

## PUBLIC RECORD

Dates: 18/10/2024

Medical Practitioner's name: Dr Rajan JAISWAL  
GMC reference number: 5208265  
Primary medical qualification: MD 2000 Charles University Prague

Type of case Outcome on impairment  
Review - Misconduct Not Impaired

## Summary of outcome

Suspension revoked

## Tribunal:

Legally Qualified Chair	Mr Malcolm Dodds
Medical Tribunal Member:	Dr Jane Margetts
Medical Tribunal Member:	Dr John Smith

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

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Michael Rawlinson, Counsel, instructed by the MDU
GMC Representative:	Mr Salek Ahmed, Counsel

## Attendance of Press / Public

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

## Overarching Objective

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

## Determination on Impairment - 18/10/2024

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

## Background

2. Dr Jaiswal's case was initially considered by a Medical Practitioners Tribunal ('MPT'), at a hearing which took place between July and October 2023, ('the 2023 Tribunal').

3. Dr Jaiswal qualified in 2000 from Charles University, Prague. He began working as a doctor in the UK in 2003 and qualified as a GP in 2008. Prior to the events which are the subject of the hearing Dr Jaiswal held a number of posts including as a part-time GP, a locum in adult psychiatry and an emergency services doctor. Between 2009 and 2014 Dr Jaiswal also worked as a GP for the Ministry of Defence.

4. At the time of the relevant events, Dr Jaiswal was working at Weston Coyney Medical Practice. Dr Jaiswal joined Weston Coyney Medical Practice in April 2011. In June 2017, Dr Jaiswal's Practice merged with Dr B's Practice, Meir Park Surgery, to create the Meir Park and Weston Coyney Medical Practice. Dr Jaiswal and Dr B were partners at the new Practice until Dr B retired in 2020. Dr Jaiswal had worked as a locum GP from September 2021 until October 2023 when his suspension took effect. Despite having one IT system for both Practices, Dr Jaiswal and Dr B continued to operate on two distinct sites with two distinct patient lists.

## The 2023 Tribunal

5. The Tribunal notes that at the 2023 Tribunal Dr Jaiswal admitted allegations 1, 2(a) and 3 and denied the following allegations which were found proved: 2(b), 4, 5, 6, 7. The facts found proved at Dr Jaiswal's hearing can be summarised as follows: between April and

August 2019, Dr Jaiswal inappropriately provided medical care to XXX, Patient A. It was further found proved that in September 2019 he made retrospective amendments to Patient A's medical records and changed the 'authorising user' from his name to Dr B for prescriptions produced for Patient A. It was found that these amendments were dishonest as they contained false information and were designed to conceal the fact that Dr Jaiswal had not discussed Patient A's treatment with Dr B. Finally, it was found proved that on several dates in September and October 2019, Dr Jaiswal accessed Patient A's medical records without having a legitimate reason for doing so.

6. The 2023 Tribunal found that Dr Jaiswal's actions amounted to serious misconduct. It grouped the Allegation into four areas (i) providing medical care to Patient A; (ii) amending the medical records and failing to make the retrospective amendments clear; (iii) dishonest conduct, and (iv) accessing Patient A's medical records. It found that Dr Jaiswal's conduct fell below the standard to be expected of a reasonably competent doctor and was a serious departure from Good Medical Practice (2013, as amended) ('GMP').

7. The 2023 Tribunal concluded that Dr Jaiswal had some insight into the inappropriateness of treating Patient A and the making of retrospective notes, but that overall his insight was limited. It further found that Dr Jaiswal's remediation had not addressed the finding of dishonesty made by the Tribunal. It determined that there was a risk of repetition but not a significant risk. Therefore, the 2023 Tribunal found that Dr Jaiswal's fitness to practise was impaired by reason of misconduct.

8. The 2023 Tribunal determined that a period of suspension would uphold and maintain public confidence in the profession and uphold and maintain proper professional standards. When considering the length of suspension, the Tribunal determined that a period of 12 months was necessary to mark the seriousness of the case, in the light of multi-factorial misconduct which included dishonesty. This period was intended to provide sufficient time for Dr Jaiswal to embark upon targeted remediation and to demonstrate that he has developed appropriate insight into his misconduct.

9. The 2023 Tribunal determined to direct a review of Dr Jaiswal's case. The Tribunal set out that it may assist the reviewing Tribunal if Dr Jaiswal were to provide the following:

- An up-to-date statement reflecting upon the findings of this Tribunal with specific focus on, and evidence of, appropriate insight and remediation.
- Evidence that he has kept his skills and knowledge up to date.
- Any other information that Dr Jaiswal considers will assist.

Today's Review Hearing

10. This is the first review of the 2023 Tribunal decision.

**The Evidence**

11. The Tribunal has taken into account all the evidence received, both oral and documentary.

12. Dr Jaiswal provided his own witness statement dated 10 July 2024.

13. The Tribunal received the following documentary evidence:

- The Record of Determination of the 2023 Tribunal;
- Emails between Dr Jaiswal's representatives and MPTS, dated February 2024;
- Emails between Dr Jaiswal's representatives and the GMC, dated between November 2023 and July 2024;
- List of CPD and reflections on the CPD, dated between June 2023 and September 2024; and
- Various CPD certificates, dated between June 2023 and September 2024.

**Submissions**

14. On behalf of the GMC, Mr Ahmed submitted that Dr Jaiswal's fitness to practise remains impaired. Mr Ahmed submitted that the evidence provided by Dr Jaiswal does not demonstrate sufficient insight or remediation on the dishonesty element of his misconduct. Mr Ahmed reminded the Tribunal that the 2023 Tribunal found that Dr Jaiswal's dishonesty was intended to cover up his treatment of Patient A and that Dr Jaiswal had alleged a conspiracy against him by Dr B and Patient A. He submitted that dishonesty was the main area of concern for the 2023 Tribunal and Dr Jaiswal has not demonstrated that he has developed his insight during his suspension.

15. Mr Ahmed further submitted that the reflective statement Dr Jaiswal has produced focuses on what he will do in the future and does not reflect on what he actually did, and how he has learned from his dishonesty. Mr Ahmed submitted that without the requisite level of insight and remediation, there remains a significant risk of repetition.

16. On behalf of Dr Jaiswal, Mr Rawlinson submitted that Dr Jaiswal's fitness to practise is no longer impaired. Mr Rawlinson submitted that the GMC have conflated the issue of

admission and insight. He submitted that it would be unfair and wrong in law to expect Dr Jaiswal to perform a complete volte-face and admit the Allegation. He submitted that the case of *Sayer v General Osteopathic Council* [2021] EWHC 370 (Admin) is relevant in this case.

17. Mr Rawlinson submitted that the Tribunal should bear in mind that the 2023 Tribunal found Dr Jaiswal's actions to be an aberration in an otherwise good career, which arose in peculiar and particular circumstances that are unlikely to arise in the future. Mr Rawlinson further submitted that the Tribunal should take into account that the misconduct occurred over five years ago and there has been no evidence of repetition during that period. He reminded the Tribunal that Dr Jaiswal was not subject to any interim order before the 2023 Tribunal and was practising medicine during that period.

18. Turning to Dr Jaiswal's reflective statement, Mr Rawlinson submitted that Dr Jaiswal has discharged the persuasive burden on him with the wealth of material he has produced. Mr Rawlinson submitted that Dr Jaiswal had addressed the four areas which were of concern to the 2023 Tribunal: providing medical care for a relation, accessing records inappropriately, making retrospective amendments and most importantly, the overarching dishonesty. He submitted that the Tribunal should bear in mind that this dishonesty was not for financial gain, was not gratuitous, or to hide an error. He submitted that Dr Jaiswal has attended an ethics course and produced appropriate reflections on the dishonesty in this case. He submitted that Dr Jaiswal has not just reflected on his own conduct but has linked it to the public perception of the profession and the need to maintain honesty and integrity. He submitted that Dr Jaiswal has set out ways in which he will prevent these actions from happening again in the future.

19. In conclusion, Mr Rawlinson submitted that Dr Jaiswal has set out a full exposition as to what went wrong, why it went wrong, and why it will not go wrong in the future, as well as a wider understanding of the impact on individuals and the profession as a whole. He submitted that the purpose of the suspension was for Dr Jaiswal to develop that insight and he has done so. He submitted that there is a clear difference between what Dr Jaiswal stated at the 2023 Tribunal and his position now. He submitted that despite having run a robust defence at the 2023 hearing, Dr Jaiswal has now made full apologies and expressed remorse for his actions. Mr Rawlinson submitted that the Tribunal should consider what purpose a further period of suspension would serve, balanced against the public interest in returning a good doctor to unrestricted practice.

### **The Relevant Legal Principles**

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

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

### **The Tribunal's Determination on Impairment**

22. The Tribunal took into account all of the evidence, along with the submissions from both parties, in considering whether Dr Jaiswal's fitness to practise remains impaired by reason of misconduct.

23. The Tribunal noted that the 2023 Tribunal identified that Dr Jaiswal had a capacity to develop further insight, that he had some insight into why it is wrong to treat a family member or to fail to mark retrospective entries into medical records as such, showing potential for further insight to develop. It also identified that the entire misconduct was an isolated episode within his career. It was in the context of the highly unusual circumstances and, in particular, Dr Jaiswal's motivation to prevent XXX using XXX medical records against him. It identified that Dr Jaiswal was of good character and has no previous fitness to practise history and the lapse of time since 2019 with no repetition. The 2023 Tribunal concluded that, while Dr Jaiswal had not shown complete insight into his misconduct and had shown no insight into his dishonesty in particular, the combined circumstances were unlikely to arise again. Given the potential for ongoing development of remediation and insight, there was not a significant risk of repetition.

24. Whilst not prescriptive, the 2023 Tribunal had indicated what would assist this Tribunal in its decision on current impairment. The Tribunal was satisfied that Dr Jaiswal had demonstrated a willingness to engage with the 2023 Tribunal's findings and had provided relevant evidence of personal development and reflection. He had provided all the documentation engaged in relevant courses and reflection as recommended by the 2023 Tribunal.

25. The Tribunal considered the reflective statement provided by Dr Jaiswal. The Tribunal noted the following paragraphs in particular,

*‘Furthermore, my actions can have wider ramifications. The general public also look up to healthcare professionals and have the deepest respect and trust in the professions. When the public finds out about dishonest and unethical/unprofessional actions on the part of a healthcare professional, this respect and trust in the profession is damaged.*

...

*Even where it is not our own moral code, we are required to prevent dishonesty. I appreciate that I need to supervise myself and ensure that I am more thoughtful and take responsibility for my own actions. I need to ensure that I don’t rationalise events or my actions to make myself feel better. I need to hold myself to a higher standard and accept where I have been dishonest and strive to do better.*

*I regret and wish that I had done things differently now and can only deeply issues an apology for not upholding high moral standards and an appropriate level of care expected of a doctor.*

...

*I have identified how I have fell into error and taken considerable steps to ensure that there is no risk of repetition in the future. I have included my reflections on this topic in my accompanying bundle of documents.’*

26. The Tribunal noted that Dr Jaiswal has attended a course on probity and ethics and produced detailed relevant reflections. The Tribunal found that Dr Jaiswal’s statement shows his regret and remorse for his actions, as well as an understanding of the impact of his actions on the wider profession and public confidence in the profession. Further, the Tribunal found that Dr Jaiswal has linked his dishonesty to various areas of his practice, and considered how he could act differently in the future, for example, seeking the advice of senior colleagues when in difficulty.

27. The Tribunal noted that the reflective statement provided by Dr Jaiswal does not mention his dispute with Dr B, and did not express empathy with Dr B or reflect on the impact of Dr Jaiswal’s dishonesty on him. In relation to Patient A at p106 he accepted that he should have put XXX interests first and not allowed their relationship to influence care. He stated that in future, he would always direct family and close friends to seek clinical care with another doctor to prevent a conflict of interest. He did not visit, at greater length, the impact of his actions on Patient A. The Tribunal was concerned by these omissions. However, it

found that the context in which the misconduct took place should be taken into account. The 2023 Tribunal found that the circumstances that Dr Jaiswal found himself in, now five years ago, were peculiar and unlikely to arise again in the future. The misconduct occurred during the fractious breakdown of his marriage and the difficulties caused by the medical practices combining. His retrospective amendments were made on a single day over a short time period. His accessing of Patient A's records was also over a short period of under one month. The Tribunal considered this and concluded that although Dr Jaiswal's statement lacks a direct demonstration of empathy for Dr B and partial empathy for Patient A these events now occurred five years ago and there has been no evidence of repetition since. Furthermore, the Tribunal was satisfied that Dr Jaiswal has produced sufficient reflections on the importance of honesty and probity to ensure that he would not act this way again in the future. The Tribunal considered that his reflective statement was well written, detailed, structured and well set out.

28. The Tribunal noted that in relation to providing medical care to Patient A Dr Jaiswal in his reflective statement accepted he had done wrong and explained why. In relation to amending the medical records and failing to make the retrospective amendments clear the Tribunal noted that that he has completed relevant courses including on Good Record Keeping and Effective Record Keeping and that Dr Jaiswal reflected on each course. In relation to his dishonest conduct he had attended a Probity and Ethics course on 6 April 2024 which focussed on the subject area from a healthcare perspective, had provided reflections on GMP, and watched videos from Professor Dan Ariel on honesty/ dishonesty. In relation to accessing Patient A's medical records he provided assurances that this would not happen again.

29. In relation to insight Dr Jaiswal could demonstrate he had insight if he:

1. Demonstrated that he had reflected on his own performance or conduct and understood what went wrong
2. Accepted he should have behaved differently in the circumstances
3. Demonstrated that he understood the impact or potential impact of his performance or conduct
4. Demonstrated empathy for any individual involved
5. Took timely steps to remediate and identified how he will act differently in the future to avoid similar issues arising.

30. The Tribunal was satisfied that Dr Jaiswal had sufficiently reflected on his own performance and conduct and sufficiently understood what went wrong. It was also satisfied that he accepted he should have behaved differently in the circumstances. It was satisfied



that he had sufficiently demonstrated his understanding of the impact of his performance and conduct. It had reservations about the demonstration of empathy but not such as to persuade the Tribunal that Dr Jaiswal has not sufficiently demonstrated insight. It was satisfied that he had taken timely steps to remediate and identify how he would act differently in the future to avoid similar issues arising.

31. The Tribunal then turned to the matter of whether Dr Jaiswal had kept his skills and knowledge up to date. The Tribunal took into account the extensive CPD which Dr Jaiswal has completed over the last 12 months, as well as the reflections he has produced on each piece of CPD. The Tribunal found that Dr Jaiswal has kept his skills and knowledge up to date with courses, reading, and reflections.

32. In considering the risk of repetition, the Tribunal bore in mind that the 2023 Tribunal did not find a significant risk of repetition. The Tribunal noted that no interim order was put in place. Dr Jaiswal had no restrictions on his practice up to the 2023 Tribunal. The Tribunal is satisfied that Dr Jaiswal has taken further steps to remediate his misconduct. He has demonstrated through his reflection that he has appreciated the gravity of his misconduct and developed sufficient insight into his misconduct. While the Tribunal considered that Dr Jaiswal could have reflected further on the impact of his actions on Patient A and Dr B, it was not concerned that this impacted the risk of repetition, where Dr Jaiswal had otherwise shown extensive reflections on his misconduct. The Tribunal was satisfied that Dr Jaiswal has used the time during his suspension appropriately and effectively and that the actions he has taken have reduced the risk of repetition of his misconduct to the extent that it was now highly unlikely to occur.

33. The Tribunal has therefore determined that Dr Jaiswal's fitness to practise is not impaired by reason of misconduct.

34. The Tribunal then went on to consider whether it should revoke the suspension immediately, pursuant to Section 35D(5)(d) of the Medical Act 1983.

35. On behalf of the GMC, Mr Ahmed submitted that the GMC was neutral on the matter. On behalf of Dr Jaiswal, Mr Rawlinson submitted that the order should be revoked today.

36. The Tribunal determined to revoke the suspension with immediate effect.

37. That concludes the case.