

## PUBLIC RECORD

Dates: 01/08/2024

Medical Practitioner's name: Dr Pawan RAWAT

GMC reference number: 6058969

Primary medical qualification: MB BS 2001 Kasturba Medical College (Manipal)

| Type of case        | Outcome on impairment |
|---------------------|-----------------------|
| Review - Misconduct | Impaired              |

## Summary of outcome

Suspension, 3 months.  
Review hearing directed

## Tribunal:

|                          |                          |
|--------------------------|--------------------------|
| Legally Qualified Chair  | Miss Gillian Temple-Bone |
| Lay Tribunal Member:     | Mrs Valerie Paterson     |
| Medical Tribunal Member: | Dr Jill Belch            |

|                 |                      |
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| Tribunal Clerk: | Mx Nate Caruso-Kelly |
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## Attendance and Representation:

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|--|--|
| Medical Practitioner:                  | Present, represented                           |
| Medical Practitioner's Representative: | Mr Adam Kirke, Counsel, instructed by Hempsons |
| GMC Representative:                    | Mr Duncan McPhie, 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 - 01/08/2024

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

## Background

2. Dr Rawat's case was initially considered by a Medical Practitioners Tribunal ('MPT') at a hearing which concluded in April 2024, ('the April Tribunal').

3. Dr Rawat qualified with an MBBS from Manipal University, India, in 2001, and obtained further postgraduate training in Trauma and Orthopaedics in 2009. He arrived in the UK in 2010 and started work as a registrar in the Accident and Emergency Department at Chase Farm Hospital in London. From July 2016, Dr Rawat started to work as a locum at different hospitals, and at the time of events in 2019 he was working in that capacity as a Senior House Officer (SHO) in Orthopaedics at the James Paget Hospital ('the hospital').

4. The facts which were found proved at the April Tribunal can be summarised as follows. Dr Rawat met Ms A at work at the hospital. On 1 April 2019, Dr Rawat drove Ms A to view a room she was considering renting. While in the car, he grabbed her by the shoulders, pulled her towards him and kissed her on the mouth. It was further found proved that this was carried out without Ms A's consent, was sexually motivated, and constituted sexual harassment as defined in Section 26(2) of the Equality Act 2010.

5. The April Tribunal determined that Dr Rawat's fitness to practise was impaired by reason of misconduct. When considering the appropriate sanction, the April Tribunal determined that Dr Rawat's actions were not fundamentally incompatible with continued registration. The Tribunal bore in mind that while the incident constituted sexual misconduct

and had an impact on Ms A, it was a one-off incident and therefore it fell lower in severity than other potential cases of sexual misconduct.

6. The April Tribunal determined to suspend Dr Rawat's registration for a period of three months 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. The April Tribunal concluded that a short period of suspension would be adequate to allow Dr Rawat to remediate his actions. It directed that there should be a review hearing.

7. The April Tribunal indicated that it may assist the reviewing Tribunal if Dr Rawat were to provide the following:

- evidence of his developing insight about his actions, and the impact of them on Ms A.
- evidence of what he has learnt from the professional boundaries courses that he undertook in March 2024 (and any other courses he undertakes).
- the Tribunal also made the suggestion that Dr Rawat may wish to consider having a documented discussion with a mentor or senior colleague about his actions and insight.
- any other information he considers will assist.

8. This is the first review of Dr Rawat's case.

## The Evidence

9. The Tribunal has taken into account all the evidence received.

10. The Tribunal received documentary evidence, including, but not limited to, the Record of Determination of the April Tribunal, email correspondence between the GMC and Dr Rawat dated between May and June 2024, an undated letter of recommendation from Dr Rawat's colleague Dr B, a certificate for 'Reflection, Insights and Remediation in Healthcare' dated 31 May 2024, a certificate for 'Professional Ethics and Codes of Conduct' dated 4 June 2024, and Dr Rawat's reflective statement, undated.

## Submissions

11. On behalf of the GMC, Mr McPhie submitted that Dr Rawat’s fitness to practise remains impaired. Mr McPhie submitted that the bundle of documents submitted by Dr Rawat lack depth and there is a degree of superficiality to the reflective statement. He submitted that although Dr Rawat has stated in his reflective piece that he has read journals, listened to podcasts and attended seminars, he has not provided evidence of these activities, nor has he provided notes of meetings held with colleagues. Mr McPhie submitted that the bundle has no more detail than a general assertion from Dr Rawat about what he has done.

12. With regard to the two courses undertaken by Dr Rawat, Mr McPhie submitted that these totalled only 4.5 hours of work and there was no explanation of their relevance or of the learning undertaken. He further submitted that Dr Rawat has not included some documents suggested by the April 2024 Tribunal, including evidence of learning from the courses, other courses undertaken, or documentation of discussions with a mentor or senior colleague.

13. Mr McPhie therefore submitted that there is a paucity of evidence to show remediation and insight have been developed. He noted in particular that the reflective statement does not contain reflections on the outcome of the April Tribunal, or the discussions which Dr Rawat and Dr B have had about the outcome.

14. On behalf of Dr Rawat, Mr Kirke submitted that Dr Rawat’s fitness to practise is no longer impaired. Mr Kirke submitted that while the facts found proven were serious, the misconduct was considered to be remediable and occurred more than five years ago. He stated that there is no suggestion of any concerns raised before or since and that Dr Rawat has cooperated with proceedings, provided positive character references, and there have been no further incidents since the hearing.

15. Mr Kirke submitted that the defence bundle provided shows that Dr Rawat has sufficient insight and has remediated his failings. He submitted that Dr Rawat has spoken with his Responsible Officer, has taken further professional boundaries courses and has learnt from these courses, as set out in his reflective statement. He further submitted that Dr Rawat has not sat back and continued to dispute the matter, but he has accepted the decision of the April 2024 Tribunal and sought to develop his insight and his practice. He submitted that the letter provided by Dr B shows he has considered how to rectify his failings and has done so.

16. Mr Kirke further submitted that due to the fast nature of events in the previous hearing, Dr Rawat did not express a full apology, however he has now appreciated the impact of the proceedings on Ms A and the distress caused to her. Mr Kirke submitted that Dr Rawat has shown sufficient insight such that the Tribunal can conclude that Dr Rawat's fitness to practise is no longer impaired. He submitted that the order may be lifted today or left to expire on 13 August 2024. He finally submitted that the Tribunal should take into account the public interest in returning an otherwise competent doctor to work.

### The Relevant Legal Principles

17. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the April 2024 Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for Dr Rawat to satisfy it that he would be safe to return to unrestricted practice.

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

### The Tribunal's Determination on Impairment

19. The Tribunal first considered whether Dr Rawat has shown insight into the misconduct found proved by the April Tribunal. It took into consideration throughout, that English is not Dr Rawat's first language. The Tribunal first considered Dr Rawat's reflective statement written on 2 and a half pages of A4 in large print, prepared for this hearing, in which he stated:

*'I am continuously reading journals, relevant articles and watching videos/podcasts not only to keep my clinical knowledge up to date but also addressing the core issue of good medical practice outlined by GMC. Also I had interactive sessions which helped me in developing self confidence, dealing difficult clinical/ non clinical scenarios and abilities to enhance my professional skills and conduct.*

*It was one of the suggestions by MPTS in its determination to discuss about the outcome of hearing to my senior colleague/mentor to get further guidance and help to develop insight and remediation.*

*I have discussed in detail about MPTS panel hearing outcome resulting in three months suspension with my senior colleague [Dr B] who is consultant in A&E at Kettering General Hospital. We discussed about the courses I have taken mainly professional boundaries, reflection, insight and remediation, professional ethics & codes of conduct and objectives achieved and lessons learnt.*

*We mutually agreed that sufficient insight has been achieved after undertaking these courses and valuable guidance by senior colleagues and co-workers. I fully understand the core of good medical practice outlined by GMC. I understand professional ethics, codes of conduct and professional boundaries and how to react and respond if any breach in these principles. She have also guided me how to proceed and progress in professional and personal life in future.*

*I express my sincerest apologies and feel sorry for [Ms] A about the impact she had on her personal and professional life. I regret for any distress and inconvenience caused to [Ms] A. [Ms] A was my junior colleague earlier and I do not have any professional or personal rivalry and animosity towards her. She is upcoming medical professional and I wish her good luck and may God bless her in all her future professional and personal endeavours.'*

20. The Tribunal further took into account the letter provided by Dr B. The Tribunal noted that this appeared to be an undated letter of recommendation to obtain employment. The letter made no mention of the conversations which Dr Rawat asserted he has had with Dr B over the last few months. Dr B did not within the letter indicate that she was aware of the facts found proved by the April Tribunal nor did it refer to any conversations between herself and Dr Rawat.

21. The Tribunal found that Dr Rawat had provided short reflections on professional boundaries, indicating his apologies to Ms A. The reflections lacked detail, did not set out the adverse impact that sexual misconduct can have on the victim at the time and thereafter, nor had Dr Rawat contemplated the events which had occurred and the part that he had played. The Tribunal further noted that while Dr Rawat had articulated the importance of professional boundaries, he had not stated how he would prevent a similar situation from arising in the future.

22. The Tribunal found that while it had evidence of Dr Rawat's written assertion that he had discussed the outcome of the April Tribunal with Dr B, there was no independent evidence that he had done so, nor an appraisal by Dr B of Dr Rawat's reflections and insight. There were no meeting notes provided nor information about the frequency and duration of such meetings. The Tribunal therefore found that while Dr Rawat's reflective statement

showed some evidence of development of insight, it had no evidence from a third party which provided an independent measure of that development, despite conversations having taken place. The Tribunal did not consider that Dr Rawat's written assertions were in any way dishonest, but, in the absence of his giving oral evidence, and any independent verification of his developing insight, the public would want to be re-assured that the Tribunal has not filled in the gaps in the evidence placed before it. The Tribunal did not find on the evidence before it, that Dr Rawat's insight had developed sufficiently.

23. The Tribunal then considered Dr Rawat's remediation. It bore in mind that while sexual misconduct is difficult to remediate, it is not impossible.

24. The Tribunal took into account the evidence that Dr Rawat had provided which showed that he attended two online courses during his period of suspension, amounting to 4 hrs 30 minutes and it found that these were both relevant to the misconduct. The Tribunal noted, however, that Dr Rawat has stated in his reflective statement that he undertook other remedial activities, such as discussions with Dr B, listening to podcasts, reading journal articles, but it had no evidence of these activities. The Tribunal further found that Dr Rawat's reflective statement did not set out what he had learnt from these activities, or the courses undertaken in relation to the misconduct specifically. The Tribunal therefore found that there was a paucity of evidence to show that Dr Rawat has remediated his misconduct.

25. The Tribunal then considered the risk of repetition. The Tribunal was satisfied that there is no ongoing risk to patient safety, as found by the April Tribunal, however it was concerned that there was a lack of evidence to show that Dr Rawat would not act this way with colleagues in the future.

26. The Tribunal further considered that Dr Rawat has, in the past, brought the profession into disrepute, however it has no evidence that he has done so in the five years since the misconduct occurred. The Tribunal further considered that while Dr Rawat had breached a fundamental tenet of the profession, again, this was now five years in the past and has not been repeated.

27. The Tribunal bore in mind that while Dr Rawat's misconduct occurred five years ago and there has been no repetition since, The evidence provided by Dr Rawat at this hearing was lacking, to demonstrate his insight had sufficiently developed, and his remediation was complete. The Tribunal has therefore determined that Dr Rawat's fitness to practise remains impaired by reason of misconduct.

**Determination on Sanction - 01/08/2024**

1. Having determined that Dr Rawat's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to D Rawat's registration.

**The Evidence**

2. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr Rawat's registration.

On behalf of the GMC

3. On behalf of the GMC, Mr McPhie submitted that the appropriate sanction would be suspension with a review hearing directed.

On behalf of Dr Rawat

4. On behalf of Dr Rawat, Mr Kirke submitted that there was no requirement for the order of suspension to be extended and that the current order can expire on 13 August 2024. He submitted that Dr Rawat had been working in the United Kingdom as a Registrar since 2010. This incident dated back to a single very short-lived incident in April 2019, five years ago. There had been no instances of misconduct either before or after April 2019. Dr Rawat had provided several character references attesting to his otherwise good character, exceptional professionalism and his ability to manage professional relationships and respect and empathy for others to the April hearing.

5. Mr Kirke submitted that the earlier Tribunal had found that Dr Rawat's actions are not fundamentally incompatible with continued registration. It had also outlined whilst the incident constituted sexual misconduct and had an impact on Ms A, it was a one off incident and it fell lower in severity than other potential cases of sexual misconduct. Since the substantive hearing, there had been some steps taken by Dr Rawat to remediate his practise. He submitted that Dr Rawat accepted that Tribunal's findings. He referred the Tribunal to Dr Rawat's reflective piece and the four and half hours of CPD he had subsequently completed, which were relevant to the misconduct.



6. Mr Kirke submitted that there was no ongoing risk to patient safety and this was an isolated incident. Dr Rawat had not brought the profession into disrepute on any other occasion and the passage of time that has now passed was clearly relevant. He submitted that notwithstanding the suspension period itself, Dr Rawat had suffered personally with this matter hanging over his head, taking a career break in November 2023 for a period of six months as a result of the emotional toll this matter had on him including being interviewed by the police in April 2022.

7. Mr Kirke submitted that there are a number of exceptional circumstances in this case that would allow a Tribunal to conclude that no further period of suspension was necessary. The length of time since this incident, including the delay between the original complaint and these proceedings is relevant. Additionally, the Tribunal was asked to take into consideration the relatively short lived and minor nature of the incident and the fact that Dr Rawat poses no risks to patients. There was only a limited need for public protection and the otherwise good character of Dr Rawat both before and after was clearly relevant to the risk going forward. He submitted the fact that there had been some remediation, albeit if not fully complete, and this was not a case where there was a significant risk of repeating behaviour.

8. Mr Kirke submitted that there was an overriding public interest in ensuring competent doctors are available to practise. Dr Rawat had already been subject to a suspension order being fully compliant with that. He submitted that whilst perhaps none of those factors individually may be considered exceptional in his submission when viewed collectively, they can be considered exceptional.

9. Mr Kirke submitted that if the Tribunal were not with him, then realistically the only other available sanction was a further period of suspension for the shortest period possible and certainly no longer than the previous order for three months, to allow Dr Rawat to finalise his remediation.

### **The Tribunal's Determination**

10. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken The Sanctions Guidance (2024) ('SG') into account and has borne in mind the overarching objective. The Tribunal bore in mind throughout its decision making that the written reflection received for this hearing suggests that Dr Rawat's first language is not English.

11. The Tribunal reminded itself that the main reason for imposing any sanction is not to punish or discipline doctors, even though they may have a punitive effect. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Rawat's interests with the public interest. The Tribunal bore in mind that the interest of the medical profession as a whole was more important than that of an individual doctor.

12. The Tribunal first considered the aggravating and mitigating factors in this case. The Tribunal found that the aggravating and mitigating factors have not altered significantly from the findings of the April 2024 Tribunal.

13. The Tribunal considered each sanction in ascending order of severity, starting with the least restrictive.

#### **No action**

14. The Tribunal first considered whether to conclude the case by taking no action.

15. The Tribunal determined that, in view of the ongoing concerns about Dr Rawat's insight and remediation, it would be neither proportionate nor appropriate to conclude this case by taking no action. The Tribunal determined that there were no exceptional circumstances that could justify concluding the case by taking no action.

#### **Conditions**

16. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Rawat's registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable, and measurable.

17. The Tribunal found that the nature of the misconduct is such that conditions could not be formulated which would be sufficient to maintain public confidence in the profession and uphold proper professional standards. The Tribunal was therefore satisfied that the imposition of conditions would not be an appropriate or proportionate response.

#### **Suspension**

18. The Tribunal went on to consider whether to impose a further period of suspension. In reaching its determination, the Tribunal was of the view that, while serious, Dr Rawat's misconduct was not fundamentally incompatible with continued registration and was capable of remediation, through the development of insight, attending relevant courses and developing strategies to prevent any recurrence of the misconduct.

19. The Tribunal considered that a further period of suspension would allow Dr Rawat a further opportunity to demonstrate that he has reflected on the impact of his actions on Ms A, the impact on public confidence in the profession, as well as how he would prevent this type of misconduct from occurring in the future. The Tribunal considered that it would also provide him with the necessary time to undertake further remediation and gather the necessary evidence.

### **Erasure**

20. The Tribunal considers that erasure would be a disproportionate response at this time, when it has concluded that this is misconduct that is capable of remediation.

### **Length of Suspension**

21. In all the circumstances, and taking into account the principle of proportionality, the Tribunal have determined to suspend Dr Rawat's registration for a further three months. This period of time would allow Dr Rawat another opportunity to develop insight, show meaningful reflection and demonstrate that he had satisfactorily remediated such that there was no longer a risk of repetition. An extension of three months to the suspension order is, in the view of the Tribunal, the appropriate sanction required 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.

22. The Tribunal determined to direct a review of Dr Rawat's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Rawat to provide evidence demonstrating how he has developed his insight and remediated his misconduct. It therefore may assist the reviewing Tribunal if Dr Rawat provides:

- Written evidence that demonstrates the development of insight and reflections on the impact of his actions on Ms A in 2019, and how it could have affected her since then;
- Written evidence of meetings with a senior colleague, or colleagues, including notes of such meetings, a timeline of those meetings, and outcomes of those meetings to show an assessment of Dr Rawat’s insight into the matter found proved against him;
- An explanation in writing as to the specific learning points that he has gained from his attendance at courses on professional boundary setting, reflection and insight and how he might put his learning into practice with colleagues in the future;
- Information from any further courses attended, detailing the course content and his reflective response to such learning, including the names of podcasts listened to, videos watched, and interactive sessions undertaken;
- Evidence that he has made efforts throughout the period of his suspension to keep his clinical knowledge and skills up to date through CPD;
- Testimonials from colleagues, which the Tribunal suggest should be dated, where the author[s] records their recognition of the matters proved against Dr Rawat and responds to the concerns expressed by the Tribunal;
- Any other information that Dr Rawat considers will assist a review hearing, including evidence of strategies developed to prevent the misconduct from recurring.

23. The Tribunal has directed to suspend Dr Rawat’s registration for a further period of three months. The MPTS will send Dr Rawat a letter informing him of his right of appeal and when the direction and the new sanction will come into effect. The current order of suspension will remain in place during the appeal period.

24. That concludes the case.