PUBLIC RECORD

Dates: 05/10/2020 - 07/10/2020

Medical Practitioner's name	Dr Ramy HANNA
GMC reference number:	7540378
Primary medical qualification:	MB ChB 2011 Alexandria University

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

Summary of outcome

Suspension, 4 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Lee Davies
Lay Tribunal Member:	Ms Elizabeth Daughters
Medical Tribunal Member:	Dr Shazad Amin

Tribunal Clerk:	Ms Jeanette Close

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Catherine Stock, Counsel, directly instructed
GMC Representative:	Ms Emma Gilsenan, Counsel, instructed by GMC Legal

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 and Impairment - 06/10/2020

Background

1. Dr Hanna qualified as a doctor from the Alexandria University, Egypt in 2011 and worked in Egypt before moving to the UK. Dr Hanna registered with the GMC in 2016. At the time of the events Dr Hanna was working as a Trust Grade Doctor in Obstetrics and Gynaecology at the Northampton General Hospital NHS Trust (the Trust).

2. The allegation that has led to Dr Hannah's hearing can be summarised as follows. On 16 September 2018 whilst working at the Trust, Dr Hanna was called to the Accident and Emergency (A&E) Department to assess and examine Patient A, who had presented with a possible ectopic pregnancy. Whilst discussing her discharge and management plan, Patient A reminded Dr Hanna that they had met previously, a few months ago through Tinder, a social networking and dating app, and that they had met for drinks once.

3. Later that same day, Patient A sent a WhatsApp message to Dr Hanna thanking him for his treatment and the two engaged in a conversation on that platform, during which Dr Hanna gave medical advice, including informing Patient A of investigation results and arranged medical appointments for Patient A. On 17 September 2018, Dr Hanna met Patient A and her young daughter in a local bar.

4. On 18 September 2018 Dr Hanna again met Patient A in a local bar and afterwards travelled with her in her car to a retail park to meet one of her friends. After collecting her daughter from Nursery, Patient A then took Dr Hanna to her house for drinks where they engaged in kissing and cuddling and where Ms A took several photographs of them together. On 19 September 2018, Dr Hanna attended Patient A's house for a meal.

5. On 22 September 2018, Patient A was contacted and asked to return to the Trust for observation and was admitted via the A&E Department. At some point she complained of intense one-sided lower abdominal pain. Dr Hanna was one of two doctors on duty for

obstetrics and gynaecology and as the other doctor was busy, Dr Hanna attended A&E and undertook a clinical examination of Patient A in the presence of a chaperone. Sometime later, nurses on the ward raised concerns regarding Patient A's medication and Dr Hanna was requested to amend it by the Consultant on duty. Dr Hanna failed to disclose that he was having a personal relationship with Patient A at that time.

6. Subsequently, Dr Hanna said he decided to end his relationship with Patient A and spoke with her about this whilst she was still an in-patient. Over the following days, Patient A sent several messages to Dr Hanna which culminated in a further meeting between them on 25 September 2020. On this occasion Patient A took Dr Hanna to her mother's house before then driving to her own house. Dr Hanna and Patient A continued to exchange WhatsApp messages after this time.

7. On 2 October 2018, Patient A was re-admitted to the Trust and Dr Hanna was requested to prescribe pain medication for her, which he did, but without having any contact with her. Patient A sent Dr Hanna a number of messages requesting his involvement in her clinical care, which Dr Hanna did not respond to. As a result, Patient A threatened to report Dr Hanna regarding their relationship.

8. On 3 October 2018, Dr Hanna reported to the senior management team at the Trust that he had had an inappropriate relationship with Patient A.

9. Dr Hanna self-referred to the GMC on 8 October 2020.

10. Patient A contacted the complaints department at the Trust on 8 October 2018 and made a complaint about Dr Hanna.

11. Following Dr Hanna's disclosure, the Trust commissioned an investigation into allegations that Dr Hanna had abused his professional position to pursue a sexual or improper emotional relationship with a patient. The Trust appointed Dr B, Clinical Director for Inpatient Specialties as the Case Investigator. Dr B completed his investigation report on 3 May 2019 and forward it to the Case Manager, Mr D, Divisional Director of the Women's, Children's and Oncology Division at the Trust.

The Allegation and the Doctor's Response

12. The Allegation made against Dr Hanna is as follows:

1. Whilst treating Patient A at the Northampton General Hospital NHS Trust you engaged in an improper emotional relationship with Patient A between 16 September and 28 September 2018, in that you:

    a. gave her medical advice by way of WhatsApp messages; **Admitted and found proved**

    b. arranged appointments for her; **Admitted and found proved**

    c. met with her socially; **Admitted and found proved**

    d. kissed her on the cheek. **Admitted and found proved**

2. Your actions at paragraph 1 were in pursuit of a:

    a. romantic relationship; **Admitted and found proved**

    b. future sexual relationship. **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

13. At the outset of these proceedings Dr Hanna, through his Counsel, Ms Stock, admitted the entirety 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.

DETERMINATION ON IMPAIRMENT

14. In light of Dr Hanna's response to the Allegation against him, there were no facts to be determined. The Tribunal next had to decide in accordance with Rule 17(2)(l) of the Rules, whether or not Dr Hanna's fitness to practise is impaired by reason of his misconduct.

The Evidence

15. The Tribunal has taken into account all the evidence received during the hearing, both oral and documentary, as summarised below.

Witness Evidence

16. Dr Hanna gave oral evidence on day one of the proceedings.

Documentary Evidence

17. The Tribunal considered and analysed all documentary evidence adduced by the parties. The evidence included but was not limited to:

- WhatsApp messages and photographs, various dates between 16 September 2018 and 3 October 2018;
- Dr Hanna's on-line self-referral to the GMC, dated 8 October 2018;
- Dr Hanna's Statement of Self-Referral, dated 8 October 2018;
- The Trust Investigation Report, dated 3 May 2018;
- Certificate of Attendance for Professional Boundaries in Practice training course, dated 7 February 2019;
- Dr Hanna's Appraisal, dated 14 March 2019;
- Dr Hanna's Reflection, dated 25 July 2019.

18. The Tribunal also received evidence on behalf of Dr Hanna in the form of character references from the following colleagues who were not called to give oral evidence:

- Mr C, Consultant Obstetrician and Gynaecologist, dated 3 July 2019;
- Dr E, ST5 Registrar Obstetrics and Gynaecology, dated 17 July 2019;
- Character Reference of Mrs F, Consultant Obstetrician and Gynaecologist, dated 10 March 2020;
- Character Reference of Mrs G, Consultant Obstetrician and Gynaecologist, dated 12 March 2020;
- Character Reference from the Rota Team at the Department of Obstetrics and Gynaecology at Royal Gwent Hospital, dated 12 March 2020;
- Character Reference of Dr I, Specialist Registrar in Obstetrics and Gynaecology, dated 2 September 2020;
- Character Reference of Dr J, Speciality Trainee in Obstetrics and Gynaecology, dated 21 September 2020;
- Character Reference of Ms K, Associate Director, Women and Children's Services and Dr Hanna's current employer, undated.

Submissions

On behalf of the GMC

19. On behalf of the GMC, Ms Gilsenan invited the Tribunal to make a finding of impairment in Dr Hanna's case and referred it to the relevant case law.

20. She submitted that Dr Hanna had breached a number of fundamental tenets of Good Medical Practice (GMP) (2013) when he provided medical care to Patient A at a time when he was engaged in an improper relationship with her. She referred in particular to paragraphs 16g, 53 and 65 of GMP and stated that all three were engaged in Dr Hanna's case:

> *'16. In providing clinical care you must:*
>
> > *...*
> >
> > *g. wherever possible, avoid providing medical care to yourself or anyone with whom you have a close personal relationship.*
>
> *53. You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.*
>
> *65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'*

21. Ms Gilsenan also directed the Tribunal's attention to the GMC's guidance *'Maintaining a professional boundary between you and your patient'* (March 2013) (the guidance). Ms Gilsenan referred in particular to paragraphs 3, 4, 5, 11 and 14 of the guidance and submitted that all were relevant in this case.

> *'3 Trust is the foundation of the doctor-patient partnership. Patients should be able to trust that their doctor will behave professionally towards them during consultations and not see them as a potential sexual partner.*
>
> *4 You must not pursue a sexual or improper emotional relationship with a current patient.*
>
> *5 If a patient pursues a sexual or improper emotional relationship with you, you should treat them politely and considerately and try to re-establish a professional boundary. If trust has broken down and you find it necessary to end the professional relationship, you must follow the guidance in Ending your professional relationship with a patient.*
>
> *11 Some patients may be more vulnerable than others and the more vulnerable someone is, the more likely it is that having a relationship with them would be an abuse of power and your position as a doctor.*
>
> *14 You must consider the potential risks involved in using social media and the impact that inappropriate use could have on your patients' trust in you and society's trust in the medical profession. Social media can blur the boundaries between a doctor's personal and professional lives and may change the nature of the relationship*

between a doctor and a patient. You must follow our guidance on the use of social media.'

22. She stated that numerous WhatsApp messages between Dr Hanna and Patient A demonstrated a clear lack of professional boundaries, and also showed that there had been a number of opportunities for him to re-establish these, but he had failed to do so.

23. Ms Gilsenan stated that Dr Hanna's conduct fell seriously below the standard to be expected and was unbefitting of a medical practitioner. She said that in light of the serious breaches of GMP and the guidance, it would be a concern if Dr Hanna's behaviour was to go unmarked.

24. She added that although Dr Hanna had demonstrated some insight and evidence of remediation in his written and oral evidence she suggested that this was not yet fully developed.

25. Ms Gilsenan stated that this was not an exceptional case which justified a finding of no impairment. She stated that a finding of impairment was necessary in this case so that confidence in the profession is not undermined and proper professional standards are maintained.

26. Ms Gilsenan submitted that only a finding of impairment can properly deal with Dr Hanna's misconduct and satisfy the overarching objective and for all of the reasons above, she invited the Tribunal to make a finding of impairment.

<u>On behalf of Dr Hanna</u>

27. Ms Stock, on behalf of Dr Hanna conceded that Dr Hanna's actions did amount to misconduct. She stated that Dr Hanna did not pose a risk to members of the public and that he has been allowed to practice unrestricted since the events with no issues. Ms Stock submitted that this was not a case where a finding of impairment was necessary on public protection grounds. She stated that impairment was a forward-looking exercise and that the Tribunal should consider Dr Hanna's actions since the events, taking into account Dr Hanna's insight, remediation and any risk of repetition.

28. Ms Stock stated that Dr Hanna was truly remorseful for his actions and had apologised to the Trust and his colleagues at the Trust. She reminded the Tribunal of Dr Hanna's oral evidence where he expressed his shame at having added to Patient A's vulnerability and

that what he had done wrong *"never left his mind"*. She stated that Dr Hanna had learned from his mistakes and that he would not make the same ones again.

29. Ms Stock stated that Dr Hanna's insight has developed and that he now knows what went wrong and why he acted like he did. She said that Dr Hanna has learnt his lesson and fully understands why professional boundaries are in place and the impact any breach of them may cause.

30. Ms Stock stated that Dr Hanna's remediation had started early, in that he had had lengthy discussions with his supervisor, senior colleagues and the Clinical Director. She reminded the Tribunal that Dr Hanna had attended a Professional Boundaries in Practice training course soon after the events. Ms Stock said that it was clear from Dr Hanna's reflective statement, that the course had helped Dr Hanna's understanding of the doctor-patient relationship, including how to act when a situation arises that could breach those boundaries.

31. Ms Stock stated that Dr Hanna had thought a great deal about the impact of his actions on Patient A. She reminded the Tribunal of Dr Hanna's written reflections where he stated:

> *"The doctor is ultimately responsible for maintaining those boundaries and keeping the professional relationship".*
>
> And
>
> *"Should I come across a similar situation in the future, I would act by the GMC guidance and avoid any potential break of my professional boundaries. I would also seek help and guidance from my seniors as early as possible to ensure patients' safety and make sure patients' trust in the medical profession is maintained."*

32. Ms Stock requested the Tribunal to view Dr Hanna's reflective statement in conjunction with the character references provided to it. Ms Stock reminded the Tribunal that the Trust investigation had not yet concluded when Dr Hanna wrote his reflections and had his appraisal with Dr H on 14 March 2019. She stated that Dr H had asked Dr Hanna to summarise the complaint made against him by Patient A for his appraisal document.

33. Ms Stock stated that the Tribunal could be confident that there was no risk of a repetition of Dr Hanna's conduct, it was over two years since the incident and no issues

had been highlighted since. She further stated that Dr Hanna was well aware that all that he had achieved so far would be at risk if he did.

34. Ms Stock reminded the Tribunal of the positive character references provided by Dr Hanna's previous and current colleagues. She drew the Tribunal's attention to the reference provided by Mr C, in which he stated:

> *"He fully understands the implications of his actions and the boundaries of a doctor/patient relationship… I believe him to be honest and a man of integrity. He has shown insight into events and has learned by these and has changed in his approach to managing patients and dealing with difficult situations.*

Ms Stock also directed the Tribunal's attention to the reference provided by Dr E who stated:

> *"I believe his attitude was naïve at the time, but as soon as he had realised his mistake, he was entirely honest and open about the incident. He has reflected and learnt from this incident."*

35. Ms Stock stated there had been no issues involving Dr Hanna before this incident nor any since. She reminded the Tribunal that the events occurred over a short period of time and that Dr Hanna realised very quickly what he had done wrong and took steps to put things right. She stated that Dr Hanna had done all he could to remediate his conduct, and that his conduct will undoubtedly not be repeated.

36. Ms Stock stated that at the time of the events Dr Hanna was a junior doctor and as such somewhat naïve. She stated that at that time Dr Hanna's fitness to practice was impaired but that this was no longer the case. She stated that a fully informed member of the public who was conversant with all of the facts and details of this case would not consider Dr Hanna's fitness to practice impaired today.

37. Ms Stock reminded the Tribunal that a finding of misconduct should not automatically lead to a finding of impaired fitness to practice. Ms Stock invited the Tribunal to find Dr Hanna's fitness to practice not currently impaired.

The Relevant Legal Principles

38. 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.

39. 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, including whether the misconduct was serious; and second whether Dr Hanna's fitness to practise is currently impaired by reason of misconduct.

40. The Tribunal must determine whether or not Dr Hanna'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.

41. Throughout its deliberations, the Tribunal was mindful of its responsibility to uphold the overarching objective as set out in the Medical Act 1983 (as amended). That objective is:

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

42. The Tribunal also had regard to the paragraphs in the guidance highlighted by Ms Gilsenan.

The Tribunal's Determination on Impairment

<u>Misconduct</u>

43. The Tribunal noted that Dr Hanna admitted the entirety of the Allegation at the outset of this hearing. It also noted that both parties agreed that Dr Hanna's actions amounted to professional misconduct.

44. In considering the whole of the facts and evidence, the Tribunal determined that Dr Hanna had engaged in a relationship with Patient A, at a time when she was particularly vulnerable. It further noted that the relationship carried on for a few weeks, during which time Dr Hanna met with Patient A on at least three occasions and entered into numerous WhatsApp

correspondence with her. The Tribunal also noted that Dr Hanna gave medical advice, including informing Patient A of investigation results and arranged medical appointments for Patient A.

45. The Tribunal concluded that by his actions Dr Hanna had breached fundamental tenets of GMP and the guidance and that this amounted to serious misconduct.

Impairment

46. The Tribunal next went on to consider whether, as a result of that misconduct, Dr Hanna's fitness to practice is currently impaired.

47. In his oral evidence Dr Hanna cooperated fully with the Tribunal's questioning and generally speaking the Tribunal noted that he was a reliable witness and although Dr Hanna expressed some remorse around his own failures, he failed to fully express remorse, reflection and insight on the impact on Patient A and undermining the doctor-patient relationship.

48. The Tribunal acknowledged that Dr Hanna had taken some steps to develop his insight into his misconduct, but it did not believe that Dr Hanna fully realised the effects and impact his actions had or could have had on Patient A and the seriousness of his breach of patient trust. It noted a sufficient lack of reflection on the part of Dr Hanna on the effect of his actions on Patient A, including in his self-referral to the GMC on 8 October 2018, in his appraisal documents dated 14 March 2019 and in his written reflection on 25 July 2019.

49. The Tribunal further noted the lack of any apology from Dr Hanna to Patient A, although it did recognise that Dr Hanna had apologised to the Trust and to his colleagues.

50. The Tribunal considered that a doctor in the field of medicine in which Dr Hanna was practicing should have known from the outset not to engage in a relationship with a patient, particularly given the circumstances of Patient A's referral, her emotional vulnerability and the sensitive nature of her clinical problems at the time. The Tribunal determined that this had been an abuse of trust.

51. The Tribunal acknowledged the positive character references provided in support of Dr Hanna and his attendance on a Professional Boundaries in Practice course. However, it noted that Dr Hanna attended this course in February 2019 and that no evidence had been provided to the Tribunal of the course content, its relevance to Dr Hanna's misconduct or of any continued PDP by Dr Hanna. The Tribunal considered that Dr Hanna could have explored

this further and availed himself of possible other courses more specific to the ethical issues arising out of abuse of the doctor-patient relationship. This would have helped him to fully understand the effect of his actions on Patient A and the inappropriateness of providing medical advice on WhatsApp including the potential for breaching data protection by sharing personal information in this way.

52. The Tribunal concluded that Dr Hanna had shown little insight at the time of the events, and that although his insight was developing it considered that there was still some way to go before it was fully developed.

53. The Tribunal next considered whether Dr Hanna had fully remediated his misconduct. The Tribunal noted that this was a single episode, over a period of a few weeks and that there had been no reports of any concerns or issues since. He had stated that he would speak to his senior colleagues for advice and would read the guidance available to him if a similar situation presented itself to him in the future. The Tribunal considered that Dr Hanna had taken some steps to remedy his misconduct.

54. The Tribunal noted the submissions of Ms Stock that the risk of Dr Hanna repeating his misconduct was highly unlikely. The Tribunal considered that although the risk of repetition was low in Dr Hanna's case, there still remained some element of risk. It considered that Dr Hanna had not yet fully recognised why he acted in the way he did and that he had not yet developed full insight into his misconduct. As such, the Tribunal determined that a risk of repetition remained although it considered the risk to be low.

55. The Tribunal next considered the public interest and whether a well-informed member of the public would expect a finding of impairment given the circumstances of this case. It considered that a fully informed member of the public would be very concerned at Dr Hanna's treatment of Patient A.

56. The Tribunal considered that by entering into an emotional relationship with Patient A, Dr Hanna had breached fundamental tenets of the profession.

57. The Tribunal reminded itself of the guidance which sets out clear factors for consideration in a doctor-patient relationship. The Tribunal considered that Dr Hanna had more than one opportunity to reflect on his actions and to put things right but that it was only when Patient A threatened him that he had informed the Trust of his relationship with her. The Tribunal determined that Dr Hanna failed to appreciate the inappropriateness of entering into an emotional relationship with Patient A in all the circumstances of this case.

58. The Tribunal was mindful of the overarching statutory objective of the GMC in the Medical Act 1983 (as amended), which includes the need to uphold proper professional standards and maintain public confidence in the medical profession. The Tribunal considers that this would be undermined if a finding of impairment were not made. Accordingly, the Tribunal find that Dr Hanna's fitness to practise is currently impaired by reason of his misconduct.

Determination on Sanction - 07/10/2020

1. Having determined that Dr Hanna'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

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

Submissions

On behalf of the GMC

3. On behalf of the GMC, Ms Gilsenan submitted that a period of suspension was the appropriate sanction in this case.

4. Ms Gilsenan submitted that it was Dr Hanna's responsibility after moving to the UK to be familiar with and follow relevant guidance. She stated that GMP is the benchmark that doctors are expected to meet, and she referred the Tribunal to the relevant paragraphs of the *Sanctions Guidance* (SG) (2019) and to relevant case law.

5. Ms Gilsenan acknowledged that Dr Hanna had self-referred to the GMC prior to Patient A's fact finding interview with the Trust and that Dr Hanna had provided a reflective statement and that he had cooperated with the Trust's and GMC's investigations.

6. She reminded the Tribunal that Dr Hanna was not a doctor just starting out in his medical career who had a lack of experience.

7. Ms Gilsenan stated that it was clear that Dr Hanna had attempted to address and remediate his misconduct, evidenced by his attendance on a professional boundaries

course. She further stated that Dr Hanna had also provided many positive references from senior colleagues to whom Dr Hanna first reported his relationship with Patient A.

8. Ms Gilsenan reminded the Tribunal of its findings in respect of Dr Hanna's remediation at paragraph 51 of its determination on impairment that there was no evidence of Dr Hanna's continuing PDP or of Dr Hanna's understanding of the inappropriateness of his actions and that although the risk of repetition was low, the Tribunal considered that the risk of repetition remained.

9. Ms Gilsenan stated that it was clear that Dr Hanna was a doctor of good character who has a previously unblemished record with no issues raised prior to or since these events. She stated that Dr Hanna had apologised to the Trust and his colleagues but that it was concerning that Dr Hanna had failed to proffer an apology to Patient A.

10. Ms Gilsenan reminded the Tribunal that at the material time Patient A was pregnant and had attended the Trust seeking assessment and treatment in relation to issues arising with her pregnancy. She stated that Dr Hanna abused his professional position with Patient A who was a particularly vulnerable patient at that time.

11. Ms Gilsenan submitted that in light of the findings of the Tribunal in relation to impairment, this is not a case where it is appropriate to have no sanction and that this is not an exceptional case that justifies no sanction being made. Ms Gilsenan stated that in light of the seriousness of the misconduct, which was sexually motivated, a sanction is required.

12. Ms Gilsenan submitted that conditions would be wholly inappropriate and disproportionate and that it was difficult to envisage what, if any, conditions could be formulated that would be workable and meet the level of public interest in this case.

13. Ms Gilsenan stated that, having regard to the serious misconduct in this case together with the serious and numerous departures from GMP and the guidance a sanction of suspension was both necessary and proportionate in this case. She stated that this would send a strong message to the public and members of the profession alike that behaviour and conduct of this kind is inappropriate and unacceptable.

14. Ms Gilsenan stated that it was a matter for the Tribunal to determine the length of any suspension it imposed.

On behalf of Dr Hanna

15. On behalf of Dr Hanna, Ms Stock stated that Dr Hanna had self-referred and had admitted the allegations at a very early stage. She stated that Dr Hanna had demonstrated a degree of remediation and reflection by discussing what had happened with his senior colleagues and that he had also attended a Professional Boundaries Training Course.

16. Ms Stock said that Dr Hanna had been open and honest from the outset and had cooperated with formal enquiries and with the Trust and GMC's investigations. She reminded the Tribunal that Dr Hanna's self-referral to the GMC was made before Patient A made her complaint to the Trust.

17. Ms Stock stated that Dr Hanna was in his first job since moving to the UK in 2016, was somewhat naïve and still finding his way.

18. Ms Stock reminded the Tribunal of the positive references provided by some of Dr Hanna's current and previous colleagues who knew Dr Hanna well and their statements that Dr Hanna had demonstrated insight and had shown remorse over his conduct.

19. Ms Stock stated that Dr Hanna had apologised to his colleagues at the Trust and to the Trust itself. She further stated that Dr Hanna had been precluded from any contact with Patient A and therefore had had no opportunity to offer a direct apology to her.

20. Ms Stock said that Dr Hanna had taken steps to improve his learning and has learnt from his mistakes. She stated that Dr Hanna's insight continues to grow, and that the Tribunal can be confident that there will be no repetition of this type of conduct.

21. Ms Stock disagreed with Ms Gilsenan's submission that the only appropriate sanction in this case was one of suspension. She stated that the appropriate and proportionate sanction in this case was one of conditions being imposed upon his registration. She stated that conditions can be used appropriately and effectively in this case where the Tribunal has determined that Dr Hanna's insight is developing but is not yet complete.

22. Ms Stock invited the Tribunal to apply a common-sense approach when considering the appropriate sanction and reminded The Tribunal that a sanction is not meant to be punitive. She stated that imposing a sanction of conditions would satisfy the overarching objective and that the public interest would be better served by imposing conditions. Ms Stock said that a period of suspension would deprive the public of an otherwise good

doctor, especially in the current climate of the Covid-19 pandemic. She stated that imposing a sanction of conditions would allow Dr Hanna to develop under the mentoring of senior colleagues.

23. Ms Stock invited the Tribunal to consider the impact a period of suspension would have on Dr Hanna. She stated that Dr Hanna was at the beginning of his career and that imposing a sanction of suspension on his registration would have a significant effect on his training. She told the Tribunal that Dr Hanna had a work visa, which was reliant upon him having a contract of employment. Ms Stock stated that imposing a period of suspension sanction could result in Dr Hanna losing his job, his training opportunity and his right to live and work in the UK.

24. Ms Stock submitted that imposing a period of suspension would be utterly disproportionate but that a sanction of conditions was fair, just and the most appropriate sanction in this case.

25. Ms Stock stated that if the Tribunal did not concur with her submissions and determined that a period of suspension was the only option, then it should consider a short period of suspension to allow Dr Hanna to retain his post and remain in the UK.

The Tribunal's Approach

26. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal alone, exercising its independent judgement.

27. Throughout its deliberations, the Tribunal applied the principle of proportionality balancing Dr Hanna's interests with the public interest. It has taken account of the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promoting and maintaining of proper professional standards and conduct for members of the profession.

28. The Tribunal has given consideration to its findings of misconduct and impaired fitness to practise as well as the submissions made by Ms Gilsenan on behalf of the GMC, and Ms Stock on behalf of Dr Hanna.

29. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of a sanction is not be punitive, but to protect patients and consider the wider public interest, although it accepts any sanction may have a punitive effect. It also considered and balanced the mitigating and aggravating factors in this case.

Aggravating and Mitigating factors

30. The Tribunal identified the following mitigating factors:

- Dr Hanna has developed some insight;
- Dr Hanna's previous good character and positive character references;
- There have been no previous findings of impairment made against him nor any concerns since;
- Dr Hanna cooperated with both the Trust's and GMC's investigation;
- Dr Hanna has kept his skills and knowledge up to date attested to by his appraisal;
- Dr Hanna was a junior doctor in his first post since arriving in the UK;
- Dr Hanna apologised to the Trust and to his colleagues;
- Dr Hanna's self-referral to the GMC and early admission of the facts;
- Dr Hanna accepted that he should have acted differently;
- This was a single episode.

31. The Tribunal also identified the following aggravating factors:

- This was an abuse of trust in a doctor-patient relationship;
- Patient A was particularly vulnerable due to the circumstances of her pregnancy;
- Dr Hanna used his professional position to pursue an improper emotional relationship with Patient A;
- Dr Hanna's lack of apology to Patient A;
- The lack of empathy and understanding of the impact his actions had on Patient A.

The Tribunal's Determination on Sanction

32. The Tribunal had regard to paragraphs 53 and 65 of GMP:

> *'53 You must not use your professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.*
>
> *65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession'.*

No action

33. The Tribunal first considered whether it should conclude this case by taking no action.

34. The Tribunal reminded itself that taking no action on a doctor's registration following a finding of impaired fitness to practice would only be appropriate in exceptional circumstances. The Tribunal did not consider there were any exceptional circumstances in this case. It considered that taking no action would not be sufficient to meet the overarching objective or address the seriousness of Dr Hanna's misconduct. Therefore, the Tribunal determined that it would be inappropriate to conclude this case by taking no action.

Conditions

35. The Tribunal next considered whether to impose a period of conditions on Dr Hanna's registration. It noted that Dr Hanna was currently practising without any restrictions.

36. The Tribunal accepted the submissions of Ms Gilsenan that imposing a sanction of conditions would be wholly inappropriate and disproportionate in this case. It determined that it was difficult to envisage conditions that would address the seriousness of Dr Hanna's misconduct. Further, the Tribunal concluded that imposing a sanction of conditions would not adequately address Dr Hanna's serious breaches of GMP and the guidance.

Suspension

37. The Tribunal next considered whether it should impose a period of suspension on Dr Hanna's registration and had regard to paragraphs 91, 92, 93, 97a, f and g of the SG:

> *'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*
>
> *92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued*

registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).

93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions (see paragraphs 24–49).

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.'*
> *…*
> *f No evidence of repetition of similar behaviour since incident.*
> *g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.'*

38. The Tribunal determined that Dr Hanna had breached fundamental tenets of the profession and had brought the profession into disrepute by entering into a relationship with Patient A whilst he was one of her treating doctors. The Tribunal noted this was an abuse of a professional relationship with a patient who was particularly vulnerable at the time of the events which justified a more serious sanction. When considering this issue, the Tribunal had regard to paragraphs 142, 143, 144c and 146 of the SG which state:

'142 Trust is the foundation of the doctor-patient partnership. Doctors' duties are set out in paragraph 53 of Good medical practice and in the explanatory guidance documents Maintaining a professional boundary between you and your patient and Ending your professional relationship with a patient.

143 Doctors must not use their professional position to pursue a sexual or improper emotional relationship with a patient or someone close to them.

144 Personal relationships with former patients may also be inappropriate depending on:

...

c the vulnerability of the patient

...

146 Using their professional position to pursue a sexual or improper emotional relationship with a vulnerable patient is an aggravating factor that increases the gravity of the concern and is likely to require more serious action against a doctor.'

39. The Tribunal acknowledged that the public would be deprived of the services of Dr Hanna for a period and that this may result in problems with Dr Hanna's work and his ability to remain in the UK. However, it had to balance those issues with the public interest in marking the impairment, in order to preserve public confidence and uphold standards.

40. The Tribunal considered that imposing a period of suspension on Dr Hanna's registration would send a clear message to the public and members of the profession of what is not acceptable conduct and behaviour for a doctor. On balance, the Tribunal concluded that it was necessary and proportionate to impose a period of suspension.

41. The Tribunal next considered the appropriate period for the suspension. It reminded itself that the purpose of a suspension was to maintain public confidence and uphold standards. It accepted that although Dr Hanna had breached fundamental tenets, his relationship with Patient A had not progressed further and that it had lasted for a limited period of time. The Tribunal determined that it was appropriate to impose a period of suspension of four months on Dr Hanna's registration to mark the seriousness of his misconduct.

42. The Tribunal determined to direct a review of Dr Hanna'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 Hanna to demonstrate how he has reflected on the gravity of the offences and the impact of his actions on Patient A. It therefore may assist the reviewing Tribunal if Dr Hanna provided the following information:

- Further reflections on the effect of his actions on Patient A;
- Evidence of further remediation by attending a course specifically focusing on the abuse of trust within a doctor-patient relationship, a description of the course and a reflection of how this has impacted on his actions in respect of Patient A and how this would reduce the risk of repetition;

- Evidence that he has considered his actions as part of his PDP.

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

Determination on Immediate Order - 07/10/2020

1. Having determined that Dr Hanna's registration should be suspended, the Tribunal has now considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Hanna's registration should be subject to an immediate order.

Submissions

2. Ms Gilsenan stated that she has no submissions to make on the subject of an immediate order.

3. Ms Stock submitted that an immediate order was not necessary in this case as Dr Hanna did not pose a risk to the public.

4. She stated that if the Tribunal imposed an immediate order then this would put additional pressure on the NHS at a difficult time.

5. She stated that it was not necessary to impose an immediate order in this case and that Dr Hanna will use the 28 day period to organise his affairs to manage his suspension.

The Tribunal's Determination

6. In reaching its decision the Tribunal referred to the relevant paragraphs of the SG. It exercised its own judgement and had regard to the principle of proportionality. It also took into account the submissions made by Ms Gilsenan and Ms Stock.

7. The Tribunal considered the seriousness of the matter and whether it would be appropriate to immediately suspend Dr Hanna's registration. It noted that there are no issues of patient safety arising in this case. It is not therefore necessary for the Tribunal to impose an immediate order of suspension in order to protect the public.

8. The Tribunal found that the public interest would not be undermined by the order not coming into force immediately having regard to the circumstances and findings in this case. The public interest has already been met by virtue of the substantive sanction. The Tribunal

therefore determined that the public interest would not be undermined by Dr Hanna remaining in unrestricted practice pending the commencement of the substantive period of suspension.

9. This means that Dr Hanna's registration will be suspended 28 days from when notice of this decision is deemed to have been served upon him, unless he lodges an appeal. If Dr Hanna does lodge an appeal, he will remain free to practise unrestricted until the outcome of any appeal is known.

10. There is no interim order to revoke.

11. That concludes this case.

Confirmed
Date 07 October 2020 Mr Lee Davies, Chair