

PUBLIC RECORD

Dates: 02/09/2024 - 04/09/2024

Medical Practitioner's name: Dr Purandhar NOSINA
GMC reference number: 6072251
Primary medical qualification: MB BS 2002 NTR University of Health Sciences

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

Summary of outcome

Warning

Tribunal:

Legally Qualified Chair	Mr Angus Macpherson
Lay Tribunal Member:	Mr Andrew Gell
Medical Tribunal Member:	Dr Muhammad Dadibhai
Tribunal Clerk:	Ms Jemine Pemu

Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Ms Hannah Thomas, Counsel, instructed by the Medical Protection Society
GMC Representative:	Mr Chris Hamlet, 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 the Facts and Impairment - 04/09/2024

(1) FACTS

1. This determination will be handed down in private. However, as this case concerns Dr Nosina's misconduct a redacted version will be published at the close of the hearing.

Background

2. Dr Nosina qualified with MB BS in 2002 from NTR University of Health Sciences India and prior to the events which are the subject of the hearing, Dr Nosina was working as a Locum and salaried General Practitioner at various sites across the UK. At the time of the events Dr Nosina was practising as a freelance Locum GP.

3. The allegation that has led to Dr Nosina's hearing can be summarised as follows. In December 2020 Dr Nosina sent malicious communications to Mr A and a threatening email to Ms B. It is alleged that Dr Nosina's actions caused distress to Mr A and Ms B. It is also alleged that in January 2021, Dr Nosina met with a Police Officer from Bedfordshire Police and accepted a Community Resolution Order. It is further alleged that in June 2022, Dr Nosina attended at Lanark Sheriff Court and received an absolute discharge for his actions. Further, it is alleged that Dr Nosina failed to notify the GMC without delay that he had committed a criminal offence and accepted a Community Resolution Order.

4. The initial concerns were raised with the GMC on 24 June 2021 by Mr A, XXX. He informed the GMC that Dr Nosina had sent unwanted communications to him which had been reported to Bedfordshire Police in England, and Police Scotland.

The Outcome of Applications Made during the Facts Stage

5. The Tribunal granted an unopposed application from Ms Thomas, Counsel on behalf of Dr Nosina, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that parts of the hearing be held in private by reason that they concerned XXX.

The Allegation and the Doctor's Response

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

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

1. Between 8 December 2020 and 9 December 2020, you sent malicious communications to Mr A, the details of which are set out in Schedule 1.
Admitted and found proved
2. On 9 December 2020, you sent a threatening email to Ms B, the details of which are set out in Schedule 2. **Admitted and found proved**
3. Your actions as set out at:
 - a. paragraph 1 caused distress to:
 - i. Mr A; **Admitted and found proved**
 - ii. Ms B; **Admitted and found proved**
 - b. paragraph 2 caused distress to Ms B. **Admitted and found proved**
4. On 21 January 2021, you met with a Police Officer from Bedfordshire Police and you accepted a Community Resolution Order for your actions detailed at paragraph 1. **Admitted and found proved**
5. On 30 June 2022, you attended at Lanark Sheriff Court and received an absolute discharge for your actions detailed at paragraph 2. **Admitted and found proved**
6. You failed to notify the GMC without delay that, in respect of your actions detailed at paragraph 1, you had:

- a. admitted to committing a criminal offence; **Admitted and found proved**
- b. accepted a Community Resolution Order. **Admitted and found proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct.

The Admitted Facts

7. Dr Nosina admitted the Allegation in its entirety at the outset of the hearing. Therefore, in accordance with Rule 17(2)(e) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), the Tribunal announced all the paragraphs and sub-paragraphs of the Allegation as admitted and found proved. Accordingly, the case proceeded to stage two of the hearing.

(2) IMPAIRMENT

Witness Evidence

8. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Mr A, dated 12 December 2022. He also provided a supplemental witness statement dated 16 August 2023;
- Ms B, dated 31 August 2023;
- Ms C, GMC Investigation Manager, dated 3 April 2024.

9. Dr Nosina provided his own witness statement, dated 5 June 2024. In addition, Dr Nosina provided the Tribunal with an undated CV, CPD certificates dated 8 November 2021- 10 December 2021 and written reflections dated 10 March 2022, 15 June 2022 and 10 August 2022.

Documentary Evidence

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

- Mr A's first witness statement provided to Bedfordshire Police, dated 10 December 2020;
- Mr A's second witness statement provided to Bedfordshire Police, dated 4 January 2021;
- Emails exchanged between Dr Nosina and Mr A, dated December 2020;
- Ms B's witness statement provided to Cumbria Police, dated 10 December 2020;
- Text messages sent to Ms B by Dr Nosina, dated 7 and 8 December 2020;
- Email sent by Ms B to Dr Nosina, dated 9 December 2020;
- Letter enclosing Crime Report from Bedfordshire Police, dated 30 September 2022;
- Dr Nosina's Siebel record, dated 03 April 2024;
- Mr A's referral to the GMC, dated 24 June 2021;
- Certificate of absolute discharge, dated 12 October 2022;
- Full Crime Report provided by Bedfordshire Police, dated 9 December 2020 to 21 January 2021;
- Community Resolution Order, dated 21 January 2021.

11. The Tribunal received various written testimonials, in both personal and professional capacities, on behalf of Dr Nosina from the following people who were aware of the nature of the concerns raised about him:

- Dr D, dated 27 October 2023 and updated 27 August 2024;
- Mrs E, dated 5 November 2023;
- Mr F, dated 10 November 2023;
- Mrs G, dated 29 August 2024.

12. The Tribunal also received a summary of patient feedback for Dr Nosina.

Submissions

On behalf of the GMC

13. On behalf of the GMC, Mr Chris Hamlet, Counsel submitted that the Tribunal should approach the issue of impairment in two stages. It should first determine whether the facts found proved in this hearing amount to misconduct and then whether that misconduct is serious. Then, if the Tribunal concluded that the facts admitted did amount to serious misconduct, it should assess whether Dr Nosina's fitness to practise is currently impaired.

14. Mr Hamlet referred to the case of *Roylance v GMC (No 2)* [2000] 1 AC 311, in which it was said that:

"Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. 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."

15. Mr Hamlet then reminded the Tribunal that 'misconduct' has no statutory definition. It is a matter for the judgement and experience of the Tribunal. He further reminded the Tribunal of the guidance given in *Remedy UK Ltd v GMC* [2010] EWHC 1245 in which Elias LJ derived the following principles from the authorities:

'Misconduct is of two principal kinds: (1) Firstly it may involve sufficiently serious misconduct in the exercise of professional practice such as it can properly be described as misconduct going to fitness to practice; (2) second it can involve conduct of a morally culpable or otherwise disgraceful kind which may and often will occur outside the course of professional conduct itself but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession.'

16. Finally, Mr Hamlet referred the Tribunal to the case of *Nandi v GMC* [2004] EWHC 2317 (Admin), in which it was said that serious misconduct is sometimes described as misconduct which would be considered deplorable by fellow practitioners.

17. Mr Hamlet submitted that the Tribunal is considering malicious communications sent by Dr Nosina to Ms B and XXX Mr A. He submitted that the contents of those communications were intensely private and included intimate details pertaining to Ms B's private life as well as personal images. The communications resulted in formal police action by both Bedfordshire Police and Police Scotland. On any objective analysis, Mr Hamlet submitted that these communications were designed by Dr Nosina to cause Ms B and Mr A significant emotional distress and anxiety and XXX. He submitted that the communications reflected Dr Nosina's reaction to XXX.

18. Mr Hamlet submitted that that Dr Nosina's conduct caused both Ms B and Mr A distress. He submitted that Mr A stated that he was horrified by the content of the messages such that he struggled to work for a fortnight after receiving them. Similarly, he submitted

that Ms B felt threatened and frightened that Dr Nosina would follow through on his subsequent threats to forward the content to her friends, family and employers. He submitted that these reactions were foreseeable.

19. Mr Hamlet submitted that, whilst this conduct occurred in Dr Nosina's private life, the conduct has an impact on his professional standing. He submitted that Dr Nosina's conduct breached paragraphs 75 and 65 of GMP. Mr Hamlet submitted that whilst this case does not directly relate to honesty or integrity, the Tribunal may feel that the behaviour in question is of a nature which would have a tendency to undermine the public's trust in Dr Nosina and the medical profession if they were aware of the full facts including the fact that his conduct resulted in formal criminal proceedings.

20. Mr Hamlet submitted that Dr Nosina's conduct was in response to XXX and his behaviour was heavily coloured by an emotional response to those difficult circumstances. He submitted that the conduct was also confined to an isolated period of time on 8th and 9th December 2020 and there is no evidence of Dr Nosina behaving in a similar way before or since those events. Mr Hamlet submitted that XXX will be subject to highs and lows, and it falls to the Tribunal to determine whether Dr Nosina has taken sufficient steps to address or mitigate the risk of recurrence of this sort of conduct in those circumstances.

21. Mr Hamlet noted that Dr Nosina has undertaken courses in maintaining professional boundaries in November and December 2021. However, he submitted that this will not assist the Tribunal in determining whether Dr Nosina has recognised and addressed the root causes of his reaction to XXX. He noted that Dr Nosina has not included references to any learnings he has gained from those courses in his written reflections other than a reference to an article XXX. Mr Hamlet submitted that Dr Nosina does describe reading an article on XXX. He further referred the Tribunal to a section in which Dr Nosina discussed his learning from a Ted talk that he had viewed on the power of vulnerability, which the Tribunal may think does have some relevance to his reaction in this case.

22. Mr Hamlet submitted that proper credit should be given to Dr Nosina for his admissions, the apologies that he has offered and his recognition that he has let himself and the profession down. Mr Hamlet submitted that Dr Nosina's apology is heartfelt and genuine and the Tribunal may conclude from his response, his reflections and the steps that he has taken since these events, that he has sought to properly acknowledge and address his wrongdoing and he has expressed and developed some insight into how and why it occurred.

23. Mr Hamlet submitted that the Tribunal could not conclude that this conduct is easily remediable or that it has been fully remedied so that there is no discernible risk of it recurring. He submitted that if this conduct was to reoccur, it would again undermine public confidence and trust in the profession. Mr Hamlet submitted that notwithstanding the positive steps that Dr Nosina has taken to develop insight and to acknowledge his wrongdoing, there remains a risk of recurrence because the nature of the wrongdoing is not subject to easy remediation.

24. Mr Hamlet finally submitted that in regard to the wider public interest, two elements are relevant – maintaining public confidence in the profession and upholding proper standards for the profession. Mr Hamlet submitted that an impartial observer would be disturbed by Dr Nosina’s conduct as would a fellow professional. Mr Hamlet therefore submitted that Dr Nosina’s fitness to practise is currently impaired.

On behalf of Dr Nosina

25. Ms Hannah Thomas, Counsel, submitted that Dr Nosina accepted that the charges proved by admission amount to misconduct. She submitted that Dr Nosina recognises that this a serious matter and referred the Tribunal to the reflections within Dr Nosina’s witness statement. She reminded the Tribunal that Dr Nosina made full admissions at an early stage to the police in both sets of proceedings and he accepted the charges at the case examiner stage. She submitted that just because Dr Nosina has accepted that his actions amount to misconduct, it does not follow that his fitness to practice is currently impaired. Ms Thomas reminded the Tribunal that these events took place in December 2020 in the height of the COVID pandemic. She submitted that Dr Nosina’s actions since 2020 will be equally as important as those at the time of the misconduct in addressing the topic of current impairment.

26. Ms Thomas reminded the Tribunal that the criminal matters concluded with a Community Resolution Order in the English case and an absolute discharge in the Scottish case. She submitted that this is the lowest possible form of punishment, equivalent to no further action being taken in an MPTS Case. Ms Thomas submitted that this does not take away the seriousness of the offending, but it is significant that law enforcement agencies and the courts dealing with the doctor at the time accepted what he had to say about why he acted as he did and did not think there was a risk of repetition in his behaviour and no need to protect the public in that regard. She submitted that the second factor is that Dr Nosina’s conduct amounted to an isolated incident which took place over less than 48 hours as it was

simply an overnight period. She submitted that all of these behaviours occurred in a very short period of time in an otherwise unblemished career.

27. Ms Thomas submitted that Dr Nosina is XXX years old, he has been a GP since 2010 and has never been in trouble with the police, nor has there been any fitness to practise history at all. She submitted that Dr Nosina has made apologies as set out in his witness statement. Ms Thomas submitted that the ability to accept wrongdoing and offer apologies to those impacted by your actions is a positive testament and something the public would want to know the doctor had done. She submitted that Dr Nosina's conduct at the time came from a place of hurt; that, as he sets out in his witness statement, he XXX. Ms Thomas urged the Tribunal to remember that, during this time, Dr Nosina was alone in the pandemic, in the Maldives, on a holiday XXX.

28. Ms Thomas continued to refer to Dr Nosina's witness statement to inform the Tribunal of his state of mind when he sent the communications. She submitted that, during this period, XXX.

29. Ms Thomas submitted that this does not excuse Dr Nosina's behaviour, but it is relevant for the Tribunal to understand the place he was coming from. She submitted that Dr Nosina reported XXX. Ms Thomas submitted that this should go towards the Tribunal's assessment of the risk of repetition. She submitted that the circumstances that pertained at that time no longer exist. She submitted that we are no longer in the Covid Pandemic and Dr Nosina had XXX. Ms Thomas submitted that Dr Nosina is XXX. He is married. His wife provided a very positive testimonial. It clear that Dr Nosina has shared his guilt and regret for what he did to Mr A and Ms B with his wife which shows that he has learned from his conduct.

30. Ms Thomas submitted that Dr Nosina has accepted his guilt at every stage right from the outset, both in the police proceedings and then with the GMC. She directed the Tribunal to evidence of Dr Nosina emailing the police, chasing them up, seeking follow up to get his matter dealt with and ultimately resulting in the Community Resolution Order. Ms Thomas submitted that Dr Nosina's witness statement shows guilt, regret and deep shame for his actions, something with which he now lives with every day. She submitted that since the events of December 2020 Dr Nosina has done remedial work XXX and on professional boundaries. Ms Thomas submitted that Dr Nosina's reflections and learning are significant he has tried to identify the root cause of his misconduct and has completed targeted learning, reflection and remediation XXX. She submitted that Dr Nosina has also been reading around professionalism and learned that professionalism means acting both in private and

professional life in a way that upholds public confidence in the profession. He sets out that he has understood that, and he recognises, as he said his witness statement, that his actions have let the public down.

31. Ms Thomas directed the Tribunal to the guidance on warnings and submitted that a warning would be appropriate in this case. She submitted that whilst warnings do not restrict a doctor's practice, they should nonetheless be viewed as a serious response appropriate for those concerns that fall just below the threshold for finding impaired fitness to practice and should be viewed as a deterrent. She submitted that warnings are intended to remind the doctor that the conduct or behaviour fell significantly below the standard expected, and that repetition will likely result in a finding of impaired fitness to practice. Ms Thomas further stated that warnings also have the effect of highlighting to the wider profession that certain conduct or behaviour is unacceptable which is applicable in this case. She asked that the Tribunal consider factors including the level of insight, a genuine expression of regret or apology, previous good history, whether the incident was isolated, or whether there's been any repetition.

32. Ms Thomas submitted that the rehabilitative or corrective steps taken, and the relevant and appropriate references and testimonials, in this case indicate that it should be dealt with by a warning. She submitted that it would show the doctor that his conduct is unacceptable, which he knows, and would show the public that the Tribunal found it to be unacceptable. It would also reflect all the specific circumstances that caused Dr Nosina to act as he did in December 2020.

33. Ms Thomas submitted that the Tribunal should take into account Dr Nosina's previous unblemished history, the lack of evidence of any further conduct which could cause any concern and recognise that there was little risk of repetition. It should conclude that the grounds for a finding of impairment are not met. She submitted that, the Tribunal could, if it wished, impose a warning.

The Relevant Legal Principles

34. 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.

35. The Tribunal has given careful consideration to all of the evidence that has been adduced during the course of these proceedings. The Tribunal has borne in mind all three limbs of the statutory overarching objective: to protect and promote the health, safety and wellbeing 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 the medical profession.

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. The Tribunal was also mindful of the review aspect of the case, as to whether Dr Nosina's fitness to practise continued to be impaired by reason of the misconduct that resulted in the suspension being placed upon his registration.

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

38. The Tribunal was reminded that there is no statutory definition of impairment. The Tribunal was referred to 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 927 (Admin) ('*Grant*').

39. The Tribunal were advised that the purpose of fitness to practise hearings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. Consequently, the test of current impairment is a forward looking one. This Tribunal must determine whether Dr Nosina'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.

40. The Tribunal is concerned with the Nosina's fitness to practice today and going forwards.

41. The LQC also drew the Tribunal's attention to *Cohen v GMC* (2008) EWHC 581 in which the Court held that the task of the panel, in considering impairment, is to take account

of the practitioner’s misconduct and then consider it in light of all the other relevant factors known to them. The Court stated that it will be highly relevant in determining if fitness to practise is impaired to consider:

- whether the practitioner’s misconduct is easily remediable;
- whether the misconduct has been remedied; and
- whether the misconduct is likely to be repeated.

The Tribunal’s Determination on Impairment

42. The Tribunal has considered the Allegation, all of the evidence before it and the submissions that it has heard in order to make its findings on Misconduct and current Impairment.

Misconduct

43. The Tribunal first considered whether the facts found proved, as admitted by Dr Nosina, amount to misconduct. Misconduct can be found in circumstances where there have been serious departures from expected standards of conduct and behaviour, often identified by reference to the paragraphs of GMP and where relevant, other guidance for doctors.

44. Dr Nosina admitted that his actions as set out in the Allegation amounted to misconduct. However, misconduct is a matter for the Tribunal to determine based on its own professional experience.

45. The Tribunal had regard to the following paragraphs of Good Medical Practice dated 2013 (‘GMP’) as suggested by Mr Hamlet:

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

75 You must tell us without delay if, anywhere in the world:

- a ...*
- b you have been charged with or found guilty of a criminal offence*
- c’*

46. The Tribunal also found paragraph 1 of GMP to be relevant:

‘1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.’

47. The Tribunal had regard to the duties of a doctor registered with the GMC outlined within GMP which states, *‘Never abuse your patients’ trust in you or the public’s trust in the profession.’*

48. The Tribunal had regard to the background of this case. XXX.

49. The Tribunal had regard to Mr A’s first witness statement provided to Bedfordshire Police, dated 10 December 2020:

‘XXX

Following this conversation with [Dr Nosina] I heard nothing else from him until TUESDAY 8th DECEMBER 2020. At 18:36 hours I received an email from...XXX...

There was a message with the email saying “XXX”. My initial reaction was one of shock, disgust, horror and fear. The pictures were disgusting. I immediately thought this email was from [Dr Nosina].

I then received a further email from the same email address saying “thought you might want to know a bit more XXX...”

I then received a further four emails all I believe to be from [Dr Nosina]...

Having received these emails I sent a text message to [Dr Nosina] on the phone number he originally contacted me on. I told him the contact was unwanted and had to stop. I sent this on TUESDAY 8th DECEMBER 2020 at 21:27 hours. I got a reply via email titled ‘Apologies’ as detailed above. [Dr Nosina] stated he deleted the text message without reading it. I therefore sent it to him again. Since then I have had no contact with him.’

50. The 'Apologies' email which was sent on 9 December 2020 at 04.45 included the following:

*'Sorry; I didn't read your text last night. Just deleted it without reading it.
XXX. I am not apologising for sending you those emails, but I do apologise for not
sending them sooner, I wish you good luck and I hope you will be happy.
Good luck and Goodbye.'*

51. Mr A continued in his witness statement dated 10 December 2020:

I informed [Ms B] of the contact XXX. She was horrified and said she was scared. XXX...'

52. Dr Nosina stated in his witness statement to the GMC dated 5 June 2024:

'XXX'

53. The Tribunal considered the Community Resolution Crime/Process Report made on 9 December 2020 following Mr A reporting Dr Nosina's offence to the police:

'The offender has sent unwanted emails to the victim XXX.

...

The victim stated that he was discussed (sic) by the behaviour of the suspect who is a GP.

...

The victim wants the DP to be taken all the way to court.'

54. The Tribunal took into account that Ms B in her witness statement, dated 31 August 2023 stated:

'On 8 December 2020, Dr Nosina sent XXX. Dr Nosina also messaged me via WhatsApp threatening to send XXX to my family, friends, and employer. I believed that my privacy had been violated and I was being threatened with further intimidation so I decided to report this to the police. XXX.'

55. The WhatsApp messages to which Ms B referred were as follows:

'XXX'

56. At 19:28 on 8 December 2018, Ms B responded on WhatsApp as follows:

'I'm not treating you badly. XXX. I can't believe what you've just done. You have crossed the line. What you've done is illegal. A serious mistake. I hope you come to your senses and realise what you've done. I'm shocked that you could try to damage me like this...'

57. The Tribunal then noted the email to which Ms B referred in her statement to Lanarkshire Police on 10 December 2020 which she had received from Dr Nosina on 9 December 2020, which included the following:

'I am not going to say sorry for what I did. XXX

...

And finally criminal act, what I did is not a criminal act. If it's a criminal act then all journalists would be in jail for exposing truth to the world. XXX. I don't care if something happens to me anymore. So feel free to go to police if it is a criminal act. As a final threat, I would pass on all those details I sent to Mr A to your XXX work place and your friends and family so that they can also see what type of person you really are. Don't take this a threat because I am not trying to threaten you, I see it as whistle blowing and character reference.'

58. The Tribunal reminded itself of Mr A's witness statement for the GMC, dated 12 December 2022, in which he stated:

'The images affected me deeply irrespective of my gender, race, or religion. They were completely unwanted, and I found them disgusting. I was horrified by the content and struggled to work for two weeks after receiving them.'

59. The Tribunal also bore in mind that Ms B in her witness statement, dated 31 August 2023 stated:

'Dr Nosina's actions made me feel threatened and frightened. I was terrified that he would send images and messages to XXX, to my managers and to my parents. I fully believed that he was capable of doing this. I felt that he was trying to destroy me, my reputation, my employment, and family relationships.'

60. The Tribunal considered the context surrounding Dr Nosina’s conduct including XXX. The Tribunal concluded that, notwithstanding this context, a finding of misconduct is appropriate. It considered that the misconduct was serious. It bore in mind that Dr Nosina failed to exercise self-control and restraint in dealing with his emotions. The Tribunal found the doctors conduct to be deplorable and unconscionable.

61. The Tribunal concluded that Dr Nosina’s conduct fell far short of the standards of conduct reasonably to be expected of a doctor so as to amount to misconduct.

Impairment

62. The Tribunal having found that the facts found proved amounted to misconduct, went on to consider whether, as a result of that misconduct, Dr Nosina’s fitness to practise is currently impaired.

63. The Tribunal found that Dr Nosina’s conduct was the outcome of a particular combination of circumstances. It bore in mind XXX at the time, the fact that he was alone on holiday in the Maldives XXX. It also reminded itself that this was during the Covid Pandemic and the communications took place over a period of less than 48 hours.

64. The Tribunal noted that this was not the first time that Dr Nosina has experienced XXX. Within his witness statement, Dr Nosina stated:

‘XXX’

65. The Tribunal bore in mind that Dr Nosina XXX. It concluded that Dr Nosina’s conduct was the outcome of a unique situation, and it is unlikely that this particular set of circumstances would arise again.

66. The Tribunal had regard to Dr Nosina’s witness statement, dated 5 June 2024. He stated:

‘I am very sorry for my behaviour. I am utterly mortified and ashamed. My actions were unacceptable and I cannot now believe that I acted as I did. I feel that I have let the profession, my regulator, XXX, and myself down. Most importantly, I am utterly devastated that I caused such distress to Ms B, XXX, and to Mr A XXX. I mentioned at the start of this statement that I was raised by good parents who taught me to do no

harm to others and I understand that by my actions I did not uphold the important values my parents instilled in me.

...

I understand that my behaviour, although not linked to my practice as a doctor, will inevitably impact public confidence in the profession as it is not appropriate for doctors to act as I did. I have very carefully reflected on my behaviour over the last three and a half years and have taken steps to remediate my actions and attempt to restore public confidence in me as a doctor. I have engaged in relevant CPD and I exhibit the certificates at PN-2. I also exhibit my written reflections at PN-3.

...

XXX.

Nothing I have said above excuses or justifies my actions in any way but I wanted to ensure the Tribunal understood the background to my actions, that it was entirely out of character for me, and that I have taken steps to better myself and ensure I do not repeat these actions again.'

67. The Tribunal was mindful of Dr Nosina's efforts to contact the police to assist with their investigation. It noted the following entry in the Crime Report Print dated 30 December 2020:

'Suspect NOSINA has called today in reply to the letter that was posted through his door on 291220.

He stated that he knows what this is about and that he was very angry at the time that he sent the messages to [Ms B] and [Mr A], XXX. He stated that he has sent apologies to both. XXX...'

68. When Dr Nosina received the CRO on 21 January 2021, the closing report from the police offer records as follows:

'After caution he stated that when he received the police letter through the door he had realised what he had done. He stated that he knew it was a mistake about at the time of sending the emails to the victim he was distraught and angry XXX.'

69. The Tribunal bore in mind that since the incident, Dr Nosina has completed courses in Professional Boundaries in Practice and Maintaining Professional Boundaries.

70. The Tribunal also took into consideration Dr Nosina’s reflections dated 15 June 2022:

‘Reading about GMC’s “good medical practice” guidelines.

Reflect on Domain 4 of the GMP under the heading “Act with honest and integrity”

....

I learnt by reading this article and from attending the “maintaining professional boundaries” course how important it is to behave like a professional / doctor not only at work with patients, but also with general public, to maintain the public’s trust in the profession.

I was genuinely not aware that a Community Resolution Order meets the threshold to inform GMC. If I was aware of this, I would have informed GMC and be open about it right from the beginning.

...

The recent incident [Ms B] that led to a GMC investigation, has certainly made a big impact on my personal and professional life.

I learnt a lot during this process, which I am certain will be highly valuable for me in my career and in my personal life.

I will abide to the standards set by the GMC and behave in a way that would maintain my patient’s and public’s trust in me.’

71. The Tribunal also considered Dr Nosina’s reflections dated 10 March 2022:

‘XXX

I understood, it is common for many to be XXX what went wrong and find ways to fix it, and these responses may vary in intensity and time and can last weeks, months and years sometimes. I was doing this myself, and the course of actions I have taken which led to a GMC investigation was part of me trying to fix the problem. However, it is very clear, that acting in an emotional way has made things worse instead of repairing it. I also made an enemy of [Ms B] which was the last thing I wanted to happen.

XXX

The above learning will definitely have an impact on my future personal growth. I learnt how to accept XXX.’

72. The Tribunal took the view that Dr Nosina has sought to address his behaviour in as complete and appropriate way as could have been expected of him by way of remediation. It noted that Dr Nosina has admitted to the charges at every stage of the investigations and proceedings. The Tribunal bore in mind that within these admissions Dr Nosina has acknowledged the impact of his actions on the victims, his family, his own reputation and the reputation of the medical profession. It further noted that Dr Nosina has completed a wide range of remedial work XXX (including addressing shame and vulnerability) and on professional boundaries. The Tribunal considered the fact that Dr Nosina has not attempted to contact Ms B or Mr A XXX. It also noted the absence of any repetition of his behaviour since 2020.

73. The Tribunal concluded from the evidence before it that Dr Nosina has shown a high level of insight into his conduct since an early stage. It accepted that Dr Nosina has acknowledged the impact of his conduct on his victims, the reputation of the medical profession, and his family.

74. The Tribunal also took into consideration the range of positive testimonials from colleagues who were aware of the nature of the concerns raised about Dr Nosina and the patient feedback received on his behalf. It noted that there were no concerns in relation to Dr Nosina's clinical practice or concerns surrounding patient safety. In particular, the Tribunal considered a testimonial from Dr D, dated 27 August 2024. Dr D was a partner in the GP practice in Hitchin where Dr Nosina worked in 2018/19.

'I can confirm that in my opinion Dr Nosina clinically is a competent, conscientious, and caring practitioner. He has always received positive feedback from patients during his times working at the surgery. He is known to be sympathetic & kind. There have been no complaints raised from patients & he remains a popular doctor due to his knowledge, manner & empathy towards others.'

75. The Tribunal also considered a testimonial by Mrs G, Dr Nosina's wife, dated 29 August 2024:

'I am aware of the nature of the concerns raised about Dr Nosina, and that the case has been referred to a hearing before the Medical Practitioners Tribunal. I am content for my testimonial to be provided to the Tribunal. I am giving this testimonial based on the intimate knowledge of Dr Nosina's character.'

When I met Dr. Nosina I knew about the situation that happened to him, and that he sent an email to XXX Ms B and XXX Mr A. I am aware of the contents in those emails. When we met and started our communication and relationship he honestly told me about it and repeated many times how he regretted what he did. For several years now, XXX, he feels guilty, upset and feel regretful about what he did. In my opinion, Dr. Nosina is a wonderful, kind, intelligent and decent person and doctor. He is respected by friends and patients. During our marriage, we opened XXX together and we have many grateful clients. Our clients always speak very well of the doctor Nosina and consider him a great professional, as do I. Our clients appreciate him very much, always leave positive reviews. I think that he is a wonderful kind person and doctor. XXX.'

76. The Tribunal also bore in mind the outcome of the criminal proceedings brought against Dr Nosina. It noted that Dr Nosina received an absolute discharge and a community resolution order. The Tribunal concluded that his behaviour was uncharacteristic and that at the material time he was XXX. It considered that the risk of repetition in this case is negligible.

77. The Tribunal has borne in mind the GMC's over-arching statutory objectives in section 1(1A) and 1(1B) of the Medical Act 1983, and the specific need highlighted in *Grant* and other cases not to lose sight of these principles.

78. The Tribunal agreed with the submissions of Mr Hamlet and Ms Thomas that primarily this is a case about the public interest which centres around sub-paragraphs (b) and (c) of section 1(1A) of the 1983 Act. The Tribunal does not consider Dr Nosina to present a current risk to members of the public. The key question for the Tribunal, emphasised by Mrs Justice Cox at paragraph 74 of her judgment in the case of *Grant*, is whether:

'the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances'.

79. The Tribunal bore in mind that this was a one-off incident that took place over less than a 48-hour period. It also noted the submissions of Ms Thomas that Dr Nosina was XXX at the time. The Tribunal concluded that the public would be appalled and strongly disapprove of Dr Nosina's conduct. Nevertheless, it determined that a member of the public would not be dismayed if a finding of current impairment was not made if that member of the public

had full knowledge of the circumstances surrounding the case, XXX, the short duration in which the conduct occurred, Dr Nosina’s high level of insight and the low risk of repetition.

80. Dr Nosina’s misconduct was a XXX. The Tribunal recognises that the facts found proved occurred over a period of less than 48 hours and that individually and cumulatively they amount to serious misconduct. However, the Tribunal was mindful of the extent of Dr Nosina’s insight and the remedial steps he has undertaken. There has been no repetition of any similar incident in the almost four years since the incident occurred and by all accounts Dr Nosina is a competent doctor who presents no material danger to the public and can provide considerable useful future service to society.

81. Standing back, and looking at the case overall, the Tribunal is not satisfied that public confidence and the need to uphold proper professional standards would be undermined if a finding of impairment was not made in the particular circumstances of this case. It is very much a case on its own facts. Accordingly, the Tribunal did not consider that a finding of impairment is warranted in this case.

82. Therefore, the Tribunal found that Dr Nosina’s fitness to practise is not currently impaired.

83. In accordance with section 35D (3) of the Medical Act 1983, and Rule 17(2)(m) of the GMC (Fitness to Practice) Rules 2004, the Tribunal will nevertheless consider whether a warning should be imposed.

Determination on Warning - 04/09/2024

84. This determination will be handed down in private. However, as this case concerns Dr Nosina’s misconduct, a redacted version will be published at the close of the hearing.

85. As the Tribunal determined that Dr Nosina’s fitness to practise was not impaired it considered whether, in accordance with s35D(3) of the 1983 Act, a warning was required.

Submissions

On behalf of the GMC

86. On behalf of the GMC, Mr Hamlet referred to relevant paragraphs of the GMC's 'Guidance on warnings' document dated April 2024 ('Guidance') and the Sanctions Guidance (5 February 2024). He submitted that warnings are important for upholding the overarching objective in cases where a finding of impairment has not been made. Mr Hamlet submitted that in this case the Tribunal had identified significant and specific breaches of GMP. He submitted that a warning should be imposed in this case in order to promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the medical profession.

87. Mr Hamlet submitted it is important to issue a warning where if, in the future, such behaviour was to be repeated, a finding of impairment would likely follow. He submitted that issuing a warning in this case would represent a serious and necessary response to Dr Nosina's serious misconduct. He submitted that a warning would have a deterrent effect, and serve as a reminder not only to Dr Nosina but also to the wider public and the profession that the behaviour which he exhibited was not acceptable. Mr Hamlet submitted that imposing a warning would also reassure members of the public appalled by and strongly disapproving of Dr Nosina's conduct that formal action has been taken in response to conduct of that nature.

88. Mr Hamlet acknowledged that the rationale of the Tribunal, in its determination on the facts and impairment, indicated that there may be little need to deter Dr Nosina from behaving in a similar fashion given that the circumstances in which he came to behave as he did are unlikely to reoccur, and because of the insight and remediation which he has shown.

89. Mr Hamlet submitted that, in all of the circumstances, a warning was the appropriate way forward as it meant that the warning would be recorded against Dr Nosina's registration and, should there be a repetition of this, or similar behaviour by him, it would likely result in a finding of impairment of his fitness to practise.

On behalf of Dr Nosina

90. Ms Thomas reminded the Tribunal of her previous submissions that this is a case where it would be appropriate for a warning to be imposed, should the Tribunal still consider it to be appropriate. She stated that those submissions were made prior to the Tribunal's determination on impairment in which the Tribunal outlined the factors that led to its conclusion that Dr Nosina's fitness to practice was not impaired. Ms Thomas submitted that the *Guidance on warnings* describes warnings as a deterrent, intended to remind doctors that their conduct or behaviour has fallen 'significantly' below the standards expected, and

that a repetition is likely to lead to a finding of impaired fitness to practise. Warnings also highlighted to the wider profession that certain conduct or behaviour is unacceptable.

91. Ms Thomas referred to *PSA for H&SC v. GMC and Uppal [2015] EWHC 1304 (Admin)* and submitted that a warning may be appropriate to show the public that some sort of action has been taken in response to Dr Nosina's conduct.

The Relevant Legal Principles

92. The Tribunal received and accepted the legal advice of the LQC.

93. The Tribunal was advised that whether a warning should be given was a matter for the Tribunal having regard to all the evidence, representations made, and any relevant guidance.

94. The purpose of a warning is to allow a Tribunal to indicate to a doctor that any given conduct, practice or behaviour represents a departure from the standards expected of a member of the profession and should not be repeated.

95. The Tribunal was directed to s35D(3) of the Medical Act 1983, which says:

"Where the Tribunal find that the person's fitness to practise is not impaired they may nevertheless give [the practitioner] a warning regarding [their] future conduct or performance."

96. The LQC reminded the Tribunal that its central role was to protect the public which includes protecting patients, maintaining public confidence in the profession, and declaring and upholding proper standards of conduct and behaviour. Therefore, it must consider under Rule 17(2)(n) of the Rules whether to take no action or issue a warning if the doctor's conduct significantly departed from the guidance in GMP.

97. A warning will be appropriate if there is evidence to suggest that the practitioner's behaviour or performance has fallen below the standard expected, to a degree which warrants a formal response by the Tribunal. It will be appropriate where there has been a significant departure from GMP. There is no definition of the word "*significant*" in the Medical Act or the *Guidance on warnings* and it should be given its ordinary meaning.

98. The Tribunal should have regard to the current *Guidance on warnings*. The factors to be taken into account include:

1. A clear and specific breach of guidance
2. The practitioner’s conduct approaches, but falls short of, the threshold for a finding of impairment
3. The concerns being sufficiently serious that if there were a repetition they would likely result in a finding of impaired fitness to practice.
4. A need to formally record the particular concerns.

99. The Tribunal was advised to have regard to the *Guidance on warnings*, specifically paragraphs 10, 11, 16, 20 and 32 which state:

‘Paragraph 10:

“The power to issue warnings, together with other powers available to the GMC and to MPTS tribunals, is central to their role of protecting the public which includes protecting patients, maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.”

Paragraph 11:

“Warnings allow the GMC and MPTS tribunals to indicate to a doctor that any given conduct, practice or behaviour represents a departure from the standards expected of members of the profession and should not be repeated. They are a formal response from the GMC and MPTS tribunals in the interests of maintaining good professional standards and public confidence in doctors. The recording of warnings allows the GMC to identify any repetition of the particular conduct, practice or behaviour and to take appropriate action in that event. Breach of a warning may be taken into account by a tribunal in relation to a future case against a doctor, or may itself comprise misconduct serious enough to lead to a finding of impaired fitness to practise.”

Paragraph 16:

“A warning will be appropriate if there is evidence to suggest that the practitioner’s behaviour or performance has fallen below the standard expected to a degree

warranting a formal response by the GMC or by a MPTS tribunal. A warning will therefore be appropriate in the following circumstances:

- there has been a significant departure from Good medical practice, or
- there is a significant cause for concern following an assessment of the doctor's performance."

Paragraph 20:

"The decision makers should take account of the following factors to determine whether it is appropriate to issue a warning.

- a. There has been a clear and specific breach of Good medical practice or our supplementary guidance.*
- b. The particular conduct, behaviour or performance approaches, but falls short of, the threshold for the realistic prospect test or in a case before a tribunal, that the doctor's fitness to practise has not been found to be impaired.*
- c. A warning will be appropriate when the concerns are sufficiently serious that, if there were a repetition, they would likely result in a finding of impaired fitness to practise. Warnings may be an appropriate response to any type of allegation[...]; the decision makers will need to consider the degree to which the conduct, behaviour or performance could affect patient care, public confidence in the profession or the reputation of the profession. If the decision makers consider that a warning is appropriate, the warning should make clear the potential impact of the conduct, behaviour or performance in question, accordingly.*
- d. There is a need to record formally the particular concerns (because additional action may be required in the event of any repetition)."*

Paragraph 32:

"If the decision makers are satisfied that the doctor's fitness to practise is not impaired or that the realistic prospect test is not met, they can take account of a range of factors to determine whether a warning is appropriate. These might include:

- a. the level of insight into the failings*
- b. a genuine expression of regret/apology*
- c. previous good history*
- d. whether the incident was isolated or whether there has been any repetition*

- e. any indicators as to the likelihood of the concerns being repeated*
- f. any rehabilitative/corrective steps taken*
- g. relevant and appropriate references and testimonials.”*

100. The Tribunal considered *PSA for H&SC v. GMC and Uppal [2015] EWHC 1304 (Admin)*. This was a case where there was an isolated lapse of dishonesty in an otherwise unblemished career and where the risk of repetition was extremely low, not least because of Uppal’s insight and the steps she had taken to remediate. The panel concluded that the patients and the public were not at risk. Although public confidence in the profession was maintained by the fact that Uppal had undergone a rigorous disciplinary assessment of her fitness to practise, resulting in a finding of misconduct on her record, the panel ought to have issued Uppal with a warning. Its failure to do so was unduly lenient.

The Tribunal’s Determination on Warning

101. The Tribunal had regard to the submission made by the parties and the Guidance. It also had regard to its Facts and Impairment determination, in particular paragraphs 60, 65, 72 to 75 and 78 to 79.

102. With reference to paragraph 20 of the Guidance, the Tribunal determined that, although Dr Nosina’s fitness to practise has not been found to be impaired, his actions represented a ‘*clear and specific breach*’ of GMP.

103. The Tribunal had regard to the factors at paragraph 32 of the Guidance. The Tribunal was of the view that the serious misconduct was deplorable and unconscionable. The Tribunal was of the view that Dr Nosina had a high level of insight at an early stage. Dr Nosina had expressed regret and had apologised. He was a man of previous good character and there was a low risk of repetition. Furthermore, the conduct had not been repeated in almost four years since the incident. It was a one-off incident that took place in less than a 48-hour period. At the time, Dr Nosina had been XXX and his behaviour was uncharacteristic. Dr Nosina had taken the appropriate remedial steps. Furthermore, Dr Nosina had provided to the Tribunal relevant and appropriate references and testimonials.

104. The Tribunal was of the view that the circumstances surrounding Dr Nosina’s conduct were unique, and his behaviour was not linked to his clinical practice.

105. In having regard to the principle of proportionality and weighing the interests of the public with those of the doctor, the Tribunal was of the view that the limbs of the overarching objective which were of the greatest concern were the need to uphold professional standards and maintain public confidence in the profession. It considered that these outweighed any hardship that might arise from the issue of a warning. The Tribunal was of the view that the public would be dismayed if a warning was not issued.

106. The Tribunal was of the view that a warning was necessary and appropriate if in the future such behaviour was repeated and would serve as a reminder to Dr Nosina of the standard of behaviour that is expected of him. It was of the view that the concerns were serious and therefore a formal response was necessary in the interest of maintaining good professional standards, maintaining public confidence in doctors.

107. For all of these reasons, the Tribunal determined that a warning was necessary and appropriate.

108. The Tribunal determined to issue the following warning in accordance with s35D(3) of the Medical Act 1983 and Rule 17(2)(m) of the Rules:

‘In December 2020 Dr Nosina sent malicious communications to Mr A and a threatening email to Ms B. Dr Nosina’s actions caused distress to Mr A and Ms B. In January 2021, Dr Nosina accepted a Community Resolution Order. In June 2022, Dr Nosina attended at Lanark Sheriff Court and received an absolute discharge for his actions. Dr Nosina failed to notify the GMC without delay that he had committed a criminal offence and accepted a Community Resolution Order. The Tribunal found Dr Nosina’s misconduct to be serious and that he failed to exercise self-control and restraint in dealing with his emotions. It also found Dr Nosina’s conduct to be deplorable and unconscionable.

This conduct does not meet with the standards required of a doctor. It risks bringing the profession into disrepute and it must not be repeated. The required standards are set out in *Good medical practice*. In this case, the following paragraphs of *Good medical practice* are particularly relevant:

‘1 ... *Good doctors...act with integrity and within the law.*’

...

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

...

75 You must tell us without delay if, anywhere in the world:

...

b you have been charged with or found guilty of a criminal offence'

In addition, the recitation of the duties of a doctor registered with the GMC, set out in Good medical practice include the following:

'Never abuse... the public's trust in the profession'

Whilst this failing in itself is not so serious as to require any restriction on Dr Nosina's registration, it is necessary in response to issue this formal warning.

This warning will be published on the medical register in line with our publication and disclosure policy, XXX.'

109. There is no interim order to revoke.

110. That concludes this case.

Schedule 1

Email sent at 18.36hrs on Tuesday 8 December 2020 from XXX

Email sent at 18.49hrs on Tuesday 8 December 2020 from XXX

Email sent at 18.51hrs on Tuesday 8 December 2020 from XXX

Email sent at 18.53hrs on Tuesday 8 December 2020 from XXX

Email sent at 04.45hrs on Wednesday 9 December 2020 from XXX

Schedule 2

Email sent at 04:37hrs on 9 December 2020, from XXX to Ms B's email address, in which you threatened to disclose details XXX, without her consent, to her work place, friends and family.