

PUBLIC RECORD

Dates: 31/10/2022 - 04/11/2022

Medical Practitioner's name: Dr Praveen ALLA

GMC reference number: 6075593

Primary medical qualification: MB ChB 2003 University of Sheffield

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

Summary of outcomeSuspension, 3 months.
Review hearing directed**Tribunal:**

Legally Qualified Chair	Mrs Ruth Curtis
Medical Tribunal Member:	Dr Pavan Rao
Medical Tribunal Member:	Dr Edmund Morris

Tribunal Clerk:	Mr John Poole
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Alan Jenkins, Counsel, instructed by Clyde & Co. solicitors
GMC Representative:	Mr Alexis Dite, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts and Impairment - 02/11/2022

1. At the outset of proceedings the Tribunal determined that parts of the hearing relating to XXX be heard in private in accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 as amended ('the Rules'). As such this determination will be read in private. However, as this case also concerns Dr Alla's conviction and misconduct, a redacted version will be published at the close of this hearing with those matters relating to XXX removed.

Background

2. Dr Alla qualified as a doctor in 2003 from the University of Sheffield and went on to train in General Practice. He completed GP training in 2009 and became a salaried GP at the Welbeck Road Practice ('the Practice'). At the time of the events that are the subject of this hearing, Dr Alla was working as a GP partner at the Practice. He has not worked as a GP since November 2018 and in March 2019 he resigned from the Practice to XXX.

3. In summary, Dr Alla's case relates to an Allegation of impaired fitness to practise by reason of misconduct, a criminal conviction and XXX.

4. The matter of misconduct relates to events on 16 November 2018 when Dr Alla was confronted by his colleagues at the Practice regarding concerns about his prescribing and that he was misdirecting prescriptions XXX. It is alleged that his response to his colleagues was dishonest.

5. It is alleged that on 7 October 2020, Dr Alla was convicted at Northern Derbyshire Magistrates' Court of fraud by abuse of position, and that on 8 December 2020, at Derby Crown Court, he was sentenced to 12 months imprisonment suspended for 24 months, and XXX.

6. XXX

The Outcome of Applications Made during the Facts Stage

7. On day one of the hearing, Mr Dite, counsel for the GMC, made an application pursuant to Rule 17(6) of the Rules to amend the application to reflect XXX. On behalf of Dr Alla, Mr Jenkins supported the application to amend the Allegation. The Tribunal granted the application.

The Allegation and the Doctor's Response

8. The Allegation made against Dr Alla is as follows:

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

1. On or around 16 November 2018, when informed by one or more of your colleagues that there were concerns that you had been fraudulently misdirecting prescriptions, or words to that effect, you stated that you had been blackmailed into doing so by a patient who had threatened to accuse you of sexual assault and had taken money from you, or words to that effect, which was untrue. **Admitted and found proved**

2. You knew that the information you provided at paragraph 1 was untrue. **Admitted and found proved**

3. Your actions described at paragraph 1 were dishonest by reason of paragraph 2. **Admitted and found proved**

~~4. XXX~~

~~5. XXX~~

~~6.~~ 4. On 7 October 2020 at Northern Derbyshire Magistrates' Court you were convicted of fraud by abuse of position. **Admitted and found proved**
Amended in accordance with Rule 17(6) of the Rules

~~7.~~ 5. On 8 December 2020 at Derby Crown Court you were sentenced to:
Amended in accordance with Rule 17(6) of the Rules

a. 12 months imprisonment suspended for 24 months on suspended sentence;
Admitted and found proved

b. XXX

6. XXX

7. XXX

The Facts

9. At the outset of these proceedings, through his counsel, Mr Jenkins, Dr Alla made admissions to the entirety of the Allegation, as set out above, in accordance with Rule 17(2)(d) of 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.

Impairment

10. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts found proved as set out before, Dr Alla's fitness to practise is impaired by reason of misconduct, a conviction for a criminal offence, XXX.

Evidence

11. The Tribunal has taken into account all the evidence received. This included but was not limited to WhatsApp messages between Dr Alla and his colleagues, various witness statements from Dr Alla's colleagues and their statements to the police during the police investigation, as well as the certificate of conviction and the Judge's sentencing remarks.

12. XXX.

13. Dr Alla provided a witness statement dated 4 October 2022 and a further witness statement dated 28 October 2022 for the purposes of the impairment stage of the hearing. He also gave oral evidence to the Tribunal.

14. The Tribunal was also provided with various testimonial letters in support of Dr Alla, XXX.

Submissions

Submissions on behalf of the GMC

15. Mr Dite submitted that Dr Alla's fitness to practise was impaired by reason of misconduct, the criminal conviction, XXX.

16. In regard to misconduct, Mr Dite reminded the Tribunal of the guidance provided by Lord Clyde in *Roylance v GMC (No.2) [2000] 1 AC 311*, namely that misconduct has been defined as '*a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*' And that, '*the standard of propriety may often be*

found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances’.

17. Mr Dite submitted that paragraph 65 and 68 of Good medical practice (2013) (‘GMP’) were particularly relevant to the misconduct in this case:

65 You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession.

68 You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.

18. Mr Dite submitted that it is clear and obvious that Dr Alla lied to his colleagues by constructing a detailed false narrative in which he sought to blame a patient for his own wrongdoing. Mr Dite submitted that Dr Alla’s actions amount to a serious falling short of what was proper and amounts to misconduct.

19. Mr Dite submitted that on the basis of Dr Alla’s misconduct, conviction XXX, Dr Alla’s fitness to practise is currently impaired.

20. Mr Dite submitted that all three limbs of the overarching objective are engaged in Dr Alla’s case.

21. Mr Dite invited the Tribunal to have regard to the Judge’s sentencing remarks. He reminded the Tribunal that Dr Alla was convicted of a serious crime and still serving a suspended sentence. He submitted that Dr Alla’s criminality occurred over a significant period of time, approximately six months, during which he committed multiple dishonest acts. Dr Alla made over sixty false prescriptions, using the IT system to identify appropriate patients, changing the record of the prescriptions to give the impression that they had been made in error, then picking up the medications and also co-opting other members of staff to pick up the medications for him. Mr Dite submitted that Dr Alla’s period of dishonesty and the fact he did not come clean at first but sought to blame someone else, falls seriously below the expected standards.

22. Mr Dite reminded the Tribunal of the four questions to consider regarding impairment as advised by Dame Janet Smith in the Fifth Shipman report, namely: has the doctor put patients at risk? Has the doctor brought the medical profession into disrepute? Has the doctor breached fundamental tenets of the profession? Has the doctor acted dishonestly? Mr Dite submitted that all four are engaged in this case.

23. Mr Dite submitted that honesty and integrity are fundamental tenets of the profession and the reputation of the profession has been brought into disrepute. He also reminded the Tribunal of the Judge’s Sentencing remarks that Dr Alla, by working at a time

when he was XXX, placed patients at unwarranted risk of harm. Albeit Mr Dite acknowledged that there is no evidence that any patients did come to harm.

24. Mr Dite advised that in considering impairment, the Tribunal must look forward and not back. However, it will have to take into account how Dr Alla has acted in past, and consider his level of insight, remorse and remediation, and whether there is a risk of repetition.

25. Mr Dite noted the WhatsApp messages of 18 November 2018 and submitted that from early on Dr Alla displayed remorse and shame. Mr Dite also noted that Dr Alla pleaded guilty in the criminal courts and made full admissions to the Allegation.

26. In regard to the risk of repetition, Mr Dite submitted that the Tribunal may consider the XXX to be key in this case; he noted XXX.

27. Mr Dite submitted that quite apart from the matters of misconduct and conviction, XXX.

28. Mr Dite reminded the Tribunal that it must not only consider whether Dr Alla presents a risk to the public, but also whether the need to uphold proper professional standards would be undermined if a finding of impairment were not made. He submitted that given what the Tribunal has found, public confidence in the medical profession would be undermined if a finding of impairment of fitness to practise was not made.

Submissions on behalf of Dr Alla

29. Mr Jenkins accepted that Dr Alla's fitness to practise was impaired by reason of XXX the criminal conviction but submitted that Dr Alla's fitness was not impaired by reason of misconduct.

30. XXX

31. In regard to the criminal conviction, Mr Jenkins submitted that Dr Alla remains subject to a sentence. He noted paragraph 119 of the Sanctions Guidance (SG) which advises that:

119 As a general principle, where a doctor has been convicted of a serious criminal offence or offences, they should not be permitted to resume unrestricted practice until they have completed their sentence.

Mr Jenkins accepted that the conviction was serious and that a finding of impairment by reason of the conviction is necessary to maintain public confidence in profession and to uphold proper standards.

32. Mr Jenkins then addressed the Tribunal in relation to misconduct. He summarised that on 16 November 2018 Dr Alla said something that was untrue to his colleagues when he

was confronted regarding anomalies in relation to XXX prescribing. Mr Jenkins submitted that Dr Alla's actions plainly amount to misconduct but that whether it is serious is a matter for the Tribunal. Nevertheless, Mr Jenkins submitted that Dr Alla's fitness to practise is not currently impaired by misconduct and stressed that it occurred almost four years ago at a time when Dr Alla was XXX.

33. Mr Jenkins submitted that Dr Alla has shown remorse, has repeatedly apologised for his actions, is profusely sorry for what he has done and the huge amount of disruption he caused, and has taken steps to put things right. Mr Jenkins submitted that the misconduct is capable of remediation and that it plain that Dr Alla has insight into the misconduct. Mr Jenkins stressed the circumstances when the misconduct occurred were at a time of XXX and that he came clean shortly after.

34. Mr Jenkins invited the Tribunal to have regard to the Judge's Sentencing remarks.

'In fairness to you within a very short time on the 18th of November 2018, you sent a message to your Partners retracting the account you first gave and admitting your actions...

I also conclude whilst clearly you are remorseful for you actions and admitted the offence immediately—common sense dictates and you are described as an extremely bright man, whilst I do not hold this against on the 16th of November 2018 when you made your admissions, you knew the game was up'

35. Mr Jenkins submitted that it was panic and confusion which led Dr Alla to behave in the way he did but that a short period of time afterwards he set the record straight with profuse apologies. In all the circumstances, Mr Jenkins submitted that Dr Alla's fitness to practise is not impaired by reason of misconduct.

The Tribunal's Approach

36. The Tribunal now has to decide whether, on the basis of the facts which it has found proved, Dr Alla's fitness to practise is impaired by reason of misconduct, a conviction, XXX.

37. 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.

38. The Tribunal further reminded itself of the overarching objective as set out in the Medical Act 1983.

39. In relation to misconduct, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct and then whether the finding of that misconduct could lead to a finding of impairment.

40. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. In particular, the Tribunal considered whether its findings of fact showed that Dr Alla's fitness to practise is impaired in the sense that he:

'a. Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

41. The Tribunal must determine whether Dr Alla's fitness to practise is impaired today, taking into account his 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. XXX.

42. The Tribunal must consider Dr Alla's level of insight and his attempts to remediate the concerns. It must also have regard to the testimonials offered in his support and attach appropriate weight to them.

The Tribunal's Determination on Impairment

Impairment by reason of a conviction

43. The Tribunal first considered whether Dr Alla's fitness to practise is impaired by reason of his conviction.

44. The Tribunal bore in mind that Dr Alla was convicted of a serious crime, namely fraud by abuse of position. The seriousness of his conviction is reflected in the sentence imposed of 12 months imprisonment suspended for 24 months.

45. The Tribunal was satisfied that Dr Alla has shown insight into his conviction and expressed genuine remorse. The Tribunal noted the Judge's sentencing remarks as quoted above and was also persuaded by Dr Alla's oral evidence to the Tribunal. He told the Tribunal that he was ashamed and disgusted and that his conviction was not who he was, XXX. The Tribunal also noted his comment in his witness statement, dated 28 October 2022:

'I am acutely aware however of the impact my actions and conviction will have had on the trust the public put in the medical profession. I know that my actions will have undermined that public trust in doctors and in the medical profession as a whole. The fact that my actions have had this impact on the profession that I love is devastating to me. I am determined to never find myself in this position again, where I have let myself and the profession down. If I am given the opportunity to practise medicine again I will ensure that XXX.'

46. The Tribunal also noted the Judge's comments that:

'It is clear, you were a caring, well thought of and an extremely good doctor. Prior to the offending you XXX. Your colleagues all describe you in glowing terms. Further supported by additional testimonials and reports submitted on your behalf. Prior to the offending you XXX.'

47. The Tribunal considered that the risk of repetition will be closely related to XXX.

48. The Tribunal was also mindful that the conviction cannot be considered to have been fully remediated given that Dr Alla is still serving his suspended sentence. Also, having regard to paragraph 119 of the SG, the Tribunal determined that a finding of impairment of fitness to practise by reason of a conviction, was necessary in order to uphold the overarching objective.

XXX

49. XXX.

50. XXX.

51. XXX.

52. XXX.

53. XXX.

54. XXX.

55. XXX.

56. XXX.

57. XXX.

58. XXX.

Impairment by reason of misconduct

59. The Tribunal considered whether Dr Alla's fitness to practise is impaired by reason of misconduct.

60. In so doing, it first considered whether Dr Alla's actions as outlined at paragraphs 1 – 3 of the Allegation amount to misconduct.

61. The Tribunal accepted that paragraphs 65 and 68 of the GMP were engaged in this case.

62. The Tribunal considered that Dr Alla's actions in providing a dishonest explanation to his colleagues when confronted about fraudulently misdirecting prescriptions, is conduct which falls far short of the standard expected of a doctor and determined that such dishonesty amounts to serious misconduct.

63. The Tribunal then considered whether Dr Alla's fitness to practise is impaired by reason of his misconduct.

64. The Tribunal bore in mind that the misconduct occurred four years ago against a backdrop of XXX. The Tribunal was encouraged by Dr Alla's level of insight into the misconduct and the evidence presented which showed that he told the truth 36 hours after the event and showed deep shame for his actions. In owning up at this stage Dr Alla prevented further harm from being caused.

65. The Tribunal considered that Dr Alla has shown genuine remorse for his actions. It took the view that his dishonesty was directly related to XXX and considered that the misconduct was unlikely to be repeated so long as Dr Alla continues to XXX.

66. The Tribunal considered that in light of XXX at the time of the misconduct and his subsequent actions and genuine remorse, that Dr Alla's fitness to practise is not impaired by reason of misconduct.

Determination on Sanction - 04/11/2022

67. Having determined that Dr Alla's fitness to practise is impaired by reason of a conviction XXX, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

68. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

69. The Tribunal also received further evidence at this stage, namely a letter of support from Ms C XXX.

Submissions

Submissions on behalf of the GMC

70. On behalf of the GMC, Mr Dite submitted that the appropriate sanction in Dr Alla's case was one of suspension.

71. Mr Dite drew the Tribunal's attention to the relevant parts of the SG which outline the approach it must follow. He submitted that the Tribunal must exercise its own judgement, have regard to the reasons for imposing sanctions, start with the least restrictive sanction available and have regard to the principle of proportionality. He stressed that sanctions are not imposed to punish or discipline a doctor but may have a punitive effect and that the reputation of the profession as a whole is more important than the interest of any one doctor.

72. Mr Dite addressed the Tribunal in relation to the mitigating and aggravating factors. In regard to mitigation, he highlighted Dr Alla's remorse and insight into his conduct.

73. As for aggravation, Mr Dite noted the seriousness of the conviction and the principle outlined at 119 of the SG that a doctor convicted of a serious criminal offence should not be permitted to resume unrestricted practice until they have completed their sentence. He submitted, therefore, that as Dr Alla's sentence was not complete taking no action would not be appropriate.

74. Mr Dite then addressed the Tribunal in relation to conditions. XXX. He submitted that the conviction element involved six months of dishonesty and resulted in a custodial sentence, suspended. Given this, he submitted that an order of conditions would not be sufficient to uphold public confidence in the medical profession.

75. He submitted that suspension was the appropriate sanction to impose, Mr Dite drew the Tribunal's attention to the following paragraphs of the SG:

91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a

registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

92 *Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).*

93 *Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions*

97 *Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

a) A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

76. Mr Dite stressed how serious the conviction was and that it included multiple instances of dishonesty. He noted that the SG provides that dishonesty, if persistent, is likely to result in erasure. He also referred the Tribunal to the paragraphs of the SG XXX.

77. Mr Dite acknowledged that Dr Alla's conviction was related to XXX at the time. In conclusion, Mr Dite submitted that the seriousness of Dr Alla's case means that the only sanction compatible with the need to promote public confidence and proper standards in the profession, is suspension. He added that a review hearing should be directed and would allow Dr Alla to demonstrate XXX.

Submissions on behalf of Dr Alla

78. On behalf of Dr Alla, Mr Jenkins submitted that conditions would be appropriate in this case.

79. Mr Jenkins submitted that the Tribunal needed to address two questions: is it necessary to erase? How is the public interest best served?

80. Mr Jenkins submitted that so long as the Tribunal do not erase Dr Alla, then there is an acknowledgement and anticipation that at some point he will go back to practice. He submitted that regardless of whether the Tribunal imposes conditions or a suspension, there will have to be a review hearing and several such hearings may be necessary given XXX.

81. Mr Jenkins submitted that Dr Alla is in his early forties and has many years of future practice. He also submitted that the NHS is under great strain and is ‘crying out’ for experienced GPs. Mr Jenkins then reminded the Tribunal of the Judge’s sentencing remarks that:

‘It is clear, you were a caring, well thought of and an extremely good doctor. Prior to the offending XXX. Your colleagues all describe you in glowing terms. Further supported by additional testimonials and reports submitted on your behalf. XXX.’

82. Mr Jenkins submitted that although they have not produced testimonials about the quality of his care, it is clear that Dr Alla was a highly performing doctor, and he added that in evidence, Dr Alla showed that he was passionate about general practice and considered treating patients to be a privilege.

83. Mr Jenkins also reminded the Tribunal of XXX. Erasure was not appropriate in all the circumstances.

84. Mr Jenkins invited the Tribunal to consider how to best serve the public interest and to return Dr Alla to practice safely. He stressed that the role of the Tribunal is not to punish Dr Alla and that he has effectively been suspended for 4 years. He also highlighted that Dr Alla was subject to conditions by the Interim Orders Tribunal during the criminal process and could have tried to go back to work then but chose not to. XXX. He also submitted that if looking at the needs of patients, the sooner Dr Alla returns to practice the better.

85. Mr Jenkins submitted that if the Tribunal decides to suspend Dr Alla it will be on the basis of sending out a message and upholding public confidence. He submitted that the real issue is about returning Dr Alla safely to practice and stressed that there is no suggestion his treatment of patients was anything other than ‘first class’.

86. Mr Jenkins invited the Tribunal to impose conditions for a year and direct a review hearing. He suggested various conditions in relation to XXX. He also made submissions on the appropriate level of supervision but suggested that the ‘fine tuning’ could be done by local organisations such as NHS England and Health Education England who would set the supervision levels as appropriate and targets before he goes back into general practice.

87. Mr Jenkins also emphasised various mitigating factors, including Dr Alla’s insight, his expressions of regret, the XXX at the time and the lapse of time since the events of 2018. He further drew attention to Dr Alla’s remediation, the testimonials referred to in the judge’s comments and his repeated apologies and expressions of regret.

88. Mr Jenkins advised that conditions are likely to be appropriate where XXX. He added the conditions are also appropriate where there is a shortcoming in a doctor’s performance or in a specific area, with reference to Dr Alla’s prescribing. He further submitted that all the elements of paragraph 82 of the SG apply to Dr Alla.

89. XXX.

90. In conclusion, Mr Jenkins submitted that it was quite proper to impose conditions at this stage.

The Tribunal’s approach to Sanction

91. The Legally Qualified Chair (LQC) advised the Tribunal that the decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement.

92. In reaching its decision, the Tribunal must take account of the SG and the overarching objective to protect and promote the health, safety and wellbeing of the public, promote and maintain public confidence in the profession and promote and maintain proper professional standards and conduct. The Tribunal should start by considering the least restrictive sanction before moving, in ascending order of severity, onto the other available sanctions. The Tribunal has borne in mind that the purpose of a sanction is not to be punitive (although it may have a punitive effect), but to protect patients and the wider public interest.

93. The LQC advised that the Tribunal should also consider proportionality by weighing the public interest against the interests of the Doctor.

The Tribunal's Determination on Sanction

94. Before considering what action to take in respect of Dr Alla's registration, the Tribunal considered and balanced the aggravating and mitigating factors in this case.

Aggravating factors

95. The Tribunal considered the seriousness of Dr Alla's conviction of fraud by abuse of position, to be an aggravating factor. It reminded itself of the Judge's remarks on the aggravating factors which led to the custodial sentence which Dr Alla was serving:

- XXX;
- *during the period of the fraud, XXX, patients were treated;*
- *the offending continued at a time when, you were aware an audit was being carried out, relating to discrepancies linked to XXX. The purpose of the audit to run searches on the surgeries SystemOne, computer system, patients records and to compare this against the stocks held within the surgery. Accordingly, you were aware a Deep Dive audit relating to systems one, prescriptions issued and by whom could be identified. Despite the fact the audit related to the practises pharmacy departments, the entries 'Marked in Error' would be discovered. Consistent with conversations you later had with the Ms D—Medicines Management Technician employed by practise —'.*

The Tribunal bore in mind that Dr Alla is continuing to serve a suspended sentence for his conviction.

Mitigating factors

96. The Tribunal identified the following mitigating factors in Dr Alla's case:

- Dr Alla's level of insight. He has insight into his criminal conviction, has shown remorse, apologised for his actions and made full admissions to the Allegation. Moreover, he also has a good level of insight into XXX.
- The lapse of time since the incident. It has been almost four years since the incident which led to the criminal conviction and there has been no repetition. The Tribunal noted that Dr Alla has not been working since 2019.
- Dr Alla's professional and personal circumstances at the time. As mentioned by the Judge in the sentencing remarks, prior to Dr Alla's offending XXX.

- The testimonials. The Tribunal noted that the testimonials all reported that XXX however also noted that the recent testimonials produced were from a particular subset of clinicians who were unable to comment on Dr Alla’s abilities as a GP or his character and performance XXX.

97. Whilst the Tribunal considered there to be significant mitigation in this case, it was mindful of paragraph 24 of the SG which states that it is less able to take mitigating factors into account when the concern is of a more serious nature.

No action

98. In reaching its decision as to the appropriate sanction, the Tribunal first considered whether to conclude the case by taking no action.

99. The Tribunal determined that there were no exceptional circumstances in Dr Alla’s case to justifying taking no action. It accepted Mr Dite’s submission that taking no action would be inappropriate, given that Dr Alla continues to serve his criminal sentence.

Conditions

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

101. The Tribunal considered the relevant paragraphs of the SG and concluded that conditions might be appropriate in cases involving XXX. However, the Tribunal accepted Mr Dite’s submissions and was mindful of the fact that Dr Alla’s fitness to practice was impaired due to XXX and because of a serious criminal conviction pertaining to fraud by abuse of position. The Tribunal reminded itself of paragraph XXX of SG XXX.

102. The Tribunal determined that given the gravity of Dr Alla’s conviction, and the fact that he is still serving a custodial sentence, imposing conditions would not be sufficient or appropriate to adequately maintain public trust and confidence in the profession and to uphold proper professional standards.

Suspension

103. The Tribunal then went on to consider whether imposing a period of suspension on Dr Alla’s registration would be appropriate and proportionate.

104. The Tribunal considered paragraphs 91 – 98 of the SG and had regard to the following paragraphs to be relevant in this case:

'91) Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

92) Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).

93) Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions'

97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.

a) A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction

e) No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

f) No evidence of repetition of similar behaviour since incident.

g) The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.

105. The Tribunal was satisfied that Dr Alla's conduct is not fundamentally incompatible with continued registration. Whilst his conviction is serious, it occurred in the context of XXX. The Tribunal was further satisfied Dr Alla had demonstrated remediation, there was no evidence of repetition, and he has demonstrated insight into the seriousness of his behaviour and its wider impact on his professional standing, the profession as a whole and the public.

106. The Tribunal agreed with Mr Jenkins's submissions that there is a public interest in Dr Alla returning to medical practice. Considering the testimonial evidence of his former

colleagues provided for his criminal conviction, he was evidently a competent and hardworking GP. The Tribunal agreed that he still has a lot to offer the profession XXX.

107. The Tribunal took the view that a sanction of suspension is necessary and is the appropriate sanction to ensure that public confidence in the medical profession is not undermined and that proper professional standards and conduct for the members of the profession are promoted and maintained.

Length of suspension

108. In determining the length of suspension the Tribunal had regard to the SG. It reminded itself that the conduct related to the conviction was a serious departure from the principles set out in Good Medical Practice.

109. The Tribunal took the view that any suspension should properly mark the seriousness of the conviction in order to satisfy the public interest limbs of the overarching objective. It also had regard to XXX along with the mitigating factors as set out above.

110. The Tribunal determined that a suspension of three months duration would be sufficient and appropriate in the circumstances. Such a period of suspension would mark the seriousness of the case and send a clear message to the doctor, the profession and public about what is regarded as behaviour unbecoming a registered doctor.

111. The Tribunal determined to direct a review hearing. A review hearing will convene shortly before the end of the period of suspension. A reviewing Tribunal may be assisted by:

- Confirmation that Dr Alla has completed his suspended sentence;
- XXX;
- XXX;
- Evidence of continuing engagement with those authorities which may help him to return to practice.

Determination on Immediate Order - 04/11/2022

112. Having determined that Dr Alla's registration be suspended for a period of three months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Alla's registration should be subject to an immediate order.

Submissions

113. On behalf of the GMC, Mr Dite referred the Tribunal to the following relevant paragraphs of the SG in relation to immediate orders:

172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.

173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.

114. Mr Dite submitted that an immediate order was necessary. He informed the Tribunal of Dr Alla's current interim order of conditions and submitted that they were focused around XXX. However, given the Tribunal's findings in relation to maintaining public confidence in the profession, an immediate order was necessary.

115. On behalf of Dr Alla, Mr Jenkins submitted that it was proper to leave the interim order in place as it was designed to provide suitable protections. He submitted that there are circumstances when an immediate order is necessary, however, it is not necessary in this case. He submitted that the Tribunal determined that three months suspension was the appropriate sanction, and to add to that would be unfair.

The Tribunal's Determination

116. The Tribunal has taken account of the submissions made by parties and the relevant paragraphs of the SG.

117. The LQC advised the Tribunal that it should consider whether there is a need to put measures in place to *“protect members of the public”, “in the public interest”, or “in the best interests of the doctor”*.

118. The LQC further advised that the sanction directed to be imposed would not take effect for 28 days, or if an appeal is lodged, until the outcome of that appeal is known.

119. Taking into account all the circumstances, the Tribunal determined that it was not necessary to impose an immediate order. It considered that immediate action was not necessary to protect confidence in the medical profession which is served by the substantive order of three months suspension.

120. This means that Dr Alla’s registration will be suspended from the Medical Register 28 days from the date on which written notification of this decision is deemed to have been served, unless he lodges an appeal. The Tribunal determined that it was not necessary to revoke the interim order of conditions. If Dr Alla does lodge an appeal he will remain subject to the interim order of conditions which can be extended by the High Court until the outcome of any appeal is known.

121. That concludes the case.