

PUBLIC RECORD

Dates: 16/05/2023 - 25/05/2023

Medical Practitioner's name: Dr Sari SULAIMAN KHALED

GMC reference number: 7525023

Primary medical qualification: MB BCh BAO 2013 National University of Ireland – Royal College of Surgeons in Ireland

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

Summary of outcome

Suspension, 2 months.

Tribunal:

| | |
|--------------------------|--------------------|
| Legally Qualified Chair | Mr Kenneth Hamer |
| Lay Tribunal Member: | Mr Robert McKeon |
| Medical Tribunal Member: | Dr Candida Borsada |
| | |
| Tribunal Clerk: | Miss Hinna Safdar |

Attendance and Representation:

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| Medical Practitioner: | Present and represented |
| Medical Practitioner's Representative: | Mr Ishtiaq Ahmed, Counsel, instructed by Advocate Northwest Solicitors |
| GMC Representative: | Mr Terence Rigby, Counsel |

Attendance of Press / Public

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

Overarching Objective

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

Determination on Facts - 19/05/2023

Background

1. Dr Sulaiman Khaled qualified in 2013 from the National University of Ireland. At the time of the events Dr Khaled was practising as an Accident and Emergency Doctor at Lincoln County Hospital. For the purposes of this determination, the Tribunal has referred to Dr Sulaiman Khaled as Dr Khaled, as his representative indicated during the course of the hearing.
2. The allegation that has led to Dr Khaled's hearing can be summarised as that on 13 March 2020 Dr Khaled assaulted Mr A and used abusive language in a public place. It is further alleged that on 19 August 2020, Dr Khaled was convicted of drink driving at Manchester and Salford Magistrates' Court following his collision with a truck on the M62 on 31 May 2020. On 25 September 2020, he was disqualified from driving for 23 months and ordered to carry out 80 hours of unpaid work within 12 months.
3. On 13 March 2020, Dr Khaled had been arrested for assault. The Tribunal heard evidence that the Lincolnshire Police had received a report in the early hours of 13 March 2020 that two males were assaulting passengers and employees of a taxi firm. Dr Khaled had arrived at the taxi office and had requested a taxi, and whilst waiting for the taxi, had engaged in a physical fight with Mr A. Dr Khaled had subsequently been heard on the CCTV to shout aggressive comments and was arrested and taken into custody.
4. On 14 July 2020, Dr Khaled referred himself to the GMC stating that he had been arrested for a drink driving offence. In a further email dated 28 September 2020, Dr Khaled stated that he had been given a 23-month ban, which could be reduced to 17 months as he

had already completed a drink driving course. Dr Khaled informed the GMC that he had to undertake 80 hours of unpaid work, which had been reduced from 120 hours due to good character and a clear record.

The Outcome of Applications Made during the Facts Stage

5. Mr Rigby, on behalf of the GMC, raised as a preliminary legal argument, made pursuant to Rule 17 (2)(a) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), paragraph 2 of Dr Khaled's witness statement which was presently redacted and was hearsay evidence. The Tribunal determined that it would be fair and relevant to allow the full and unredacted statement to be put before it under Rule 34(1) of the Rules, and that it would consider how much weight to put on it as appropriate.

The Allegation and the Doctor's Response

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

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

1. On 13 March 2020 at around 02:50, outside Handsome Cabs in Lincoln, on one or more occasion you:
 - a. kicked out at Mr A; **To be determined**
 - b. punched out at Mr A; **To be determined**
 - c. shouted:
 - i. "white bitch"; **Admitted and found proved**
 - ii. "white fucking bitch"; **Admitted and found proved**
in a public place.

2. On 19 August 2020 at Manchester and Salford Magistrates' Court you were convicted of driving a motor vehicle on a road on 31 May 2020 after consuming so much alcohol that the proportion of it in your breath, namely 97 microgrammes of alcohol in 100 millilitres of blood, exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Admitted and found proved

3. On 25 September 2020 you were sentenced to:
 - a. a community order requiring you to carry out 80 hours of unpaid work within 12 months; **Admitted and found proved**
 - b. disqualification from holding or obtaining a driving licence for 23 months.

Admitted and found proved

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

- a. misconduct in respect of paragraph 1; **To be determined**
- b. conviction in respect of paragraph(s) 2 and 3. **To be determined**

The Admitted Facts

7. At the outset of these proceedings, through his legal representative, Mr Ahmed, Dr Khaled made admissions to Paragraphs 2 and 3 of the Allegation, as set out above, in accordance with Rule 17(2)(d) of 'the Rules'. Subsequently, Dr Khaled admitted Paragraph 1(c) of the Allegation. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraph of the Allegation as admitted and found proved.

Witness Evidence

8. The Tribunal received evidence on behalf of the GMC from Mr B from the Lincolnshire Police, in person.

9. Dr Khaled provided his own witness statement, dated 10 April 2023. In addition, the Tribunal received evidence from Dr C, Dr Khaled’s friend who was present on the night of the incident relating to the Allegation.

Documentary Evidence

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

- Custody record, dated 13 March 2020
- Pre-charge sheet, dated 13 March 2020
- Police report, dated 22 June 2020
- Witness statement of employee 1 of Handsome Cabs, dated 13 March 2020
- Witness statement of employee 2 of Handsome Cabs, dated 13 March 2020
- Witness statement of Mr D, dated 13 March 2020
- Alleged victim (Mr A) witness statement, dated 13 March 2020
- Dr Khaled’s witness statement, dated 13 March 2020
- CCTV footage of incident on 13 March 2020
- Page one of police custody record, including photograph, dated 13 March 2020
- Referral from Lincolnshire Police to the GMC, dated 13 March 2020
- Letter from Lincolnshire Police confirming no further action, dated 11 June 2021
- Dr Khaled self-referral, dated 14 July 2020
- Certificate of conviction, dated 25 September 2020
- Dr Khaled Rule 7 response, dated 3 July 2022
- Email from Mr B, dated 13 February 2023
- Email from Lincolnshire Police regarding police statement of Dr C, dated 20 April 2023

The Tribunal’s Approach

11. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Khaled does not

need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e., whether it is more likely than not that the events occurred.

12. The Legally Qualified Chair set out his legal advice to the Tribunal. In relation to paragraph 1 of the Allegation, he advised that the Tribunal should consider separately the case for and against Dr Khaled in respect of sub-paragraphs (a) and (b). It is for the tribunal, when considering Paragraph 1 (a) and (b), to consider the whole of the evidence, that is, the evidence called by the GMC and the evidence called by Dr Khaled. The Tribunal should not draw any inference against Dr Khaled from the fact that Paragraph 1(c) of the Allegation is now admitted; or from Paragraphs 2 and 3 of the Allegation.

13. The LQC advised that, if the Tribunal is of the opinion that Dr Khaled was or may have been acting in self-defence, he is entitled to have Paragraphs 1(a) and 1 (b) of the Allegation found not proved. Because the GMC must prove Dr Khaled's guilt, it is for the GMC to prove to the requisite civil standard that he was not acting in self-defence, not for him to establish that he was. The Tribunal must consider the matter of self-defence in the light of the situation which Dr Khaled honestly believed he faced. The Tribunal should first ask itself whether Dr Khaled honestly believed it was necessary to use force to defend himself. This would not be the case if he was the aggressor or was acting in revenge or knew he need not resort to violence. The second matter the tribunal must ask itself is whether the type or degree of any force used by Dr Khaled was reasonable. That is for the Tribunal to judge by the standards of ordinary decent persons. The LQC reminded the Tribunal that it should bear in mind that a person who genuinely believes he or she is or may be under attack may react on the spur of the moment and cannot be expected to work out exactly how much force they need to defend themselves.

14. However, it is well established that a defendant is not permitted to rely, so far as self-defence is concerned, upon a mistake of fact which has been induced by voluntary intoxication; *per Archbold 2023 at paragraph 17-19*.

15. The LQC advised that the Tribunal should treat the evidence of witnesses from the taxi company and the arresting officer, who had made statements but not been called to give oral testimony, with a great deal of caution before accepting them as true and accurate. While there was no objection by Dr Khaled to the Tribunal receiving these witness statements, Dr Khaled had had no opportunity to cross-examine any of these witnesses. The Tribunal should also draw no adverse inference from Dr Khaled's largely no comment interview when he was interviewed by the Police.

The Tribunal's Analysis of the Evidence and Findings

Paragraph 1(a) and 1(b)

16. While the Tribunal recognised that Paragraph 1(a) and 1(b) contain separate allegations that Dr Khaled kicked out at Mr A and punched out at Mr A, it was not in dispute that both events allegedly took place at the same time and under the same circumstances and that their determination would inevitably be the same. Accordingly, the Tribunal considered the case for and against Dr Khaled in relation to Paragraphs 1(a) and (b) of the Allegation together, and evaluated the evidence in order to make its findings on the facts.

17. The Tribunal had to determine whether it was more likely than not, on 13 March 2020 at around 02:50, outside Handsome Cabs in Lincoln, that Dr Khaled had intentionally and unlawfully kicked out at Mr A and had punched out at Mr A, that is, his actions were not accidental or in self-defence. The Tribunal noted that this altercation had occurred following a dispute over a taxi involving, amongst others, Dr Khaled and in which Mr A apparently came out of his office premises to investigate and intervene.

18. The Tribunal had sight of the CCTV footage of the incident involving Paragraphs 1(a) and (b). The Tribunal noted that there was other CCTV footage of the incident taken from a different angle which the Tribunal had not seen. However, the Tribunal was satisfied that the CCTV footage accurately recorded the incident and had not been altered or interfered with in any sense although the faces were pixelated save that of Dr Khaled. The video lacked any timings or sound although there was sound for the separate CCTV image that related to

Paragraph 1(c) of the Allegation. The Tribunal placed no reliance on the second CCTV footage when considering whether the GMC had proved Paragraphs 1(a) and (b) of the Allegation to the requisite standard of proof.

19. Effectively, the CCTV footage was the only evidence in the case against Dr Khaled and the Tribunal considered it along with the oral evidence of Dr Khaled and Dr C. Dr Khaled said he had no recollection of the incident at all as a result of being heavily intoxicated. He had consumed a whole bottle of wine earlier in the evening and had gone on to a nightclub where he drank spirits. He said in evidence that his last memory of that night was about 30 minutes after he and his friends reached the nightclub.

20. In his witness statement, Dr C said:

*“I was present in entirety with Sari Khaled in the moments leading up to the incident. We were waiting for the taxi that we had ordered and were stationed at the Taxi firm located at 21-23 Clasketgate, Lincoln. As a taxi pulled outside the taxi firm, my party and I assumed it was our assigned vehicle. A young lad, stumbling unsteadily, entered the rear passenger side of the vehicle and tried to shut the door aggressively. At this moment Sari tried to ask if the taxi might have been here for us. The young lad whist [sic] seated mumbled swear words “f****ing p**ki”, kicked the door against us, with Sari taking the impact of the door.*

He shuffled to move closer and tried to launch another attack, aiming at Sari’s face. One of the instigators friends was behind Sari and looked as if he was ready to get involved. Sari then pushed him away under fear of attack. With more profanities shouted at us, the scene erupted rapidly. As things escalated, I can clearly recall the instigator’s friends started jumping in, trying to hit us from behind. Then the taxi rank manager got involved and threw the first punch at Sari when he should have de-escalated the situation. Both parties are now speaking foul to one another until fortunately the situation comes to a halt.”

21. Dr C said in evidence that he had not drunk any alcohol that night as he was on duty the following morning. He had earlier driven to Dr Khaled's home address.

22. The following chronology, captured on the CCTV footage, appeared to the Tribunal to be significant:

- Dr Khaled (wearing blue coloured jeans and white footwear) is seen by the driver's side of the taxi when a male from the other group gets into the rear nearside passenger seat. Dr Khaled opens the door and a dispute ensues between him and the passenger. Dr C told the Tribunal that the passenger was racially abusive and struck out at Dr Khaled.
- Mr A (wearing a long white T-shirt and baggy grey trousers) comes outside from his office and follows Dr Khaled around to the offside of the vehicle where Dr Khaled is now positioned.
- Words appear to be exchanged between Dr Khaled and Mr A, and both Dr Khaled and Mr A have their arms outstretched towards each other.
- This goes on for some time during which Dr C intervenes.
- Dr Khaled pushes away Dr C who tries to hold back or restrain Dr Khaled from advancing towards Mr A.
- Dr Khaled comes back on at least three occasions to confront Mr A who is standing by the rear offside passenger door of the taxi and does not move.
- Mr A punches out towards Dr Khaled.
- Dr Khaled begins to walk away and comes round the front of the taxi. When at or near the offside front headlights he appears to look up and see Mr A coming round the rear of the vehicle.
- Mr A is at the rear of the vehicle and Dr Khaled is at the front of the vehicle. There is a whole car length between them at this point.
- Mr A continues round the rear of the vehicle towards the rear nearside passenger door. His right arm is raised up but it is unclear whether this was because he was rushing or intended some hostile act towards Dr Khaled.

- By this time, Dr Khaled had come fully round the vehicle and the two men are on the nearside of the vehicle.
- Dr Khaled rushes forward towards Mr A and deliberately kicks out and punches out at him. It is these movements that give rise to paragraphs 1(a) and (b) of the Allegation. Dr Khaled admits that he kicked out and punched out at Mr A but says he acted in self-defence.
- Dr C intervenes and Dr Khaled pushes him away.
- Dr Khaled goes around the front of the vehicle again towards the rear offside passenger door, followed by Dr C.
- Dr Khaled tries to open the rear offside passenger door, but is unable to do so.
- The taxi drives away.

23. The Tribunal noted that the next day, Dr Khaled emailed the taxi company and indicated that he was very sorry for his behaviour. He made no mention of his actions having occurred out of self-defence. However, the Tribunal does not rely on the email as an admission of culpability.

24. During his evidence Dr Khaled said he had some bruising to his temple. There is no evidence of any bruising in the police custody record following the incident. Indeed, page 2 of the custody record states: *“Do you have any illness or injury: No”*, and page 10 stated: *“Injuries: None”*.

25. In his witness statement, Mr A says that *“the offender tried to kick me in the abdomen with his right leg but I don’t believe it connected, he then punched me to the right side of my mouth. At this point my glasses fell off... I have a slight split lip and some scratch marks on my right wrist.”*

26. The Tribunal considered it reasonable to assume that the slight split to Mr A’s lip came as a result of the incident that gives rise to Paragraph 1(b) of the Allegation, and that

any scratch marks on Mr A's right wrist occurred during the earlier altercation when both men were on the offside of the vehicle and there was a good deal of pushing and shoving.

27. The Tribunal accepted that Mr A may at this point, to use a colloquial expression, have "thrown the first punch". The CCTV footage shows, however, that immediately before this Dr Khaled was being restrained by Dr C and was constantly trying to get round Dr C to go forward towards Mr A. Dr C said in evidence that there was bad language used by both parties. Dr Khaled is constantly holding his arms outstretched towards Mr A and the Tribunal considered that, from viewing the footage and the probabilities of what was happening, Dr Khaled was remonstrating with Mr A and acting aggressively. The Tribunal did not accept Dr C's evidence that Dr Khaled was simply saying "*I didn't do anything*" or was merely using his hands in an expressive manner. Dr Khaled was plainly angry before he was struck by Mr A.

28. Moreover, at least ten seconds elapsed between the time Mr A struck Dr Khaled and Dr Khaled kicked out and punched out at Mr A when both men were on the driver's side of the vehicle. Dr Khaled did initially walk away and he had ample time to refrain from any further contact with Mr A. However, he chose to come round the front of the vehicle, observing Mr A who was by then running towards the nearside passenger door. Dr C agreed that Dr Khaled "*didn't do the sensible thing*" by going around the car at this point.

29. Dr C said that Dr Khaled had been fixated on the taxi, due to his level of intoxication. The Tribunal has no doubt this is correct and that Dr Khaled viewed Mr A's presence on the nearside of the vehicle as a threat to what he believed was his taxi. Dr Khaled's intoxication was no justification for his actions and affords him no ground for self-defence. Dr Khaled was not under threat at this point. The Tribunal recognised that it did not know what was said by Mr A at the time, and his right hand was shown as raised. Dr Khaled continued round the front of the vehicle and launched an attack on Mr A, beginning with swinging his right foot towards Mr A and going in with a punch towards Mr A's face. There was a whole car length between Dr Khaled and Mr A before Dr Khaled rounded the front of the taxi. Yet, he carried on towards Mr A and struck him. This was not a "*pre-emptive strike*" and there was no need

for Dr Khaled to resort to violence. The Tribunal considered that either Dr Khaled was the aggressor, which is the more likely, or he was acting in revenge for what had occurred earlier on the offside of the vehicle. In short, this was not self-defence and Dr Khaled went beyond what was reasonable.

30. The Tribunal considered that there were opportunities when Dr Khaled could have stopped. The Tribunal fully recognised that this was a fast-moving incident and an ugly scene, and barely seconds arose between the various instances that the Tribunal identified as happening. However, Dr Khaled was not in any imminent danger before he kicked out at or punched out at Mr A, and if he was, he had the chance to withdraw if he felt threatened by Mr A.

31. The Tribunal noted that Dr C had attempted to restrain Dr Khaled on multiple occasions. Firstly, when both parties were on the offside of the vehicle, and then again after Dr Khaled attacked Mr A on the driver's side of the vehicle. The Tribunal counted that Dr Khaled had to be held back or restrained on at least three occasions by Dr C from advancing towards Mr A. Immediately following the incident that gives rise to the Allegation, Dr Khaled was also seen on the video pushing Dr C away in quite a firm way and then going round the vehicle again to attempt to open the rear offside passenger door. These actions did not sit comfortably with Dr Khaled's claim that he was acting in self-defence.

32. Following its review of the CCTV footage and consideration of the evidence of Dr Khaled and Dr C, the Tribunal determined that, notwithstanding Dr Khaled's previous good character, he unlawfully kicked out at Mr A and punched out at Mr A.

33. The Tribunal therefore found Paragraphs 1(a) and 1(b) of the Allegation proved.

Paragraph 1(c)

34. Dr Khaled has admitted as fact that he shouted the words alleged in Paragraph 1(c) of the Allegation, and that they were said in a public place, namely on the street where taxis

and people pass by. The Tribunal noted that there had been no evidence put before it, nor was it alleged by the GMC, that the derogatory language Dr Khaled used was directed towards anyone in particular. Nor was it expressly pleaded that the words shouted by Dr Khaled were racially motivated.

35. The Tribunal considered that, while such language made in public may be interpreted as both racist and misogynistic, on the facts of this case, the Tribunal did not consider that either of these were present or the motivation behind Dr Khaled's behaviour. The Tribunal is satisfied that at the time Dr Khaled shouted such offensive language it was not directed towards anyone in particular and that in all probability Dr Khaled was angry and frustrated at what had just occurred over the taxi during which period derogatory remarks were made towards him by at least the male who got into the cab.

The Tribunal's Overall Determination on the Facts

36. The Tribunal has determined the facts as follows:

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

1. On 13 March 2020 at around 02:50, outside Handsome Cabs in Lincoln, on one or more occasion you:
 - a. kicked out at Mr A; **Determined and found proved**
 - b. punched out at Mr A; **Determined and found proved**
 - c. shouted:
 - i. "white bitch"; **Admitted and found proved**
 - ii. "white fucking bitch"; **Admitted and found proved**
in a public place.

2. On 19 August 2020 at Manchester and Salford Magistrates' Court you were convicted of driving a motor vehicle on a road on 31 May 2020 after consuming so much alcohol that the proportion of it in your breath, namely 97 microgrammes of alcohol in 100 millilitres of blood, exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

Admitted and found proved

3. On 25 September 2020 you were sentenced to:
- a. a community order requiring you to carry out 80 hours of unpaid work within 12 months; **Admitted and found proved**
 - b. disqualification from holding or obtaining a driving licence for 23 months.

Admitted and found proved

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

- a. misconduct in respect of paragraph 1; **To be determined**
- b. conviction in respect of paragraph(s) 2 and 3. **To be determined**

Determination on Impairment - 23/05/2023

37. This determination will be handed down in private due to references to XXX. However, as this case concerns Dr Khaled's conviction and alleged misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.

38. 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 Khaled's fitness to practise is impaired by reason of his misconduct and conviction.

The Evidence

39. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received XXX.

40. The Tribunal also received in support of Dr Khaled a number of testimonials from his colleagues, all of which it has read.

Submissions

Submissions on behalf of the GMC

41. Mr Terence Rigby, Counsel, provided written submissions to the Tribunal which are reproduced here.

42. Mr Rigby referred the Tribunal to various caselaw including *Roylance v General Medical Council [1999] UKPC 16*, *CHRE v NMC and Paula Grant [2011] EWHC 927*, and *Cohen v GMC [2008] EWHC 581*.

43. Mr Rigby submitted that self-intoxication is neither a defence nor an excuse for criminal conduct but rather an aggravation of it. In the circumstances of this case, Dr Khaled claimed that he had consumed alcohol to excess and was so intoxicated that he did not recall what had happened.

44. Mr Rigby referred the Tribunal to its finding in its determination on the facts that Dr Khaled had not acted in self-defence, rather was the aggressor in the incident that led to the Allegation. He submitted this conduct from Dr Khaled would be regarded as deplorable by other members of the profession and also members of the public. It brought the profession into disrepute and was serious by any standard. He added that Dr Khaled repeatedly and angrily shouting “white bitch” and “white fucking bitch” was wholly disgraceful behaviour by a member of the medical profession and this also brought the profession into dispute. Mr Rigby submitted that this behaviour was serious enough in itself, and was further aggravated by his persistence and refusal to stop even when his friend attempted repeatedly to stop him and take him away. Mr Rigby submitted that there was no mitigation of the misconduct.

45. Mr Rigby submitted that Dr Khaled's conviction following his having crashed into another vehicle having consumed almost three times the legal limit of alcohol, was a conviction of a serious criminal offence. Save for his guilty plea, Mr Rigby submitted that there was no mitigation for this offence.

46. Mr Rigby submitted that Dr Khaled's fitness to practise was impaired by his misconduct in March 2020 and his conviction in May 2020 particularly bearing in mind that he drank to excess again, notwithstanding his experience in Lincoln.

47. Mr Rigby submitted that Dr Khaled's reluctance to accept what he did from the outset when he had seen the CCTV footage demonstrated a lack of insight into his misconduct. He could have maintained that he did not remember, but when accused by the GMC of what was shown and heard on the footage, someone with insight would have accepted the evidence and whilst saying he was surprised and appalled by what he had done, admitted it. Mr Rigby submitted that Dr Khaled also might have given an unqualified apology. Dr Khaled should have admitted the misconduct at the beginning of the hearing but he instead has sought to blame others, blame the drink he had voluntarily taken and has raised an inevitably unsuccessful defence of self-defence to the assault on the manager. Mr Rigby submitted that Dr Khaled does not have complete insight, there can be no remediation and the risk of repetition remains.

48. Mr Rigby submitted that Dr Khaled's misconduct and his conviction for drink driving are such that the public interest is clearly engaged and the Tribunal should conclude that the need to uphold professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances, as set out by Grant.

Submissions on behalf of Dr Khaled

49. Mr Ahmed, Dr Khaled's representative, submitted that Dr Khaled has been practising for over 3 years since the incidents of March and May 2020. Mr Ahmed submitted that immediately after these incidents, Dr Khaled sought advice XXX.

50. XXX.

51. Mr Ahmed submitted that Dr Khaled has insight into his misconduct, otherwise he would not have XXX.

52. Mr Ahmed submitted that Dr Khaled has demonstrated by his actions that no misconduct on his part will occur again, and he is not a risk to members of the public. Further, he has not caused any disrepute to the medical profession and his professional ability as a doctor is not a concern for this Tribunal. From the feedback forms and testimonials Dr Khaled has provided, Mr Ahmed submitted that all that the Tribunal will find is positivity and praise and commendation from independent individuals.

53. Mr Ahmed submitted that Dr Khaled has progressed in his life positively, both professionally and personally; he is now married and is a father. Dr Khaled has stressed that he will avoid being involved in any kind of misconduct and will not wish to be seen in any situation that would be a repeat of what happened. Mr Ahmed submitted that Dr Khaled made this decision relatively quickly following the incident on 31 May 2020 (the morning after).

54. Mr Ahmed submitted that the Tribunal should consider the email that Dr Khaled sent to the taxi company the next morning as at least an attempt to apologise. This was sent 6 hours after being released from police custody. Dr Khaled had known that something had gone wrong, his behaviour had been inappropriate and Dr Khaled apologised to the manager of the establishment

55. Mr Ahmed submitted that Dr Khaled would have accepted responsibility, but from the evidence of the CCTV and Dr C, Dr Khaled had been assaulted first. His behaviour arose from his intoxication and while alcohol is no defence, Dr Khaled had said that he could not honestly and sincerely remember what had happened. Regardless, Mr Ahmed submitted that the likelihood of this ever happening again in Dr Khaled's life was impossible. Dr Khaled has learnt from this, he is an intelligent man, full of emotion and thought, and deeply rooted into his culture and profession.

56. Mr Ahmed submitted that, given everything Dr Khaled has done since, the Tribunal should find that Dr Khaled has not left himself open to having brought the profession into disrepute or that his fitness to practise is impaired.

The Relevant Legal Principles

57. 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.

58. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct and that the misconduct was serious, and then whether the finding of that misconduct, which was serious, could lead to a finding of impairment.

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

60. When considering misconduct, the Tribunal referred to the case of *Roylance v. The General Medical Council (No.2) [2000] 1 AC 311*:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word "professional" which links the misconduct to the profession of medicine. Secondly, the misconduct is qualified by the word "serious". It is not any professional misconduct which will qualify. The professional misconduct must be serious.'

61. On impairment, the Tribunal had regard to Dame Janet Smith's test in *The Fifth Shipman Report*, cited in *CHRE v NMC and P Grant [2011] EWHC 927 (Admin)*, at paragraph 76:

- a) Whether the registrant has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm;*
- b) Whether the registrant has in the past brought and/or is liable in the future to bring the profession into disrepute;*
- c) Whether the registrant has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*
- d) Whether the registrant has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

The Tribunal's Determination on Impairment

62. The Tribunal considered whether Dr Khaled's fitness to practise is currently impaired by reason of his misconduct and his conviction. In reaching its decision, the Tribunal reminded itself that it must consider whether Dr Khaled's fitness to practise is impaired today and must therefore look forward. The Tribunal also had regard to all three limbs of the overarching objective and its obligation to give sufficient weight to each limb.

Misconduct

63. In relation to Dr Khaled's behaviour in the early hours of 13 March 2020, as seen on the CCTV footage and recounted in paragraph 22 of the Tribunal's earlier determination on the facts, the Tribunal considered that there was no doubt that it was misconduct. In its earlier determination, the Tribunal found that Dr Khaled was either the aggressor in relation to the matters in Paragraphs 1(a) and (b) of the Allegation, which is the more likely, or that he was acting in revenge for what had occurred moments before involving Mr A on the offside of the taxi. Dr Khaled's actions in kicking out at Mr A and punching out at Mr A were

excessive and he did not act in self-defence. Added to this he used derogatory and offensive language as captured on the second CCTV footage which makes up Paragraph 1(c) of the Allegation.

64. Moreover, Dr Khaled had drunk a whole bottle of wine during the evening before and continued drinking spirits until shortly before the incident outside Handsome Cabs. He drank to such excess that he claimed he could not remember anything of the incident.

65. The Tribunal considered that Dr Khaled's conduct breached paragraph 65 of Good Medical Practice (GMP):

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

66. The Tribunal considered that fellow members of the profession would find Dr Khaled's actions to be deplorable. The Tribunal concluded that Dr Khaled's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

Impairment

67. The Tribunal, having found that the facts found proved amounted to serious misconduct, went on to consider whether, as a result of that misconduct, Dr Khaled's fitness to practise was currently impaired.

68. In addition to his misconduct, Dr Khaled has been convicted of a serious offence of driving with excessive alcohol that occurred on 31 May 2020, barely 2 ½ months later. He was found to be nearly three times over the legal limit and told the Tribunal that he had no memory of driving but that the incident happened on the motorway near Bury, which is a distance of some 20 miles from Stockport where he was living at the time. To drive a vehicle that distance and not remember where he had been driving through excess alcohol is

deplorable. Dr Khaled crashed into a lorry and while no one was injured, they could have been. It was luck that the collision resulted in only Dr Khaled's car sustaining damage.

69. The Tribunal considered that in relation to both his misconduct and his conviction, limbs (b) and (c) of Dame Janet Smith's examples of impairment were engaged. In each instance Dr Khaled has brought the medical profession into disrepute and broken one of its fundamental tenets, namely, to maintain the public's trust in the profession.

70. The Tribunal recognised that there are no issues regarding Dr Khaled's professional practice and that it has seen evidence that Dr Khaled is a safe and good doctor. It also noted that Dr Khaled XXX, and the Tribunal took into account XXX.

71. The Tribunal considered Dr Khaled has some insight into his behaviour and that he has made efforts to remedy his conduct. He is now married with a child and has a more settled life and a good support system from his family and colleagues should he find himself again stressed or facing difficulties in his life. Accordingly, the risk of repetition of similar incidents happening again is reduced. There was no evidence that Dr Khaled was XXX.

72. XXX. He had also sent an email apology to the taxi company the day after he was released from police custody.

73. The Tribunal reminded itself of the statutory overarching objective of the GMC in section 1 of the Medical Act 1983, which includes the need to maintain public confidence in the profession and to uphold proper professional standards in that profession.

Notwithstanding the submissions of Mr Ahmed, the Tribunal determined that a finding of impairment was necessary individually and cumulatively in respect of Dr Khaled's misconduct and his conviction. Not to make such a finding would, in the opinion of the Tribunal, undermine public confidence in the profession.

74. The Tribunal has therefore determined that Dr Khaled's fitness to practise is impaired by reason of his misconduct and his conviction.

Determination on Sanction - 25/05/2023

75. This determination will be handed down in private due to references to Dr Khaled's XXX. However, as this case concerns Dr Khaled's conviction and alleged misconduct, a redacted version will be published at the close of the hearing with confidential matters removed.

76. Having determined that Dr Khaled's fitness to practise is impaired by reason of misconduct and conviction, 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

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

78. The Tribunal heard further oral evidence from Dr Khaled.

Submissions

Submissions on behalf of the GMC

79. Mr Rigby submitted that Dr Khaled's registration should be suspended in order to maintain public confidence in the profession and to maintain proper standards of conduct for members of the profession. He reminded the Tribunal of its previous findings that Dr Khaled's behaviour had amounted to serious misconduct, and his conviction for driving under the influence of excess alcohol may have resulted in serious harm.

80. Mr Rigby referred the Tribunal to the Sanctions Guidance (SG) (2020):

***“160** Doctors are expected to act with honesty and integrity and uphold the law – this includes their use of drugs and alcohol. Any serious or persistent failure in this regard that puts patients at risk or undermines public confidence in doctors will put their registration at risk*

...

162 While a drug or alcohol use disorder is serious, and not solely where linked to criminal conduct, there are certain factors that aggravate these issues. The aggravating factors that are likely to lead the tribunal to consider taking more serious action (this list is not exhaustive) are:

...

c a drug or alcohol use disorder that has resulted in violence, bullying or misconduct of a sexual nature

d a drug or alcohol use disorder that led to a criminal conviction, particularly where a custodial sentence was imposed...”

81. Mr Rigby submitted that both incidents occurred within a relatively short period of time and were a result of Dr Khaled drinking alcohol to excess. Dr Khaled’s conviction resulted in a community order, due to his intoxication.

82. Mr Rigby referred the Tribunal to paragraph 92 of the SG:

“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).”

83. Mr Rigby submitted that he was not suggesting the Dr Khaled’s misconduct was fundamentally incompatible with continued registration however, that it was so serious that a serious sanction was required. He submitted that nothing short of suspension was appropriate.

84. Mr Rigby submitted that the duration of the suspension and whether a review should be ordered was a matter for the Tribunal.

Submissions on behalf of Dr Khaled

85. Mr Ahmed submitted that the Tribunal should take no action. He stated that this was a “horrible stage” in Dr Khaled’s life, and Dr Khaled has insisted that the risk of repetition is eliminated.

86. Mr Ahmed submitted that the circumstances from which Dr Khaled’s misconduct arose have been resolved. Dr Khaled has been abstaining from alcohol since May 2020, and there have been assessments carried out to verify this, all of which he has passed. Mr Ahmed submitted that, while intoxication was not a defence for his behaviour, it was alcohol that caused it XXX.

87. Mr Ahmed submitted that Dr Khaled has demonstrated that he is able to practise unrestricted, as he has been doing. Mr Ahmed submitted that XXX, and there have been no concerns raised from Dr Khaled’s supervisors, colleagues, or patients regarding his professional ability.

88. Mr Ahmed referred the Tribunal to paragraph 25 of the SG:

“25 The following are examples of mitigating factors.

a Evidence that the doctor understands the problem and has insight, and of their attempts to address or remediate it. This could include the doctor admitting facts relating to the case, apologising to the patient (see paragraphs 42–44), making efforts to prevent behaviour recurring, or correcting deficiencies in performance or knowledge of English.

b Evidence that the doctor is adhering to important principles of good practice (ie keeping up to date, working within their area of competence), and of the doctor’s character and previous history. This could include evidence that the doctor has not previously been found to have impaired fitness to practise by a tribunal, a previous MPTS panel or by the GMC’s previous panels or committees.

c Circumstances leading up to any incidents that raise concern – e.g. inexperience (see paragraphs 27–30) or a lack of training and supervision at work.

d Personal and professional matters, such as work-related stress.

e Lapse of time since an incident occurred.”

89. Mr Ahmed submitted that Dr Khaled has demonstrated that he has insight into his behaviour. He gave oral evidence to the Tribunal explaining the impact his actions had had on not only him but the profession as a whole. Mr Ahmed submitted that Dr Khaled attempted to remediate his behaviour and apologised merely six hours after the incident. Mr Ahmed further submitted that XXX six days following the incident and there has not been a recurrence of any of his misconduct in the last three years, since the incident.

90. Mr Ahmed submitted that Dr Khaled had experienced XXX shortly before the incidents, XXX. Since then, it has been three years and there has been no other regulatory intervention. Dr Khaled is a man of good character and he has been keeping up to date with his areas of competence, focusing on his GP ST2 training and obstetrics and gynaecology. Mr Ahmed submitted that Dr Khaled is now married and is a father. He has recognised his own faults, has reformed himself, and it is highly unlikely that there will be any recurrence.

91. Mr Ahmed submitted that a sanction of suspension, as suggested by the GMC, was not appropriate, as Dr Khaled has been practicing for the last three years with no concerns. He has XXX, and has displayed himself as someone who can be trusted by the public and who has been trusted by the public for the last few years.

The Tribunal’s Approach

92. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal alone, exercising its own judgement. In so doing, it has given consideration to its findings of fact, its findings of impaired fitness to practise and the submissions made by each Counsel.

93. The Tribunal reminded itself that the GMC’s over-arching statutory objective in section 1(1A) of the Medical Act 1983, as amended, is the protection of the public. Sub-sections (b) and (c) of section 1(1B) provide that the pursuit of their over-arching objective includes to protect and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

94. In reaching its decision, the Tribunal has given careful consideration to the principles within the SG. It has borne in mind that the main reason for imposing sanctions is to protect the public, pursuant to the overarching objective. A doctor’s conduct has an inevitable impact on the reputation of the profession and the public’s confidence in it. The public has a right to expect high standards of any practitioner. Sanctions are not imposed to punish or discipline doctors, but they may have a punitive effect.

95. The Tribunal has borne in mind that in deciding what sanction, if any, to impose, it should consider the sanctions available, starting with the least restrictive and then consider each sanction in ascending order. It should also have regard to the principle of proportionality, weighing the interests of the public against those of the doctor.

96. In relation to Dr Khaled’s conviction, the Legally Qualified Chair said that in *Dey v. General Medical Council* [2001] UKPC 44 at [11], Lord Millett said:

‘The object of disciplinary proceedings against a medical practitioner who has been convicted of a criminal offence is twofold. It is to protect members of the public who may come to him as patients and to maintain the high standards and reputation of the profession. It is not to punish him a second time for the same offence. Nevertheless, the same conduct which constitutes the offence for which he has been convicted may also demonstrate that the need to maintain the standards and reputation of the profession or to protect the public or both requires the erasure of his name from the Register. There is no clear line of demarcation: the difference lies not in the facts themselves but in the perspective from which they are viewed.’

97. In *Khan v. General Pharmaceutical Council* [2017] 1 WLR 169 SC (Sc), Lord Wilson JSC at [37] said:

'Inevitably the convictions attracted at first a significant fine and later a substantial community penalty. There, however, lay the punishment. The focus for the committee was different: its task, not easy, was to judge the effect of the conduct on public confidence in the profession and to identify a sanction proportionate to its judgment.'

98. More generally, in *Bawa-Garba v. General Medical Council* [2018] EWCA Civ 1879, [93], the Court of Appeal said:

'The Tribunal was entitled to take into account, consistently with Bijl v. General Medical Council [2001] UKPC 42, [2002] Lloyd's Rep Med 60 at [13], that an important factor weighing in favour of Dr Bawa-Garba is that she is a competent and useful doctor, who presents no material danger to the public, and can provide considerable useful future service to society.'

The Tribunal's Determination on Sanction

99. Before considering what action, if any, to take in respect of Dr Khaled's registration, the Tribunal considered the aggravating and mitigating features of this case and in broad terms identified the following:

Aggravating Factors

100. XXX

(2) Paragraph 56 of the SG states that tribunals are likely to take more serious action where certain conduct arises in a doctor's personal life, such as misconduct involving

violence (paragraph 56(d)), or alcohol disorder leading to a criminal conviction (paragraph 56(e)).

(3) In the present case, Dr Khaled's conviction was a second incident occurring shortly after the misconduct outside Handsome Cabs. Notwithstanding that in the meantime Dr Khaled had sought professional advice XXX.

Mitigating Factors

101. (1) Paragraph 24 of the SG states that a tribunal is less able to take mitigating factors into account when the concern is about patient safety. There are no concerns in this case about patient safety. The case is more about public confidence in the profession.

(2) Paragraph 25(a) – (e) of the SG to which Mr Ahmed referred are relevant mitigating factors to consider when deciding on any sanction in the present case.

(3) Having seen and heard Dr Khaled again at this stage of the proceedings, the Tribunal considered that he has reflected further and in his oral evidence demonstrated good insight both into his own behaviour and an understanding of the GMC's role in maintaining public confidence in the medical profession and promoting standards and conduct for members of the profession.

(4) Dr Khaled has not consumed alcohol since 31 May 2020 thereby making efforts to prevent his behaviour recurring. He has no previous disciplinary record. There were undoubtedly personal stresses in his life at the time of these events and nearly three years have elapsed since the last incident occurred.

No action

102. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Khaled’s case, the Tribunal first considered whether to take no action.

103. Paragraph 68 – 70 of the SG state:

“68 Where a doctor’s fitness to practise is impaired, it will usually be necessary to take action to protect the public (see paragraphs 14–16). But there may be exceptional circumstances to justify a tribunal taking no action.

69 To find that a doctor’s fitness to practise is impaired, the tribunal will have taken account of the doctor’s level of insight and any remediation, and therefore these mitigating factors are unlikely on their own to justify a tribunal taking no action.

70. Exceptional circumstances are unusual, special or uncommon, so such cases are likely to be very rare. The tribunal’s determination must fully and clearly explain:

a what the exceptional circumstances are

b why the circumstances are exceptional

c how the exceptional circumstances justify taking no further action.”

104. The Tribunal considered that there were no exceptional circumstances in connection with Dr Khaled’s misconduct outside Handsome Cabs or in relation to his driving conviction to justify taking no action. In both instances Dr Khaled was intoxicated as a result of self-induced excess quantities of alcohol. The incident on 13 March 2020 involved unlawfully assaulting the manager of the taxi company and using offensive language in a public place. The driving offence involved driving some 20 miles and crashing into another vehicle on the M62 motorway under the influence of alcohol.

105. The Tribunal did not consider that any of Dr Khaled’s personal circumstances at the time of these events were exceptional so as to justify taking no action. The matters referred by Mr Ahmed above are mitigating factors, not exceptional circumstances. As paragraph 69

of the SG states, insight and remediation are unlikely on their own to justify a tribunal taking no action. Even assuming that the events in 2020 were “*out of character*”, that his registration was subject to conditions for 18 months because of XXX, and recognising that Dr Khaled has successfully turned around his life since 2020 while maintaining high standards in his professional career, these matters would not justify the Tribunal taking no action.

106. The Tribunal determined that given the gravity of Dr Khaled’s misconduct and his conviction, taking no action was neither appropriate, proportionate nor in the public interest.

Conditions

107. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Khaled’s registration. It has borne in mind that any conditions must be appropriate, proportionate, workable and measurable.

108. The Tribunal referred to paragraph 81 of the SG:

“81 Conditions might be most appropriate in cases:

a involving the doctor’s health

b involving issues around the doctor’s performance

c where there is evidence of shortcomings in a specific area or areas of the doctor’s practice

d where a doctor lacks the necessary knowledge of English to practise medicine without direct supervision.”

109. None of the above apply in the present case. XXX

110. There are no concerns about Dr Khaled’s performance as a doctor. All the evidence before the Tribunal points to Dr Khaled being a good and caring doctor. He is well liked by his professional colleagues and patients alike and displays high standards of professionalism.

111. The Tribunal was satisfied that the imposition of conditions would not be an appropriate response in this case. Nor would it be appropriate to craft conditions to meet the misconduct and conviction in this case XXX and there is no evidence of likelihood of any repetition of alcohol misuse.

Suspension

112. The Tribunal went on to consider whether to impose a period of suspension on Dr Khaled's registration. The Tribunal took into account paragraphs 91- 98 of the SG, in particular:

“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...

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

...

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

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

.....

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.”

113. The Tribunal concluded that Dr Khaled’s misconduct did amount to a serious breach of GMP. It considered that any sanction less than suspension would not be appropriate nor proportionate to mark the seriousness with which it had viewed his misconduct. In particular, the Tribunal noted that Dr Khaled had committed two similar acts of misconduct within a short period of time in 2020. However, given the mitigation it had identified, the Tribunal was satisfied that Dr Khaled’s misconduct was, in those circumstances, not fundamentally incompatible with continued registration.

114. The Tribunal bore in mind that it was now satisfied that Dr Khaled has developed insight into his misconduct and remediated. It considered that as such, it was now highly unlikely that Dr Khaled would repeat his conduct.

115. Taking all of the evidence, submissions and its own deliberations into account, the Tribunal was satisfied that a period of suspension would appropriately mark the seriousness of Dr Khaled’s misconduct and uphold the overarching objective.

116. The Tribunal determined that, given the mitigating factors it had identified, and the relevant paragraphs of the SG, imposing a sanction of erasure would be disproportionate when taking into account the specific circumstances of this case, particularly bearing in mind the work Dr Khaled has undertaken to reflect on and remediate his misconduct.

Duration of suspension

117. Having considered the sanctions in ascending order of restrictiveness and having determined to suspend Dr Khaled’s registration, the Tribunal went on to consider the appropriate and proportionate length of the period of suspension for him.

118. Paragraph 99 – 101 of the SG state:

“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 (as set out in paragraphs 24–60)

c ensuring the doctor has adequate time to remediate.

101 The tribunal’s primary consideration should be public protection and the seriousness of the findings.”

119. The Tribunal also bore in mind the table at paragraph 102 of the SG, which gives examples of factors that will also be relevant to the length of suspension, under broad categories, depending on the nature of the case. As to the seriousness of its findings, the Tribunal considered the following factors to be relevant:

- Dr Khaled’s departure from paragraph 65 of GMP was serious.
- Dr Khaled’s actions risked public confidence.
- Both the incident outside Handsome Cabs and Dr Khaled’s driving conviction involved significant acts of misconduct.
- Dr Khaled’s behaviour on both occasions was seriously inappropriate.

120. As to subsequent steps taken, the Tribunal considered the following factors:
- Dr Khaled has taken and has been willing to take remedial action.
 - Dr Khaled promptly apologised to the taxi company following his release from police custody.
 - Dr Khaled has addressed the serious concerns and gave clear and compelling evidence to the Tribunal at this stage of the proceedings in which he recognised and apologised for his behaviour and accepted full responsibility for his actions. In his evidence he demonstrated that he had reflected on the events that had brought him before this Tribunal.
 - Dr Khaled has throughout been open and honest with the GMC. He was entitled to put the GMC to proof of paragraph 1 of the Allegation.

121. The Tribunal has also borne in mind the documentary evidence before it including recent Clinical Supervisors Reports (CSRs), colleague feedback summaries, and testimonials from professional colleagues and patients.

122. Dr Khaled current post is General Practice ST2. His CSR review in emergency medicine dated 13 January 2022 says that Dr Khaled is *“courteous, well spoken ... good team player, hard working and looked out for colleagues Very good level of training, was confident of managing patients he was comfortable with and sought help and advice when required”*. His CSR review for general psychiatry dated 1 June 2022 says that Dr Khaled *“has always been professional in his approach to patients and colleagues. He always treated patients and families with respect and dignity”*, and that in working with colleagues, *“he has always been a good team player. He always takes into consideration other team members’ views and opinions in assessing and formulating appropriate plans for the patients”*.

123. Dr Khaled’s CSR for general practice dated 10 January 2023 states that he has shown *“excellent professionalism”* and that he *“is kind and considerate and a great asset to the practice. He is punctual and promotes respect of patients and staff alike. He is able to make appropriate ethical decisions and has a strong awareness of his own learning needs”*. Dr

Khaled's CSR in endocrinology and diabetes dated 23 January 2023 refers to his areas of strength as being *“good reliable clinical assessments of the patients”*, and *“good awareness of the pathways used in the department”*.

124. Colleague feedback summaries for May 2022 and December 2022 speak of Dr Khaled being assessed for overall professional and clinical performance as very good, excellent or outstanding, coupled with many complimentary remarks. During August 2022 until February 2023, Dr Khaled worked as a GP Specialist Trainee at the Unsworth Medical Centre in Bury. Dr F, Dr Khaled's supervisor and educator at the practice, states in his testimonial letter that Dr Khaled *“received acclaim from patients and staff about his excellent communication skills, his demeanour when consulting with patients and the compassion and care he shows in all aspects of his work”*. Dr F confirmed that he had no concerns whatsoever about Dr Khaled's dedication to his work, to his professional relationships and to his duty of care.

125. The Tribunal was satisfied, to quote the words in *Bawa-Garba* albeit under different circumstances, that Dr Khaled is *“a competent and useful doctor, who presents no material danger to the public, and can provide considerable useful service to society”*.

126. In determining the length of suspension, the Tribunal considered, along with paragraphs 99-101 of the SG, paragraphs 20 and 21 of the SG under the heading *“Taking a proportionate approach to imposing sanctions”*:

“20 In deciding what sanction, if any, to impose the tribunal should consider the sanctions available, starting with the least restrictive. It should also have regard to the principle of proportionality, weighing the interests of the public against those of the doctor (this will usually be an impact on the doctor's career, eg a short suspension for a doctor in training may significantly disrupt the progression of their career due to the nature of training contracts).

21 However, once the tribunal has determined that a certain sanction is necessary to protect the public (and is therefore the minimum action required to do so), that sanction must be imposed, even where this may lead to difficulties for a doctor. This is necessary to fulfil the statutory overarching objective to protect the public.”

127. While the Tribunal has not been directly addressed on the effect of any suspension on Dr Khaled’s present status as a GP ST2, it nevertheless considers that, taking all matters into account, a short period of suspension is necessary and proportionate in this case to uphold public confidence in the medical profession, consistent with sub-sections (b) and (c) of section 1(1B) of the Medical Act 1983. In all the circumstances, the Tribunal considered that the minimum period of suspension it could impose was two months.

128. The Tribunal does not consider that a review is necessary in this case. Paragraph 164 of the SG says *“In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing”*. Moreover, the Tribunal is satisfied that, in the present case, Dr Khaled fully appreciates the gravity of his actions on 13 March 2020 and his driving conviction of 19 August 2020. He has not reoffended and has abstained from alcohol since and a review would not be appropriate.

129. In conclusion, the Tribunal determined to suspend Dr Khaled’s registration for a period of two months.

Determination on Immediate Order - 25/05/2023

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

Submissions

131. On behalf of the GMC, Mr Rigby made no application for an immediate order.

132. On behalf of Dr Khaled, Mr Ahmed had nothing to add.

The Tribunal's Determination

133. The Tribunal had regard to paragraph 172 of the SG. It took account of the guidance, the submissions of both parties and the specific basis upon which the Tribunal reached its determination on sanction.

“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...”

134. The Tribunal determined that the substantive order properly marks the seriousness of Dr Khaled's misconduct and conviction. It determined that suspending him for two months upholds the overarching objective in maintaining public confidence in the profession and maintaining proper professional standards. It considered that in the absence of any concerns about patient safety, an immediate order would not be necessary in this case.

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

136. This means that Dr Khaled'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 Khaled does lodge an appeal, he will remain free to practise unrestricted until the outcome of the appeal is known.

137. There is no interim order to revoke.

138. That concludes the case.