accepted that Dr Anwar did not pose a future risk and referred the Tribunal to the guidance set out at paragraph 158 of the Sanctions Guidance to the effect that each case needed to be considered on its merits and decisions taken in the light of the particular circumstances relating to the case.

39. Mr Geering reminded the Tribunal of the principle to which he had already referred in *Obukofe*. He told the Tribunal that the requirement to sign the Sex Offenders Register did not involve a particular value judgment but was an automatic part of the sentencing process. It was very important, he reiterated that there was no ongoing requirement to engage in a treatment or rehabilitation programme. He also submitted that the fact that the substantive Tribunal had imposed a period of suspension with a review necessarily gave this reviewing Tribunal a discretion in relation the question of impairment, which included the ability to find, if it was appropriate to do so, that Dr Anwar's fitness to practise was no longer impaired.

40. The Tribunal had regard to the following extracts of the 2021 Tribunal's determination on facts and impairment:

*'The Tribunal also carefully considered the submissions in respect of the risk of repetition of his behaviour. The Tribunal accepts that Dr Anwar has no sexual interest in the images which gave rise to his convictions and these proceedings. It further accepts that since his arrest and conviction he has engaged with relevant professionals and read extensively in seeking to understand what led to his behaviour. The Tribunal notes that Dr Anwar has not sought to be part of such social groups since February*

*2019, that he has a supportive group of friends as well the support of his family and colleagues and therefore no longer feels socially isolated.*

*The Tribunal has also had regard to the fact that he is now being open with his friends and family and has said that he is no longer afraid to ask for help. Nevertheless, the Tribunal is concerned as to the risk of repetition in the event that Dr Anwar were to once again be in a situation where he may feel socially isolated and the steps he may take to address those feelings. As such, the Tribunal determined that there is a risk of repetition albeit that the risk is low.*

*The Tribunal accepts that that Dr Anwar has been candid and open in the giving of his evidence and that the remorse that he has shown is genuine. It notes that Dr Anwar has no previous convictions or cautions or disciplinary findings of any kind and has an abundance of testimonials from a variety of sources attesting to his good character.'*

41. The Tribunal noted that when considering erasing Dr Anwar's name from the medical register, the 2021 Tribunal determined that in the particular circumstances of this case, the sanction of erasure was not necessary to maintain public confidence in the profession or maintain the high standards of the profession. This was due to the following mitigating factors of the case including: the fact that Dr Anwar did not search for the images in question, gained no sexual gratification from viewing the videos; the absence of any sexual interest in children or bestial imagery; there being no evidence of his searching for material of the kind which gave rise to his conviction either before his conviction or since; the behaviour which gave rise to his conviction ceasing prior to police involvement, his insight into his behaviour; the steps taken to remediate; the absence of any sexual offences treatment order; the absence of any repetition of behaviour giving rise to the conviction; the support from his colleagues at the hospital; his expressions of shame, regret and remorse and his evidence that he would act differently were he to find himself in a similar situation.

42. The Tribunal was of the view that a reasonable and fully-informed member of the public, while undoubtedly disturbed by the nature of these convictions, would be prepared to attach some significance to the circumstance that Dr Anwar's initial involvement in such conduct came in the particular context of two WhatsApp group settings and the pressures to which it gave rise at a time when he had not attained his present level of insight. It was also important to recognise the previous findings that Dr Anwar had not himself derived any sexual gratification from the grossly exploitative images in question and had not been required to undertake a treatment or rehabilitation programme.

43. After careful consideration of paragraphs 151-158 of the Sanctions Guidance, the Tribunal has concluded that these factors, taken together with the extent of the remediation and testimonial evidence, justify a finding that in the particular circumstances of this case Dr Anwar's fitness to practise is no longer impaired on public interest grounds.

44. To put the matter in another way, the Tribunal does not consider that, in the particular circumstances of this case, the fact that Dr Anwar will be obliged to sign the Sex Offenders Register until 2025 is of itself a matter that dictates a finding of impairment on public interest grounds.

45. The Tribunal further noted that it is generally in the public interest for a competent and caring doctor to be permitted to practise when that is appropriate. The Tribunal had received very supportive testimonials from the Foundation Programme for Wales Director, supervisors and other colleagues. Their support had extended to an offer of a place on a foundation year training programme with appropriate supervision to commence in July 2022 if Dr Anwar was permitted to resume practice following this review hearing. That support had been extended in the full knowledge of the nature of Dr Anwar's conviction.

46. Taking all these matters into consideration, the Tribunal concluded that Dr Anwar's fitness to practise is no longer impaired by reason of his conviction.

47. The Tribunal noted that the period of suspension of 12 months imposed by the 2021 Tribunal was imposed to mark the seriousness of Dr Anwar's misconduct. Accordingly, this Tribunal determined that the current order of suspension on Dr Anwar's registration should lapse upon its expiry on 25 June 2022.

48. That concludes this case.