

Dates: 01/11/2018

Medical Practitioner's name: Dr Mujeeb Ashraf

GMC reference number: 7027482

Primary medical qualification: MB BS 1989 University of Punjab
(Pakistan)

Type of case **Outcome on impairment**
Review - Misconduct Not Impaired

Summary of outcome
Suspension revoked

Tribunal:

Legally Qualified Chair	Mr David Robinson
Lay Tribunal Member:	Ms Deborah Spring
Medical Tribunal Member:	Mr Gulzar Mufti
Tribunal Clerk:	Mrs Sam Montgomery

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Douglas Lloyd, Counsel/QC, instructed by Stephenson Solicitors
GMC Representative:	Mr Peter Horgan, 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.

Record of Determinations – Medical Practitioners Tribunal

Determination on Impairment - 01/10/2018

Dr Mujeeb ASHRAF (7027482)

DETERMINATION ON IMPAIRMENT – 01/11/2018

Background

1. The Tribunal has been provided with the background to Dr Ashraf's case which was first considered by a Medical Practitioners Tribunal (MPT) in April 2018 ('the April Tribunal'). In summary, it was alleged that Dr Ashraf uploaded or caused to be uploaded a reference in the name of another colleague, to Birmingham University Admissions Portal, in support of his PhD application; falsely indicated that he had a PhD in a reference he wrote for another colleague; and indicated the same in email correspondence to a third party company, namely Turkish Airlines in relation to lost luggage.

2. At the outset of the proceedings in April 2018, Dr Ashraf made a number of admissions. The April Tribunal did not find Dr Ashraf's evidence credible and found proved the disputed paragraphs of the allegation, including that his actions had been misleading and dishonest. It concluded that, based on the evidence before it, Dr Ashraf had demonstrated limited insight into his misconduct and the Tribunal therefore could not exclude the risk of repetition.

3. The April Tribunal determined that Dr Ashraf's fitness to practise was impaired by reason of his misconduct. It was of the view that Dr Ashraf's conduct, albeit dishonest, was capable of being remedied. It accepted that Dr Ashraf had some appreciation of the seriousness of his misconduct although considered it far from complete. The April Tribunal considered the mitigating factors and determined to suspend Dr Ashraf's registration for a period of six months. It considered this period would be sufficient to mark the seriousness with which it viewed Dr Ashraf's actions and would allow him time to develop his reflections, particularly in relation to his dishonest behaviour and misconduct, and to engage in remediation.

4. The April Tribunal directed a review. It made clear to Dr Ashraf that the onus was on him to demonstrate that he had developed an appropriate level of insight into his misconduct, and had remediated it. It advised Dr Ashraf that the Tribunal reviewing his case may be assisted by receiving:

- a reflective statement demonstrating how he had reflected on his actions, their consequences on the medical profession, his colleagues, and on the wider public interest, and how he would avoid such conduct in the future, and
- any other information he considered would assist the Tribunal reviewing his case.

Record of Determinations – Medical Practitioners Tribunal

Today's Review Hearing

5. This Tribunal has today reviewed Dr Ashraf's case and has considered, in accordance with Rule 22(f) of the Rules, whether his fitness to practise is impaired. In so doing, it has had regard to all the documentary evidence placed before it and Dr Ashraf's oral evidence, together with submissions made by Mr Horgan, Counsel, on behalf of the General Medical Council (GMC) and Mr Lloyd, Counsel, on behalf of Dr Ashraf.

Evidence

6. Dr Ashraf provided a reflective statement, dated 29 October 2018 and gave evidence to the Tribunal.

7. In his oral evidence Dr Ashraf referred to his reflective statement and confirmed that he accepts that he acted dishonestly in relation to all the facts in the case.

8. Dr Ashraf referred to the strict code of morality and honesty required of a doctor. He explained that he has a duty and responsibility to maintain high standards and understands that a lack of honesty undermines public confidence in the profession as a whole. Dr Ashraf referred to the reflection he has undertaken. He explained that he first sought to improve his understanding of morality and honesty both by undertaking wider reflections and focusing on the facts of this case. He told the Tribunal that he had recently started to keep a diary to review when his morality had been challenged in his day to day life and how he has stopped himself acting in the wrong way, for example in relation to staying within the speed limit or in social gatherings when he has curbed the desire to exaggerate his professional status. He explained that he has in the past been competitive but has learnt how to restrain this impulse and manage situations. He feels that this process has changed his perception and values.

9. Dr Ashraf told the Tribunal that the health and life of patients is a 'big responsibility' and the actions of a doctor reflect on the trust placed on the profession. He accepted that his own actions could have 'destroyed public perception' and had a detrimental effect on the medical profession.

10. Dr Ashraf explained that he sees his life in two parts. First, life before the April MPT hearing and his understanding of integrity and honesty then. Second, what he has learnt from this experience and the remediation he has undertaken since then. This includes reading publications on the subjects of morality and honesty.

Record of Determinations – Medical Practitioners Tribunal

11. Dr Ashraf stated that at the time of the MPT hearing he was still rationalising and justifying his actions. He told the Tribunal that the findings of dishonesty made by the April Tribunal and its view that his evidence was not credible, was a shock to him and made him reflect on his actions. He stated that he was rightly found dishonest; he has taken this finding 'as a positive' and has undertaken self-reflection. He has now recognised that his past misconduct was unacceptable and that it must not be repeated.

12. Dr Ashraf told the Tribunal that this experience has changed him; the way he thinks, perceives and acts. Dr Ashraf explained that it has elevated him to a position where he can exercise high morality in both his personal and professional life. He explained that if he found himself in a similar situation he would not repeat his behaviour as he has 'an inner depth' and is able to see things differently. He also stated that he has faced the consequences of a lack of insight and has learnt his lesson and understands that he needs to reflect before acting. He stated that he has also learnt to 'compartmentalise' issues.

13. Dr Ashraf told the Tribunal that he last worked in the UK in February in 2016. He then worked as a Consultant Orthopaedic Surgeon in Saudi Arabia until April 2018. He is currently residing in Saudi Arabia where during the period of suspension he worked for a short period, of approximately six weeks, in an administrative office-based role on a part-time basis, in order to maintain his immigration status. He explained that he has kept his medical and surgical knowledge as an Orthopaedic Surgeon up to date by reading numerous books and online journals. He explained that he has read about new techniques and reviewed his practice and procedures. He has not undertaken any courses due to financial constraints and because he wanted to focus on his reading.

14. In his reflective statement Dr Ashraf stated that he was deeply ashamed and regretful of his actions and he apologised for his behaviour. He referred to the importance of adhering to moral and behavioural principles as a medical professional, as set out in the GMC's publication 'Good Medical Practice'.

Submissions

15. On behalf of the GMC, Mr Horgan submitted that it is a matter for this Tribunal to determine whether Dr Ashraf's fitness to practise is impaired and the GMC make no positive submission on the matter. He referred to the remediation undertaken by Dr Ashraf; his reflective statement and the oral evidence given in respect of remediation and his continuing professional development.

16. On behalf of Dr Ashraf, Mr Lloyd submitted that Dr Ashraf has addressed his dishonesty by undertaking reading and he has gone into some detail on the philosophy of dishonesty. He submitted that Dr Ashraf now accepts that he acted dishonestly, and that his position at the previous hearing when he denied

Record of Determinations – Medical Practitioners Tribunal

dishonesty, should not be held against him. He drew the Tribunal's attention to the mitigating factors in this case, which he submitted are highly relevant:

- Professor A would have been happy to provide a positive reference, and indeed subsequently did; there was no disagreement on the content of the reference;
- Dr Ashraf provided the correct contact details for Professor A so that he could be contacted to verify the reference;
- There was no professional or personal gain to Dr Ashraf;
- None of the misrepresentations resulted in loss or harm to others;
- The last of the incidents occurred over three years ago and there has been no repetition of the misconduct found; and
- Dr Ashraf worked for a substantial amount of time prior to the matters before the April Tribunal and no concerns were raised.

17. Mr Lloyd referred to Dr Ashraf's reflective statement and oral evidence. He submitted that Dr Ashraf fully accepts that the misconduct found was dishonest and that he should not have acted in the way he did. He has reflected on his past behaviour, both in respect of the dishonesty found and his actions at the last Tribunal hearing. Further, he has expressed regret and has remediated, evidenced by his wide reading on the issues of morality and honesty and the changes he has made in his daily life, including the integrity report. He submitted that the public interest has now been served by the period of suspension imposed.

18. Mr Lloyd submitted that Dr Ashraf is an experienced practitioner and no concerns have been raised regarding his practice. He has maintained his skills and knowledge by reading relevant medical books and journals.

19. Mr Lloyd submitted that Dr Ashraf has found this period of suspension positive and he will continue to consider the matters on which he has reflected. He submitted that Dr Ashraf should be given the opportunity to return to practice and there is a public interest in allowing a skilled practitioner to do so. Mr Lloyd concluded that Dr Ashraf's fitness to practise is not impaired.

The Tribunal's Decision

20. Whilst the Tribunal has borne in mind the submissions made, the decision as to whether Dr Ashraf's fitness to practise remains impaired is a matter for this Tribunal exercising its own judgement.

Record of Determinations – Medical Practitioners Tribunal

21. In reaching its decision on impairment the Tribunal has had regard to current Sanctions Guidance, in particular paragraphs 163 and 164 which state:

163 It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.

164 In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been 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
- d** patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.'

22. The Tribunal also considered the matter of Dr Ashraf's insight by reference to paragraph 52 of the Sanctions Guidance which states:

'A doctor is likely to lack insight if they:

- a** refuse to apologise or accept their mistakes
- b** promise to remediate, but fail to take appropriate steps, or only do so when prompted immediately before or during the hearing
- c** do not demonstrate the timely development of insight
- d** fail to tell the truth during the hearing (see paragraph 72 of *Good medical practice*).'

23. The Tribunal is aware of its statutory over-arching 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 the medical profession.

24. It is also aware that in a review case the persuasive burden falls upon the doctor to demonstrate that the misconduct has been fully acknowledged and that remediation has taken place.

Record of Determinations – Medical Practitioners Tribunal

25. The Tribunal has considered the evidence, both oral and written, which has been presented today which demonstrates the steps taken by Dr Ashraf to understand and address his previous misconduct.

26. The Tribunal is satisfied that Dr Ashraf has examined his past behaviour and now understands and appreciates the severity of his misconduct. He has undertaken considerable reflection and reading on the philosophy of morality and dishonesty. He has gained insight into his own motivation for his past actions and has explained that he now has different perceptions and values. Further, he has learnt to sit back and reflect before acting. He also completes a daily diary to assist him in his continuing reflection.

27. The Tribunal has borne in mind that the matters before it occurred over three years ago and there has been no repetition of the misconduct found. It is satisfied that Dr Ashraf has demonstrated genuine remorse and has apologised for his actions. In all the circumstances the Tribunal is assured that Dr Ashraf has learnt a salutary lesson from this experience and the risk of repetition is low.

28. The Tribunal notes that there are no clinical concerns relating to Dr Ashraf's practice. The Tribunal has been provided with evidence of a good clinician who has taken steps to maintain his clinical skills and knowledge, by undertaking relevant reading in his chosen specialty of orthopaedics. Whilst Dr Ashraf did not provide a reading log he was able to provide oral evidence of developments in the specialty which he would consider introducing into his practice. Accordingly, the Tribunal is satisfied there are no safety concerns prohibiting a return to unrestricted practice.

29. In all the circumstances, the Tribunal is satisfied that Dr Ashraf has fully addressed the previous Tribunal's concerns; he has demonstrated remorse and gained sufficient insight. The Tribunal has therefore determined that Dr Ashraf's fitness to practise is no longer impaired by reason of his misconduct.

30. The order of suspension imposed on Dr Ashraf's registration is revoked with immediate effect.

31. That concludes this hearing.

Confirmed

Date 01 November 2018

Mr David Robinson, Chair