PUBLIC RECORD

Dates: 09/05/2022 - 11/05/2022

Medical Practitioner's name:	Dr Pradeeba JEGATHEESVARAN
GMC reference number:	7523211
Primary medical qualification:	BM BS 2016 University of Nottingham

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

Summary of outcome

No action (warning not considered)

Tribunal:

Legally Qualified Chair	Mr Nathan Moxon
Lay Tribunal Member:	Miss Leena Savjani
Medical Tribunal Member:	Dr Edmund Morris

Tribunal Clerk:	Miss Racheal Gill

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Lee Gledhill, Counsel, Doctors Defence Services
GMC Representative:	Mr Terence Rigby, 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 Facts - 11/05/2022

Background

1. Dr Jegatheesvaran qualified with BM BS at the University of Nottingham in 2016. At the time of the events, he was working as a locum Senior House Officer at the North Middlesex University Hospital ('the Trust').

2. For background, on 31 October 2018, Patient A had a fall in his home and suffered injuries to his head and chest. He was taken to the Accident and Emergency Department ('A&E') at the Trust.

3. At A&E, blood samples were taken from Patient A. Patient A's son stated that he witnessed bloods being taken from Patient A by a nurse soon after his admission at 6:15pm on 31 October 2018. The Tribunal has been shown no documented results or medical records pertaining to that test. Within the medical notes, there is a record of blood tests being taken at or around 2:18am and 3:50am on 1 November 2018.

4. The Tribunal will inquire into the Allegation that, on 31 October 2018 and 1 November 2018, Dr Jegatheesvaran consulted with Patient A and told Patient A's son that Patient A's blood results were *'absolutely fine'* and that his international normalised ratio ('INR') blood level was '*2.5'*, or words to that effect. It is alleged that Dr Jegatheesvaran knew he had not received Patient A's blood results prior to or at the time he made these statements and that his actions were dishonest.

5. Dr Jegatheesvaran gave evidence to the St Pancras Coroner's Court on 15 October 2019, during which he stated that he had been given some of the blood test results verbally by laboratory staff.

The Allegation and the Doctor's Response

6. The Allegation made against Dr Jegatheesvaran is as follows:

1. Between 31 October 2018 and 1 November 2018, you consulted with Patient A and you stated to Patient A's son that Patient A's:

a. blood results were 'absolutely fine', or words to that effect;
Admitted and found proved

b. international normalised ratio blood level was '2.5', or words to that effect.
Admitted and found proved

2. You knew that you had not received Patient A's blood results prior to or at the time you made the statements at paragraph 1.
To be determined

3. Your actions as described at paragraph 1 were dishonest by reason of paragraph 2.
To be determined

The Admitted Facts

7. At the outset of these proceedings, through his counsel, Mr Lee Gledhill, Dr Jegatheesvaran 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

8. In light of Dr Jegatheesvaran's response to the Allegation made against him, the Tribunal is required to determine whether Dr Jegatheesvaran knew he had not received Patient A's blood results prior to or at the time of his consultations with Patient A, and whether his actions were dishonest.

Witness Evidence

9. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Mr C, Pathology Contract Manager for the Trust, by video link, together with his witness statement, dated 4 October 2021; and
- Mr E, Patient A's son, by video link, together with his witness statement, dated 11 May 2020.

10. Dr Jegatheesvaran provided his own witness statement, dated 14 April 2022 and a further statement with exhibits, dated 5 May 2022, and also gave oral evidence at the hearing.

Documentary Evidence

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

- Record of tests and results for Patient A, dated between 22 October 2018 and 7 November 2018;
- Record of test results, dated 3 and 15 October 2018;
- Medical records relating to Patient A;
- Transcript of a meeting between Patient A's family and the Trust on 16 January 2019;
- Transcript of Inquest, 15 October 2019;
- Various completed CPD modules and training, dated 2018-2022; and
- Dr Jegatheesvaran's reflective statements, April 2022.

The Tribunal's Approach

12. The following legal advice was given to the Tribunal by the legally qualified chair, upon it being agreed by counsel for both parties:

1. *When exercising its functions, the Tribunal must have particular regard to the statutory overarching objective:*

    a. *To protect, promote and maintain the health, safety and wellbeing of the public;*
    b. *To promote and maintain public confidence in the medical profession; and;*
    c. *To promote and maintain proper professional standards and conduct for members of that profession.*

2. *The General Medical Council has the burden of proving each aspect of the allegation upon the civil standard, which is upon the balance of probabilities. The GMC must establish that it is more likely than not that facts occurred.*

3. *It is alleged that the doctor acted dishonestly. The test for dishonesty is as follows:*

    a. *The Tribunal must first ascertain (subjectively) the actual state of the doctor's knowledge or belief as to the facts. The reasonableness or otherwise of his belief may evidence whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it was genuinely held.*

    b. *Once that had been established the Tribunal must determine whether his conduct was dishonest by applying the objective standards of ordinary decent people. It is not necessary for the individual to appreciate that what he has done is, by those standards, dishonest.*

4. *For the doctor to be found dishonest it must be proved to the requisite standard that when he told Mr A's son that Mr A's blood results were fine and that the international normalised ration blood level was 2.5, that he knew that the information was false.*

5. *If the Tribunal finds that the subjective limb is not satisfied, it need not consider the objective limb, and should find dishonesty not proved. If the Tribunal finds that the subjective limb is proved, it must then consider whether ordinary decent people would consider the conduct dishonest.*

6. *The papers before the Tribunal contain hearsay evidence, which is evidence that has not been given orally during these proceedings, for example, Mr C has stated what he was told by others. Hearsay evidence is admissible in these proceedings but the Tribunal must consider the weight, if any, to assign such evidence. When considering hearsay evidence, the Tribunal must consider the extent to which the evidence is agreed or disputed. The source of the evidence should be identified and the Tribunal should consider whether the witness was independent or may have had a purpose of their own or another to serve. The Tribunal must also consider the reliability of the evidence and should identify any mistakes or inconsistences found in it. There has been no opportunity to see the sources of disputed hearsay evidence tested under cross-examination, for example as to accuracy, truthfulness, ambiguity or misperception, and how the witnesses would have responded to this process. It may*

be that a witness has not addressed an issue in their written accounts that they may have been questioned about at this hearing.

7. *The Tribunal must consider all of the evidence before it before making findings as to the credibility of any witness. Further, when assessing a witness's credibility, it should not rely exclusively on a witness's demeanour when giving evidence.*

8. *The Tribunal has heard that the doctor is of good character. His good character must be taken into account by the Tribunal when assessing his credibility and the likelihood of him having done what has been alleged. His good character is not a defence to the Allegation, it is simply one factor to take into account when considering all of the evidence in the round. The weight to assign his good character is a matter for the Tribunal to determine.*

9. *In summary, it is for the Tribunal to determine which evidence assists in discharging its duties to make findings and the weight to be given to that evidence. Decisions must be based upon the evidence alone and not speculation.*

10. *The Tribunal's reasons must be outlined in writing.*

The Tribunal's Analysis of the Evidence and Findings

13. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

14. Patient A had been seen by a nurse soon after his admission at 6:15pm on 31 October 2018. He underwent a CT scan and X-ray at around 7:00pm. Once this was completed, Patient A and his son, Mr E, waited in the 'fit to sit' area of the Trust's A&E department. At around 10:00pm, Patient A was called to attend a consultation with Dr Jegatheesvaran. Mr E was present for the entirety of the consultation, and it lasted between 8 and 15 minutes. During the consultation, Mr E asked Dr Jegatheesvaran about his father's blood test results because he knew his father was taking warfarin at the time. Mr E has always maintained that his father's blood had been taken by the aforementioned nurse. It is not disputed that Dr Jegatheesvaran made the following statements, that were subsequently found to be false: that Patient A's blood results were '*absolutely fine*' and that his INR blood level was '*2.5*', or words to that effect.

15. In his witness statement, Dr Jegatheesvaran denied acting dishonestly and stated that he believed that he had acted honestly on incorrect information that he believed to be

correct at the time. He suggested various possible explanations: that he believed that Patient A's blood results were either given to him verbally over the telephone by staff in the laboratory; that he had mistakenly taken note of Patient A's previous blood test results, that were on the system dated 3 October 2018; or that he had read out the wrong results from his job sheet, which contained his personal notes relating to his patients and the tasks he needed to undertake during his shift.

16. Whilst cognisant that Dr Jegatheesvaran does not have the burden of proving that he had acted honestly, the Tribunal considered the various possible scenarios in which a mistake could have been made by Dr Jegatheesvaran. The Tribunal noted that A&E departments are, by their very nature, busy and demanding departments of medicine. In relation to the Trust's A&E department on the night of the 31 October 2018 / 1 November 2018, the Tribunal noted Mr E's evidence that it was a '*confusing time*' and the A&E department was "*extremely busy*". When asked what he meant by '*confusing'*, he clarified that he meant '*the actual A&E environment*' and stated that the doctors and nurses were '*extremely busy*'. The Tribunal heard evidence that the department was short of porters on the day in question. Patient A's family subsequently complained of the length of time that it had taken for Patient A to be seen in A&E.

17. There is evidence that mistakes were made by others concerning Patient A's care. There was clear and unequivocal evidence from Mr E that at or soon after 6:15pm on 31 October 2018 a blood test was undertaken upon Patient A by a nurse who then gave him two paracetamol tablets. Mr E was able to give admirable detail about these incidents and the Tribunal was satisfied that they had occurred. However, there was no record in the notes of this blood test being taken or analysed by the laboratory and no record of paracetamol being issued by the nurse. This suggests that, for whatever reason, there may have been mistakes made in the record keeping of those other than Dr Jegatheesvaran.

18. The Tribunal therefore accepted the evidence that, even by the normal standard of a busy A&E department at night, the Trust's A&E department was under particular pressure. The Tribunal also noted that Dr Jegatheesvaran was working within that department as a locum junior doctor.

19. The Tribunal therefore considered that it was plausible that an honest mistake was made by Dr Jegatheesvaran.

20. The Tribunal considered it plausible that Dr Jegatheesvaran may have accidentally misread the 3 October 2018 blood results as being those dated 31 October 2018. The Tribunal accepted the evidence that the results would have been visible upon the hospital

computer system and would appear on the same screen as all other historical hospital tests undertaken upon Patient A. Further support for that conclusion is that the INR on 3 October 2018 was 2.5, which is the same result that Dr Jegatheesvaran mistakenly communicated to Mr E.

21. The Tribunal also considered it possible that Dr Jegatheesvaran mistakenly looked at the results for the wrong patient. A further possibility is that he wrote down results on his job sheet of several patients and mistakenly gave the result of a different patient to Mr E when asked. There is corroborative evidence from Mr E that Dr Jegatheesvaran had read a result from his clipboard.

22. The possibility that Dr Jegatheesvaran made an innocent mistake is all the more plausible upon consideration of the work environment prevailing at the time.

23. It was also possible that Dr Jegatheesvaran was given the wrong blood test results by the laboratory. Mr C's evidence was that it was not best practice to provide results verbally, and he stated he did not believe it would happen. However, that evidence is outweighed by the contemporaneous records within Patient A's medical notes and nursing notes that Dr Jegatheesvaran did have at least one conversation with the laboratory concerning Patient A's blood results, at approximately 2:00am on 1 November 2018. Whilst this was after he had spoken to Mr E about the results, it is nevertheless indicative that the laboratory was having verbal discussions with him. Whilst the lab technicians are reported by Mr C to have said that they cannot recall any conversation, the Tribunal considered it notable that they were being asked about events three years after they are said to have occurred. In any event, there were no witness statements from them that the Tribunal could rely on. The Tribunal noted that Mr Gledhill did not have the opportunity to ask them if they had given results verbally to Dr Jegatheesvaran. When considering the hearsay evidence, the Tribunal considered that there may be an explanation for them to not want to admit to Mr C that they may have breached the standard protocol.

24. Furthermore, there is no record that the 6:15pm blood samples were received or whether they were spoiled somehow, by, for example clotting. Mr C stated that if bloods are spoiled, a record would nevertheless be maintained. The Tribunal considered it possible that blood was taken and tested but the results were not entered into the system and instead only verbally communicated to Dr Jegatheesvaran. The Tribunal noted that the blood samples taken at or around 2:18am and 3:50am were subsequently reported in full and so neither is likely to have been the spoiled sample. The Tribunal took into account that there was other evidence of poor record keeping within the Trust on the day, for example the failure to record the provision of paracetamol by the nurse between 6:00pm and 7:00pm.

25. The Tribunal did not accept the GMC's argument that Dr Jegatheesvaran had been inconsistent in his explanation of events. It was accepted by Mr Terence Rigby, counsel for the GMC, that there was no evidence to rebut Dr Jegatheesvaran's evidence that he first learnt that Patient A's family had complained of his treatment until almost a year later. The Tribunal accepted his account that he had told the coroner that he believed that he had been given the blood test results by the laboratory staff, as that is what he believed to have been the case almost a year after events. The Tribunal accepted his argument that the other propositions were all to seek to explain how a mistake could have been innocently made, but that he did not have a clear recollection so long after events. The Tribunal noted that his good character is to be considered when considering the truthfulness of his account during these proceedings.

26. The Tribunal considered that each of the scenarios outlined above are possible and plausible explanations. The Tribunal noted that Dr Jegatheesvaran is man of good character. There are no regulatory findings in relation to his honesty or probity, or otherwise. There is no evidence that he is not a conscientious and committed doctor. The Tribunal was satisfied that it is inherently unlikely that he would have embarked on the theatre of pretending to look at his notes before then wilfully giving false information, particularly in light of his good character. Therefore, the Tribunal was of the view that the scenarios described were all individually and cumulatively more likely than the assertion that he had lied.

27. In light of this, the Tribunal was of the view that the GMC had not discharged its burden of proof in respect of paragraph 2 of the Allegation. The Tribunal found that it was more likely than not that either the laboratory or Dr Jegatheesvaran made a mistake which resulted in incorrect information being conveyed by the doctor to Mr E.

28. Therefore, in respect of paragraphs 2 of the Allegation, the Tribunal concluded that there was insufficient evidence before it for it to find, on the balance of probabilities, that Dr Jegatheesvaran knew he had not received Patient A's blood results when he made the incorrect statements at paragraph 1. Accordingly, the Tribunal found paragraph 2 of the Allegation not proved.

29. In light of its findings at paragraphs 2 of the Allegation and applying the test as set out in *Ivey v Genting Casinos (UK) Limited [2017] UKSC 67*, the Tribunal was satisfied that the subjective element of the test had not been met. Having found that Dr Jegatheesvaran did not act as alleged in paragraph 2, the Tribunal did not find that Dr Jegatheesvaran actions were dishonest. Accordingly, it found paragraph 3 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

30. The Tribunal has determined the facts as follows:

1. Between 31 October 2018 and 1 November 2018, you consulted with Patient A and you stated to Patient A's son that Patient A's:

    a. blood results were 'absolutely fine', or words to that effect;
    Admitted and found proved

    b. international normalised ratio blood level was '2.5', or words to that effect.
    Admitted and found proved

2. You knew that you had not received Patient A's blood results prior to or at the time you made the statements at paragraph 1.
    Not proved

3. Your actions as described at paragraph 1 were dishonest by reason of paragraph 2.
    Not proved.

Determination on Impairment - 11/05/2022

31. 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 Jegatheesvaran's fitness to practise is impaired by reason of misconduct.

The Evidence

32. The Tribunal took into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows.

33. The Tribunal also received a certificate in Understanding Blood Test Results by Dr Jegatheesvaran, dated 7 May 2022.

Submissions

34. On behalf of the GMC, Mr Rigby stated the GMC do not wish to submit that Dr Jegatheesvaran was guilty of serious misconduct, nor that his fitness to practise is impaired. He further stated that the GMC would offer no submissions in support of a warning upon a finding of no current impairment.

The Relevant Legal Principles

35. 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.

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

37. The Tribunal must determine whether Dr Jegatheesvaran's fitness to practise is impaired today, taking into account Dr Jegatheesvaran'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.

The Tribunal's Determination on Impairment

38. Whilst paragraphs 1a and 1b were found proved, upon being admitted, the Tribunal accepted that it was as the result of a mistake, rather than dishonesty. On that basis, it was accepted by Mr Rigby on behalf of the GMC that no finding of impairment could properly be made by the Tribunal and that the GMC does not invite the Tribunal to issue a warning to Dr Jegatheesvaran. Mr Gledhill agreed with Mr Rigby's proposals. He confirmed there was no interim order in place.

39. The Tribunal considered that it is imperative that doctors are careful to ensure that they obtain and communicate correct test results to their patients. In the case of Dr Jegatheesvaran, there are various possible explanations as to how his mistake may have occurred, many of which suggest a lack of attention to detail on his behalf. Nevertheless, the Tribunal was of the view that such an isolated mistake, in the context of the particular working environment, and given the fact that it did not result in any adverse consequences to Patient A's treatment or health, does not amount to misconduct. Even had the Tribunal considered it did amount to misconduct, it could not be properly defined as serious.

40. In any event, the Tribunal noted that Dr Jegatheesvaran had sincerely apologised to Mr E during the hearing for his error and had provided proof of reflection and the completion

of appropriate CPD. The Tribunal was satisfied that he had evidenced considerable insight and remediation. There is no evidence of any other similar mistake having ever been made by Dr Jegatheesvaran. As such, the Tribunal was satisfied that the risk of repetition was negligible.

41. As a consequence, even had the Tribunal found that the allegations found proved amounted to misconduct that was serious, it would nevertheless conclude that Dr Jegatheesvaran's fitness to practise is not currently impaired in light of the assessed insight, remediation and risk of repetition. The Tribunal was satisfied that public confidence and professional standards have been maintained by virtue of him having fully co-operated in rigorous regulatory proceedings and having demonstrated the aforementioned insight and remediation.

42. Upon finding that Dr Jegatheesvaran's fitness to practise is not currently impaired by virtue of misconduct, and in light of all of the considerations outlined above, the Tribunal also concluded that a warning was not required to satisfy the overarching objective.

43. That concludes the case.