

## PUBLIC RECORD

Dates: 07/02/2022 - 11/02/2022

Medical Practitioner's name: Dr Raheel MEHBOOB

GMC reference number: 7026998

Primary medical qualification: MB BS 2006 University of Karachi

| Type of case     | Outcome on facts                          | Outcome on impairment |
|------------------|---|-----------------------|
| New - Misconduct | Facts relevant to impairment found proved | Impaired              |

## Summary of outcome

Suspension, 9 months.  
Review hearing directed

## Tribunal:

|                          |                      |
|--------------------------|----------------------|
| Legally Qualified Chair  | Mr Nathan Moxon      |
| Lay Tribunal Member:     | Mr Geoffrey Brighton |
| Medical Tribunal Member: | Dr Ann Smallldridge  |
|                          |                      |
| Tribunal Clerk:          | Miss Racheal Gill    |

## Attendance and Representation:

|  |  |
|--|--|
| Medical Practitioner:                  | Present and represented  |
| Medical Practitioner's Representative: | Mr James Buchanan, Counsel, instructed by Ms Bridget Miles, RadcliffesLeBrasseur |
| GMC Representative:                    | Mr Boyd Morwood, Counsel   |

### Attendance of Press / Public

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

### Overarching Objective

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

### Determination on Facts - 09/02/2022

#### Background

1. Dr Mehboob qualified in 2006 with MBBS from the Dow University of Health Sciences, Karachi and moved to the UK in 2011. Prior to the events which are the subject of the hearing, between January 2018 and August 2019, Dr Mehboob worked as a Specialty Doctor in the Adult Inpatient Unit Liaison Service in Colchester, for the Essex Partnership University Trust ('the Trust'). At the time of the events, Dr Mehboob was working as a Speciality doctor at the Access and Assessment Team at the Trust. Dr Mehboob has been working as a Speciality Trainee 4 doctor in General Adult Psychiatry at the East of England Deanery, Community Mental Health Team in Harlow (part of the Trust) since August 2020.
2. The background and allegation that has led to Dr Mehboob's hearing can be summarised as follows. In October 2019, Dr Mehboob applied to multiple locum agencies, which included an application to Pulse Healthcare Limited 'Pulse Jobs'. As part of the application process, Dr Mehboob was required to provide details of someone who could provide a reference. Dr A, a clinical director for adult mental health services for Northeast Essex since 2008 and was Dr Mehboob's supervising consultant on the Inpatient Unit between January 2018 and August 2019. Dr Mehboob asked Dr A to provide a reference for him around September 2019.
3. On 21 October 2019, Ms C, the Executive Recruitment Consultant at Pulse Jobs, contacted Dr A and requested a medical reference on behalf of Dr Mehboob. On 6 November 2019, Ms C sent a reminder email to Dr A because he had not returned the medical reference. Dr A responded with the requested medical reference form to Pulse Jobs on 7 November 2019, but the second page of the form was missing ('the missing page'). Ms C contacted Dr A again, on 7 November 2019 and 21 November 2019 informing him of the

missing page and asking him to return it completed. On 21 November 2019, Dr Mehboob received an email from Ms D, Recruitment Consultant at Pulse Jobs, containing a request to ask Dr A to complete the missing page. Dr Mehboob sent a completed second page of the medical reference form to Ms D on 22 November 2019.

4. On or before 22 November 2019, Dr Mehboob is alleged to have completed the missing page and sent it to Pulse Jobs. It is further alleged that Dr Mehboob's conduct regarding completing and sending the missing page to Pulse Jobs was dishonest because he knew it was meant to be completed by Dr A.

5. On 27 November 2019, Dr A provided the missing page to Ms C, at Pulse Jobs. Later that same day, Ms D emailed Dr A and informed him that Pulse Jobs had already received it from Dr Mehboob a week prior (22 November 2019). Within this email, Ms D also asked Dr A to confirm whether or not he had completed the missing page that had been received on 22 November 2019. Dr A confirmed that the missing page sent on 22 November had not been completed by him.

6. An investigation into allegations that Dr Mehboob falsified documentation was launched by Pulse Jobs. The Trust undertook an investigation and the matter was referred to the GMC.

### The Allegation and the Doctor's Response

7. The Allegation made against Dr Mehboob is as follows:

1. On 7 November 2019, your referee, Dr A, returned a medical reference form to Pulse Healthcare Limited ('PulseJobs') missing the second page of the form ('the Missing Page').

**Admitted and found proved**

2. On 21 November 2019, you received an email containing a request from Pulse Jobs to ask Dr A to complete the Missing Page.

**Admitted and found proved**

3. On 21 November 2019, PulseJobs sent to you a copy of the reference form identified in paragraph 1 with an incomplete second page.

**Admitted and found proved**

4. You knew the Missing Page was meant to be completed by Dr A.  
**To be determined**
5. On or before 22 November 2019, you completed the Missing Page.  
**Admitted and found proved**
6. On 22 November 2019, you sent the completed Missing Page to Pulse Jobs.  
**Admitted and found proved**
7. Your actions as described at paragraphs 5 and 6 were dishonest by reason of paragraph 4.  
**To be determined**

### **The Admitted Facts**

8. At the outset of these proceedings, through his counsel, Mr James Buchanan, Dr Mehboob made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

### **The Facts to be Determined**

9. In light of Dr Mehboob's response to the Allegation made against him, the Tribunal is required to determine whether Dr Mehboob knew the missing page was meant to be completed by Dr A and whether his actions were dishonest.

### **Evidence**

10. 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:

- Dr A, Consultant Psychiatrist at the Trust;
- Ms B, Group Clinical Auditor at the Acacium Group. Pulse Jobs is part of the Acacium Group.

11. Dr Mehboob provided his own witness statement, dated 17 January 2022 and gave oral evidence at the hearing.

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

- Email correspondence between Dr A and Pulse Jobs;
- Email correspondence between Dr Mehboob and Pulse Jobs;
- Urgent reference request form, dated 22 October 2019 and 27 November 2019;
- Logs of telephone calls between Dr Mehboob and Pulse Jobs during November 2019;
- Incident statement and reflection from Dr Mehboob, dated 5 December 2019;
- Transcript of investigation meeting, dated 28 January 2020;
- Investigation questions into allegations against Dr Mehboob, dated 8 February 2020; and
- Testimonials provided on behalf of Dr Mehboob.

### **The Tribunal's Approach to determining the Facts**

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

1. When exercising its functions, the Tribunal must have particular regard to the statutory overarching objective:
  - a. *To protect, promote and maintain the health, safety and wellbeing of the public;*
  - b. *To promote and maintain public confidence in the medical profession; and*
  - c. *To promote and maintain proper professional standards and conduct for members of that profession.*
2. The General Medical Council has the burden of proving each aspect of the allegation upon the civil standard, which is upon the balance of probabilities. The GMC must establish that it is more likely than not that facts occurred.
3. It is alleged that Dr Mehboob acted dishonestly. The test for dishonesty is as follows:
  - a. The Tribunal must first ascertain (subjectively) the actual state of Dr Mehboob's knowledge or belief as to the facts. The reasonableness or otherwise of his belief may evidence whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it was genuinely held.

- b. Once that had been established the Tribunal must determine whether his conduct was dishonest by applying the objective standards of ordinary decent people. It is not necessary for the individual to appreciate that what he has done is, by those standards, dishonest.
4. For Dr Mehboob to be found dishonest it must be proved to the requisite standard that when he completed and submitted page two of the reference form, he knew that it should have been completed by Dr A.
  5. If the Tribunal finds that the subjective limb is not satisfied, it need not consider the objective limb, and should find dishonesty not proved. If the Tribunal finds that the subjective limb is proved, it must then consider whether ordinary decent people would consider the conduct dishonest.
  6. The papers before the Tribunal contain hearsay evidence, which is evidence that has not been given orally during these proceedings, for example, records of telephone conversations. Hearsay evidence is admissible in these proceedings but the Tribunal must consider the weight, if any, to assign such evidence. When considering hearsay evidence, the Tribunal must consider the extent to which the evidence is agreed or disputed. The source of the evidence should be identified and the Tribunal should consider whether the witness was independent or may have had a purpose of their own or another to serve. The Tribunal must also consider the reliability of the evidence and should identify any mistakes or inconsistencies found in it. There has been no opportunity to see the sources of disputed hearsay evidence tested under cross-examination, for example as to accuracy, truthfulness, ambiguity or misperception, and how the witnesses would have responded to this process. It may be that a witness has not addressed an issue in their written accounts that they may have been questioned about at this hearing.
  7. The Tribunal must consider all of the evidence before it before making findings as to the credibility of any witness. Further, when assessing a witness's credibility, it should not rely exclusively on a witness's demeanour when giving evidence.
  8. The Tribunal has heard that Dr Mehboob is of good character. His good character must be taken into account by the Tribunal when assessing his credibility and the likelihood of him having done what has been alleged. His good character is not a defence to the Allegation, it is simply one factor to take into account when considering all of the evidence in the round. The weight to assign Dr Mehboob's good character is a matter for the Tribunal to determine.

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

### The Tribunal's Analysis of the Evidence and Findings

14. It is alleged that Dr Mehboob knew the missing page was meant to be completed by Dr A, and by completing and sending it to Pulse Jobs, his actions were dishonest. Dr Mehboob contended that he believed it to be a self-assessment form. He stated in his witness statement that he had been expressly told by Pulse Jobs that he could complete the missing page.

15. The practise at Pulse Jobs appears to be that telephone calls are recorded contemporaneously upon a database. Copies of the records of telephone calls between Pulse Jobs and Dr Mehboob were provided by the GMC. The Tribunal took into account that the staff at Pulse Jobs had not provided witness statements nor had they attended the hearing to be questioned. As such, Mr Buchanan did not have the opportunity to test their accounts. Whilst that did impact the weight that could be given to the hearsay evidence, the Tribunal was nevertheless able to give significant weight to it given that the notes of telephone conversations appeared to have been recorded contemporaneously and that there was no good reason why the makers would seek to mislead.

16. One such record, timed 15:59 on 21 November 2019 states that there was a telephone conversation between Ms D and Dr Mehboob. The *"outcome"* of the conversation was that *"will chase up the reference from Dr [A]"*. Within the record it also states: *"wants me to send him the reference form"*.

17. Dr Mehboob denied in oral evidence that a conversation of that nature took place with Ms D. He maintained that he had a lengthy conversation with Ms C that day and that any conversation with Ms D was her confirming that she would send him documents, but her not specifying what those documents were. The Tribunal considered the telephone records to be reliable and persuasive and that there was a conversation between Ms D and Dr Mehboob, where it was agreed that the reference form would be sent to him, as he had requested, and that he would chase completion from Dr A.

18. This conclusion is supported by the email from Ms D to Dr Mehboob on the same day. The subject title of the email was: ‘*Reference*’. The document was an attachment upon the email and the attachment was called: “*Reference – Dr [A] (need second page).pdf*”. The body of the email stated the following:

*“Further to our conversation.*

*Please find attached from Dr [A].*

*Please ask them to complete the second page which is currently missing.*

*Kind Regards”*

19. The attachment was the three-page reference form as partially complete by Dr A.

20. The Tribunal therefore found that the email clearly indicated that the attached reference and, particularly, the missing page, was to be completed by Dr A. The Tribunal rejected as implausible Dr Mehboob’s assertion that he had not read the very short email. The Tribunal considered it implausible that he would print off an attachment of an email that he had not read, or that he would have known to print off only the missing page, as he asserted, had he not read the email. The Tribunal was satisfied that it was far more likely than not that Dr Mehboob had read the email and, together with the previous telephone call, had been made aware that the missing page was to be completed by Dr A.

21. The fact that Dr Mehboob knew that the missing page was to be completed by Dr A, and not himself, was further corroborated by any sensible reading of the document itself. Dr Mehboob stated that he did not properly look at the document and only printed off the missing page as he could see that was the only page not completed. However, the Tribunal considered that even a cursory glance of the document would result in the reader noting the header on page 2, which stated, in capitals: “*URGENT REFERENCE REQUEST*”.

22. Even had only the missing page been read, it was nevertheless clear that it was not to be completed by Dr Mehboob, the applicant, but by a third person. The questions on the missing page specified that the answer should relate the *applicant* of the job.

- *“What dates did the named applicant work for the Trust?”;*
- *“How long did the applicant work for/ with you or under your supervision and in what capacity, ie clinical position/ grade and speciality?;*
- *“Do you believe the named applicant to be honest, conscientious and discreet? If no, please provide further details below.”*

23. The Tribunal concluded that the contents of the form, including the missing page, even if viewed in isolation, was clearly a reference form intended to be completed by a person other than the applicant. No literate person could reasonably have considered otherwise. The Tribunal noted that Dr Mehboob is a qualified medical professional who is required to carefully read and complete forms on a regular basis.

24. Mr Mehboob pursued two broad accounts of how he had come to complete the missing page himself. He stated that he had believed the missing page to be a self-assessment sheet, as he had failed to adequately read the contents as he was in a rush. He has also said that he was expressly told by Pulse Jobs that he could complete the missing page.

25. In relation to the form being a self-assessment form, the Tribunal found, as outlined above, that no reader of the form could reasonably reach that conclusion in light of the manner in which questions were asked. If it was a self-assessment form, the Tribunal would expect there to be room for the applicant to sign to state that their answers were truthful. However, no such signature was requested and instead the missing page stated, at the bottom, *'Continued over page'*, which indicated there was more information to be provided. Further, the Tribunal is satisfied that Dr Mehboob had received information by Ms D, both within the 21 November 2019 telephone call and subsequent email, that the form was a reference to be completed by Dr A.

26. Dr Mehboob also argued that the busyness of his workload had impacted his decision making as an explanation why he submitted the missing page. The Tribunal were of the view that his account of being *"too busy"* was undermined, given that he had made five calls to Pulse Jobs on the same day about other matters. Dr Mehboob changed his account during evidence when cross-examined about those numerous telephone calls and stated he had a quieter workload in the afternoon. Therefore, it did not seem credible to the Tribunal that he would complete the missing page at the busiest time of the day and not wait until his workload was quieter. Dr Mehboob could have completed the missing page at home the previous night, free from distractions, particularly in light of the fact that the form was not part of his work requirements so should have been completed in his spare time in any event.

27. Further, the manner in which he completed the form undermines his assertion that he believed it to be a self-assessment form. The form asked: *"How long did the named applicant work for / with you and under your supervision and in what capacity, ie clinical position / grade and speciality?"* Had Dr Mehboob truly believed that it was a self-assessment form, he would have answered that he continued to be a 'specialist doctor', which was correct at the time he completed the form in October 2019. However, he gave dates of

“04/01/2018 to 04/08/2019” as the period in which he held that capacity of a specialist doctor. That, in fact was the period that he was a specialist doctor under the supervision of Dr A. He therefore clearly completed the question as if he was Dr A, rather than as if it was a self-assessment.

28. Dr Mehboob pursued a different account within his witness statement, in which he stated that he had been explicitly told by Pulse Jobs that he could complete the missing page. He said that on 21 November 2019 he was contacted by Pulse Jobs and that: *“I asked if I could complete it, and I was told, “yes you can do it” and so I agreed to complete and return it.”*

29. The Tribunal considered the account undermined by the fact that it was inconsistent with his assertion of having misunderstood that he was required to complete the form. His account in his witness statement was that he was expressly told that he could complete the form, in which case there could have been no misunderstanding from him but instead he would have been given wrong information from Pulse Jobs.

30. The Tribunal considered it to be highly unlikely that a recruitment consultant would give erroneous or vague instructions, which would lead an innocent candidate to provide fraudulent information. Further, the Tribunal took into account the contents of the record of the telephone call between Ms D and Dr Mehboob and the email that followed, as outlined in paragraph 16 and 18, above. Those records fundamentally undermine Dr Mehboob’s assertion that he was told that he could complete the missing page, as they clearly outlined that it was to be completed by Dr A.

31. Dr Mehboob’s argument is further undermined by Pulse Job’s actions thereafter. Ms D emailed Dr A on the 27 November 2019 and asked whether or not he had completed the missing page on 22 November, to which Dr A had confirmed he did not recognise the document as part of his reference. The Tribunal considered it was highly unlikely that she would have done this if she had told Dr Mehboob that he could complete the form itself.

32. Moreover, the Tribunal took into account the detailed and contemporaneous notes of the telephone call between Ms C and Dr Mehboob at 9:22 on 28 November 2019, within which the following was recorded:

*“said that hes not happy that we contacted Dr A  
explained that we had to as had received a reference from dr A which was completely  
different to the once he had sent us  
he asked if we could just use Dr A’s reference and leave it*

*said we cant as it neds to be looked into as technically is a fake reference  
he said that he completed it on behalf of dr A and was then going to tell dr A what hed  
put but hasn't had the chance  
and now dr A isnt happy as we emailed to confirm if he completed it or nt  
told him that reference has gone to clients which isnt good*

*he then said he didn't release the reference had to be completed by dr A  
said he thought he had to do it  
queried that he thought he had to complete his own reference?  
said he hasn't done locum in a while thought that was what we meant*

*he asked if we would need to contact dr A again  
said hopefully no but I don't know the procedure so will see  
told him [Ms F] will have to speak to clinical governance about that happens from here  
asked him to email me his reasons"[sic]*

33. There are a number of features of the record that undermine Dr Mehboob's account. Firstly, there is no reference within the record to him protesting that he had been told by Pulse Jobs that he could complete the missing page himself. The Tribunal found that would have most likely been his reaction if the account was truthful. Had Pulse Jobs told him he could complete the missing page, it is not plausible that they would enquire as to his actions, suggest he had submitted a "fake reference" and decide to refer him to clinical governance. Further, and significantly, during that telephone conversation Dr Mehboob pursued two contradictory explanations. He initially stated that he had completed it on behalf of Dr A and was going to tell Dr A afterwards, but then materially altered his account by stating that he thought he was supposed to complete it.

34. Later that morning, Dr Mehboob emailed Ms C on 28 November 2019 with his reasons why he thought it was for him to fill in the page and that he had "totally misinterpreted" what was required of him. The Tribunal noted that in his email to Ms C, Dr Mehboob did not mention he was told by another Pulse consultant that he could complete the form, which he attested in his witness statement.

35. Further, Dr Mehboob did not rely on the account given in his witness statement, namely that he had been told that he could complete the missing page, within his email explanation to Dr A on 27 November 2019, or within his two written accounts and account in interview during the Trust investigation.

36. The Tribunal took into account Dr Mehboob’s oral evidence. Dr Mehboob argued that he would not risk falsifying a medical reference and, in any event, he did not forge a signature or official stamp. The Tribunal rejected both contentions. It considered that the fact that Dr Mehboob did not fake a signature or stamp to be a poor argument as there was nowhere on the page where a stamp or signature was requested. Whilst his actions were unsophisticated and put himself at significant risk of censure, the Tribunal was not satisfied that this was weighty evidence in his favour, particularly when compared with the significant evidence that he had acted as alleged.

37. It was argued on behalf of Mr Mehboob that the investigation by Ms B concluded that his explanations were accepted. The Tribunal did not consider that to be binding or even persuasive as a Medical Practitioners Tribunal is to consider the actions of Dr Mehboob through the lens of specific legal tests and upon consideration of all the evidence before it. It considered that Ms B did not provide definitive reasons for her conclusion and there was no detail of any consideration of dishonesty.

38. The Tribunal received evidence of Dr Mehboob’s good character. This was supported by several testimonials that talked of his probity and integrity. The Tribunal gave this evidence significant weight when considering issues of credibility and the likelihood of him acting as alleged. However, the Tribunal considered the overwhelming evidence against Dr Mehboob outweighed this.

39. The Tribunal was satisfied that the GMC had proved, upon the balance of probabilities, the subjective element of dishonesty, namely that Dr Mehboob knew the missing page was meant to be completed by Dr A, and that when he completed and sent the missing page to Pulse Jobs, he knew it was wrong and dishonest.

40. The Tribunal next considered whether ordinary decent people would consider Dr Mehboob’s actions to be dishonest. The Tribunal determined that any honest and trustworthy job applicant would not knowingly complete a reference page pertaining to be someone else. Had the falsified reference been accepted, Dr Mehboob would have gained an “*excellent*” reference from his own admission, compared to the “*satisfactory*” score that Dr A subsequently provided. Dr Mehboob may have dishonestly benefitted from the lie. The Tribunal was satisfied that such people would find falsifying reference documents pertaining to be someone else is wrong and dishonest.

41. Upon Dr Mehboob’s dishonesty being discovered, he continued to pursue his deceit to all those that have questioned him about his actions, including the GMC and the Tribunal.

42. Accordingly, the Tribunal found paragraph 4 and 7 of the Allegation proved.

#### The Tribunal's Overall Determination on the Facts

43. The Tribunal has determined the facts as follows:

1. On 7 November 2019, your referee, Dr A, returned a medical reference form to Pulse Healthcare Limited ('PulseJobs') missing the second page of the form ('the Missing Page').

**Admitted and found proved**

2. On 21 November 2019, you received an email containing a request from Pulse Jobs to ask Dr A to complete the Missing Page.

**Admitted and found proved**

3. On 21 November 2019, PulseJobs sent to you a copy of the reference form identified in paragraph 1 with an incomplete second page.

**Admitted and found proved**

4. You knew the Missing Page was meant to be completed by Dr A.

**Determined and found proved**

5. On or before 22 November 2019, you completed the Missing Page.

**Admitted and found proved**

6. On 22 November 2019, you sent the completed Missing Page to Pulse Jobs.

**Admitted and found proved**

7. Your actions as described at paragraphs 5 and 6 were dishonest by reason of paragraph 4.

**Determined and found proved**

#### Determination on Impairment - 10/02/2022

44. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Mehboob's fitness to practise is impaired by reason of misconduct.

## Submissions

45. The following is a non-exhaustive summary of submissions made during the impairment stage.

### On behalf of the GMC

46. Mr Morwood submitted that Dr Mehboob's actions amounted to serious misconduct and his fitness to practice is impaired by reason of his dishonesty.

47. Mr Morwood submitted that while the nature of the Allegation did not concern clinical competence, it related to matters directly concerning Dr Mehboob's practise of medicine and the duties and expectations of those around him. Mr Morwood invited the Tribunal to consider the importance of Dr Mehboob's role held at the time of his dishonest conduct, whereby he was in a position of trust and responsibility. Dr Mehboob had been approved by the Secretary of State to detain patients under the Mental Health Act and he had attained membership of the Royal College of Psychiatrists.

48. Mr Morwood submitted that when considering dishonesty, the Tribunal can be guided by the case law of *General Medical Council v Dr Iheanyi Chidi Nwachuku [2017] EWHC 2085 (Admin)*:

*45. Dishonesty encompasses a very wide range of different facts and circumstances. Any instance of it is likely to impair a professional person's fitness to practise: R (Hassan) v General Optical Council [2013] EWHC 1887 per Leggatt J at paragraph [39].*

*46. In this circumstance, the panel have found dishonesty, dishonesty constitutes a breach of fundamental tenets. A finding of dishonesty lies at the top end in the spectrum of gravity of misconduct.*

*47. A finding of impairment does not necessarily follow upon a finding of dishonesty. If misconduct is established, the tribunal must consider as a separate and discrete exercise whether the practitioner's fitness to practise has been impaired: PSA v GMC and Uppal [2015] EWHC 1304 at paragraph [27].*

*48. However, it will be an unusual case where dishonesty is not found to impair fitness to practise: PSA v Health and Care Professions Council & Ghaffar [2014] EWHC 2723 per Carr J at paragraphs [45] and [46].*

49. Mr Morwood submitted that Dr Mehboob's actions included a number of serious departures from Good Medical Practice (2013 edition) ('GMP'). In particular, he highlighted paragraph 77 (set out below) that he submitted was engaged in Dr Mehboob's case. He also agreed that paragraph 71 was engaged.

50. Mr Morwood reminded the Tribunal that Dr Mehboob knew that he was acting in a manner that was wrong and dishonest. By pretending to be someone else, Dr Mehboob may have obtained some advantage as a consequence. Mr Morwood submitted that doctors must act with honesty, trust and integrity. He submitted that Dr Mehboob's conduct fell well below the standard expected of a doctor. He submitted that it is necessary to make a finding of impairment to protect the public and maintain public confidence in the medical profession.

#### On behalf of Dr Mehboob

51. Mr Buchanan submitted that he did not argue against the applicability of the case of *Nwachuku*. He accepted that there has been serious misconduct by way of dishonesty and, as such, Dr Mehboob's fitness to practice is currently impaired. He submitted that he will have submissions in relation to insight and remediation at the further stage of the proceedings.

#### **The Relevant Legal Principles**

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

1. When considering impairment, the Tribunal must have particular regard to the statutory overarching objective:
  - a. To protect, promote and maintain the health, safety and wellbeing of the public;*
  - b. To promote and maintain public confidence in the medical profession; and*
  - c. To promote and maintain proper professional standards and conduct for members of that profession.*
2. There is no burden or standard of proof to adopt.
3. The Tribunal must consider whether or not the facts found proved amount to misconduct, whether the misconduct was serious and whether the misconduct that was serious leads to a finding of impairment. There are two distinct processes: firstly,

to consider whether there has been serious misconduct and secondly, to consider whether this leads to a finding of impairment.

4. There is no legal definition for the word “serious” and the word should be given its ordinary meaning.
5. For the purpose of fitness to practice proceedings, “misconduct” is defined as follows:

*“...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 practitioner in the particular circumstances.”*

6. The Tribunal must determine whether Dr Mehboob’s fitness to practice is impaired today, taking into account his conduct at the time of the events, whether the matters are remediable, whether they have been remedied and the likelihood of repetition. The Tribunal must determine whether he has demonstrated insight, and if so, to what extent.
7. The panel must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.
8. The Tribunal shall consider any paragraphs of Good Medical Practice it believes is applicable. It must consider the versions of Good Medical Practice that was in force at the date of the Allegation.
9. The decision on impairment is a matter for the Tribunal’s judgment alone. Written reasons must be given for the Tribunal’s decision.

## The Tribunal’s Determination on Impairment

### Misconduct

53. In determining whether Dr Mehboob’s fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct.

54. The Tribunal considered that paragraphs 65, 71 and 77 of GMP are engaged 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.*

*71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.*

*a You must take reasonable steps to check the information is correct.*

*b You must not deliberately leave out relevant information*

*77 You must be honest in financial and commercial dealings with patients, employers, insurers and other organisations or individuals.*

55. The Tribunal had regard to its previous determination, whereby it found that Dr Mehboob knew the missing page was meant to be completed by Dr A and that when he completed and sent the missing page to Pulse Jobs, he knew it was wrong and dishonest. It also bore in mind that ordinary and decent people would find falsifying reference documents pertaining to be someone else wrong and dishonest.

56. The Tribunal considered that doctors occupy a position of privilege and trust, and issues of probity and honesty are fundamental tenets of the medical profession. Doctors are expected to act in a manner which maintains public confidence in them and in the medical profession, and to uphold proper standards of conduct. The Tribunal considered that Dr Mehboob's actions fell far below the standards of conduct reasonably to be expected of a doctor.

57. The Tribunal determined that Dr Mehboob's conduct was serious, his actions had brought the medical profession into disrepute and breached fundamental tenets of GMP. The Tribunal determined that Dr Mehboob's dishonesty amounted to misconduct that was serious.

## Impairment

58. Having found that the facts found proved amounted to misconduct, the Tribunal went on to consider whether, as a result of that conduct, Dr Mehboob's fitness to practise is currently impaired.

59. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal looked for evidence of insight and remediation, and the likelihood of repetition, balanced against the three elements of the overarching statutory objective.

60. The Tribunal noted that, whilst Dr Mehboob had admitted that it was wrong to complete the missing page, he had maintained that it had been an innocent error, and within his witness statement asserted that he had been explicitly told to do so. He gave various accounts of what had occurred when asked for an explanation by Pulse Jobs, Dr A, the Trust and the GMC. In each account he had sought to mislead by stating that he had not been dishonest. The Tribunal has rejected this assertion and found his actions to be knowingly dishonest.

61. The Tribunal found that Dr Mehboob continued to maintain a deceit to all those that have questioned him about his actions, including the GMC and the Tribunal.

62. The Tribunal acknowledged that denial of an Allegation does not in itself lead to a conclusion of a complete lack of insight. Dr Mehboob had admitted that completing the missing page was wrong, but had maintained that it was not dishonest. The Tribunal has no information before it that indicated anything more than negligible insight into the seriousness of his actions, or the impact his actions have had on public trust in the medical profession. It noted that Dr Mehboob had not acknowledged in either his witness statement or his oral evidence that dishonesty is unacceptable behaviour. The Tribunal further considered that Dr Mehboob had not demonstrated an understanding of dishonesty.

63. The Tribunal accepted dishonesty was difficult to remediate. However, it had received no evidence that Dr Mehboob has taken any steps to remediate.

64. In light of the lack of evidence of adequate insight or remediation, and the fact that the Tribunal considered that Dr Mehboob had continued to deflect from his dishonesty during his evidence, the Tribunal was satisfied that there was a high risk of repetition of his dishonest behaviour.

65. The Tribunal considered that a reasonable and well-informed member of the public would expect a finding of impairment to be made in this case, both to mark the seriousness of the misconduct, and to uphold proper standards across the medical profession. It considered that Dr Mehboob's misconduct has brought the medical profession into disrepute. The Tribunal considered that public confidence in the profession would be undermined if a finding of impairment were not made in this case.

66. Overall, the Tribunal determined that a finding of impairment was necessary under limbs *b* and *c* of the overarching objective. It therefore determined that Dr Mehboob's fitness to practise is impaired by reason of misconduct.

#### Determination on Sanction - 11/02/2022

67. Having determined that Dr Mehboob's fitness to practise is impaired by reason of misconduct, 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 received further evidence on behalf of Dr Mehboob including:

- A letter from Dr E, Dr Mehboob's clinical supervisor, dated 10 February 2022;
- Completed online learning module 'A guide to clinical ethics committees in psychiatry'.

#### Submissions

70. The following is a non-exhaustive summary of submissions made during the sanction stage.

#### On behalf of the GMC

71. Mr Morwood submitted that the appropriate and proportionate sanction is a period of suspension, referring the Tribunal to the relevant paragraphs of the Sanctions Guidance (November 2020) ('SG'). He submitted that it would not be appropriate to take no action as there are no exceptional circumstances in this case that would justify taking no action.

72. Mr Morwood submitted dishonesty is a serious aggravating factor and action must be taken to promote and maintain both public confidence in the profession and proper professional standards for conduct of the profession. However, he submitted that the misconduct falls short of being fundamentally incompatible with continued registration. He submitted that a period of suspension would send a signal to the doctor, the profession and the public that such behaviour is unbecoming of a doctor.

73. Mr Morwood submitted that the Tribunal must consider the mitigating and aggravating factors. He invited the Tribunal to consider Dr Mehboob position of trust and responsibility, his lack of insight and failure to appreciate the nature of the dishonesty and the assessed risk of repetition. He submitted that Dr Mehboob may utilise the period of suspension to address these matters.

On behalf of Dr Mehboob

74. Mr Buchanan submitted that suspension is a proportionate response in this case. He referred to the case of *Towuaghantse v GMC [2021] EWHC 681 (Admin)*, which he submitted was highly relevant. While he didn't seek to minimise the Tribunal's findings of dishonesty, he invited the Tribunal to exercise caution when making findings of fact not relevant to the allegations. He submitted that when a doctor is found to have lied to a Tribunal, this is bound to impact upon the Tribunal's assessment of insight and remediation. He then urged caution in relation to compounding Dr Mehboob's allegations by reliance on other deceits. Moreover, he submitted that the allegations fell toward the lower end of the scale of dishonesty.

75. Mr Buchanan reminded the Tribunal of the testimonials before it and submitted that in all other respects Dr Mehboob is a good practitioner and is respected by his colleagues insofar as his professional and clinical skills are concerned. He submitted there is a "dearth of psychiatrists" available and that there is a public interest in good practitioners being allowed to continue to serve the community. Furthermore, Mr Buchanan stated that Dr Mehboob is the sole financial provider XXX.

76. Turning to the issue of insight and remediation, Mr Buchanan submitted that while Dr Mehboob has shown far from full insight, there are "green shoots", and he is prepared to engage with the relevant issues. Dr Mehboob has discussed with his clinical supervisor "matters related to ethics and professional integrity and what is expected from clinicians in terms of honesty, truthfulness and transparency in clinical and personal matters." Furthermore, Dr Mehboob has attended a course on ethics in psychiatric practice, organised by the RCPsych, and he has discussed the learning points from that course with his supervisor.

77. Mr Buchanan submitted that Dr Mehboob's actions were not fundamentally incompatible with continued registration, and he should be given the opportunity to develop insight and remediate. He submitted that at a review hearing, Dr Mehboob would have the

opportunity to provide evidence of sufficient insight to demonstrate that he was fit to return to the medical register.

### The Tribunal's approach

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

1. When considering sanction, the Tribunal must again have particular regard to the statutory overarching objective:
  - a. *To protect, promote and maintain the health, safety and wellbeing of the public;*
  - b. *To promote and maintain public confidence in the medical profession; and*
  - c. *To promote and maintain proper professional standards and conduct for members of that profession.*
2. The Tribunal must consider the objective as a whole and should not give excessive weight to any one limb.
3. The Tribunal must apply the principle of proportionality; balancing the doctor's interests with the public interest.
4. The purpose of sanction is not to be punitive although the sanction imposed may have a punitive effect.
5. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal exercising its own judgement. It must consider the least restrictive sanction first and then if necessary consider the other sanctions, taking into account the submissions that have been heard. The Tribunal must consider its determination on impairment and take those matters into account during its deliberations on sanction.
6. The Tribunal must consider any relevant mitigating and aggravating factors and address them within the context of the determination.
7. In reaching its decision the Tribunal must take into account the Sanctions Guidance. If the Tribunal departs from the Guidance, the relevant paragraph should be referenced, and reasons given for doing so.

8. The Tribunal's reasons must be outlined in writing.

### The Tribunal's Determination on Sanction

#### Aggravating and mitigating factors

79. Before considering what action, if any, to take in respect of Dr Mehboob's registration, the Tribunal first considered the aggravating and mitigating factors present.

80. The Tribunal considered the following to be aggravating factors in this case:

- Dr Mehboob's lack of evidence relating to insight and remediation;
- The lack of any adequate reflective statement. The letter from his medical supervisor did not demonstrate whether Dr Mehboob had discussed the broader implications of dishonesty on himself, the public and the profession;
- Dr Mehboob's failure to tell the truth at the Trust, Pulse Jobs and during the current proceedings. However, the Tribunal was cautious that he was facing sanction for only those elements of dishonesty that appear upon the Allegation and that any subsequent dishonesty is material only in relation to an assessment of whether he has developed adequate insight and remediation;
- Dr Mehboob has not undertaken any targeted development or learning. The course in '*clinical ethics committees in psychiatry*' has little to do with the dishonesty matters concerned; and
- Dr Mehboob had stated on the missing page that he was "*honest*" and he rated himself significantly higher than that awarded by Dr A.

81. It considered the following mitigating factors to be of relevance:

- The Tribunal had received testimonial and appraisal evidence regarding Dr Mehboob's general good character and clinical competence, which attested to his high standing amongst his fellow professionals;
- He had an unblemished professional record before these actions;
- Dr Mehboob has spoken to his medical supervisor about these issues relating to honesty;
- A significant time has lapsed since the incidents giving rise to the Allegation. There is no evidence of any misconduct by him in the intervening period; and
- When he initially applied for a job through Pulse Jobs in October 2019 he did not do so with the intention of submitting a fraudulent reference. He had acted appropriately until it became clear that Dr A was having to be chased for the

reference as he had not completed it correctly. His actions can therefore be distinguished from a person who applies for a job and completes forms dishonestly from the outset of the application, with no attempt to submit honest documents.

### No action

82. In coming to its decision as to the appropriate sanction, the Tribunal first considered whether to conclude the case by taking no action. The Tribunal reminded itself that there should be exceptional circumstances to justify taking no action where a finding of impairment has been made.

83. The Tribunal considered that there were no exceptional circumstances to justify taking no action in this case. It determined that given the serious nature of the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

### Conditions

84. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Mehboob's registration. The Tribunal had regard to the various paragraphs of the SG, which indicate the cases in which conditions might be appropriate. The Tribunal took into account that any order of conditions would need to be appropriate, proportionate, workable and measurable.

85. The Tribunal bore in mind that neither party submitted that an order of conditions was an appropriate sanction in this case. Given the nature of Dr Mehboob's misconduct, which involves dishonesty, the Tribunal could not formulate appropriate conditions which would be workable, and it did not consider that conditions would be sufficient to mark the gravity of the misconduct. The Tribunal considered that an order of conditions would not be appropriate or proportionate, nor would it be in the public interest.

### Suspension

86. The Tribunal then went on to consider whether imposing a period of suspension on Dr Mehboob's registration would be appropriate and proportionate. It has borne in mind the SG in relation to suspension, including paragraphs 91, 92, and 97 which state:

*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 (i.e. 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)*

**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.*

**b** ...

**c** ...

**d** ...

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

**f** *No evidence of repetition of similar behaviour since incident*

**g**...

87. The Tribunal also bore in mind paragraphs 120, 121, 124, 125 and 128 of the SG which relate to dishonesty.

**120** *Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients' trust in them and the public's trust in the profession.*

**121** *In relation to financial and commercial dealings, paragraph 77 of Good medical practice also sets out that: 'You must be honest in financial and commercial dealings with patients, employers, insurers and other organisations or individuals.*

**124** *Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent*

*claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.*

**125** *Examples of dishonesty in professional practice could include:*

*a ...*

*b ...*

*c submitting or providing false references*

*d ...*

*e ...*

**128** *Dishonesty, if persistent and/or covered up, is likely to result in erasure*

88. The Tribunal recognised that Dr Mehboob’s misconduct and dishonesty were serious and was unacceptable for a medical practitioner. The Tribunal noted that although Dr Mehboob’s misconduct did not relate to his clinical competence, it did relate to his conduct and behaviour within the context of his professional role, as it concerned an application for a clinical position. The Tribunal determined that Dr Mehboob’s misconduct undermined the trust and confidence in the medical profession as a whole.

89. The Tribunal had regard to the significant number of testimonials provided on behalf of Dr Mehboob which demonstrated that he is a man of otherwise good character, clinically well regarded, and has had no other complaints about his probity.

90. In considering what sanction to apply, the Tribunal considered that its decision was finely balanced between erasure and suspension in order to reflect the adverse impact on public confidence. It noted paragraph 108 and 109 of the SG which states:

**108** *Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.*

**109** *Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).*

*a*

...

*h Dishonesty, especially where persistent and/or covered up (see guidance below at paragraphs 120–128).*

91. The Tribunal carefully looked at the indicators of when a doctor's behaviour was likely to be fundamentally incompatible with continued registration as set out in paragraph 109 of the SG. Whilst the Tribunal had found serious dishonesty and a lack of insight, it determined that Dr Mehboob's misconduct was not at the very highest end of the spectrum of seriousness to be fundamentally incompatible with continued registration.

92. The Tribunal accepted Mr Buchanan's submission that it is in the public interest to hold onto a valuable doctor, who serves his patients and the wider public. It took the view that a sanction as severe as erasure would be disproportionate and it had in mind the public need for competent doctors. The Tribunal took the view that the public interest and maintenance of professional standards could be adequately achieved by a lengthy period of suspension rather than erasure.

93. The Tribunal acknowledged that a period of suspension is likely to affect Dr Mehboob's ability to work and will result in potential financial difficulties, for him XXX. However, the Tribunal considered the reputation of the profession as whole is more important than the interests of any individual doctor. Accordingly, having considered all the circumstances, the Tribunal determined that the public interest outweighed those of Dr Mehboob.

94. Therefore, the Tribunal was satisfied that a sanction of suspension would reflect the gravity of Dr Mehboob's misconduct and send out a clear message to Dr Mehboob, the profession and the wider public that such misconduct is unbecoming of, and unacceptable in, a registered doctor.

### Duration of Suspension

95. The Tribunal went on to consider the length of suspension, taking into account paragraphs 99 and 100 of SG in that regard:

*99 The length of the suspension may be up to 12 months and is a matter for the tribunal's discretion, depending on the seriousness of the particular case.*

*100 The following factors will be relevant when determining the length of suspension:*

- a the risk to patient safety/public protection*
- b the seriousness of the findings and any mitigating or aggravating factors*
- c ensuring the doctor has adequate time to remediate.*

96. The Tribunal determined that upholding proper standards within the profession, and maintaining public confidence in the profession, would be maintained by a long period of suspension. It also noted that, whilst there may be “green shoots” of insight and remediation, Dr Mehboob was clearly far closer to the beginning of his growth than the end. Accordingly, it concluded that a period of 9-month suspension was the appropriate and proportionate sanction in this case. The Tribunal considered that such period would enable Dr Mehboob to complete his journey of insight and remediation and enable him, in due course, to return to practise and serve the public.

### Review Hearing Directed

97. The Tribunal determined to direct a review of Dr Mehboob’s case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. The Tribunal wishes to clarify that, at the review hearing, the onus will be on Dr Mehboob to demonstrate how he has developed insight and remediated. It therefore may assist the reviewing Tribunal if Dr Mehboob:

- A full and detailed reflective statement: Dr Mehboob may wish to reflect on his past actions, his dishonesty, and the impact upon public confidence in the medical profession as well as upon his colleagues;
- Reflection on the importance of trust and integrity on the public and profession;
- Up-to-date written reports from his responsible officer and medical supervisor, including details of any reflection within supervision about the above matters;
- Evidence of Continuing Professional Development courses undertaken addressing matters of probity, integrity, and professional ethics;
- Reflections on any learning or relevant courses that Dr Mehboob has undertaken; and
- Evidence that he has kept up to date clinically during his period of suspension.

Dr Mehboob will also be able to provide any other information that he considers will assist.

### Determination on Immediate Order - 11/02/2022

98. Having determined to suspend Dr Mehboob’s registration for nine months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Mehboob’s registration should be subject to an immediate order.

## Submissions

99. On behalf of the GMC, Mr Morwood submitted that an immediate order was not necessary.

100. On behalf of Dr Mehboob, Mr Buchanan concurred with Mr Morwood.

## The Tribunal's Determination

101. The Tribunal had regard to paragraph 172 and 173 of the SG which state:

*'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.'*

102. The Tribunal considered that Dr Mehboob does not pose a risk to patient safety. It bore in mind the above paragraphs of the SG and took account the specific basis upon which the Tribunal reached its sanction determination, it did not consider an immediate order to be necessary.

103. The Tribunal therefore determined not to impose an immediate order of suspension on Dr Mehboob's registration.

104. This means that Dr Mehboob's registration will be suspended 28 days from the date on which written notification of this decision is deemed to have been served, unless he lodges an appeal. If Dr Mehboob does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.

105. There is no interim order to revoke.

106. That concludes this case.