PUBLIC RECORD

Dates: 25/03/2024 - 03/04/2024

Medical Practitioner's name:	Dr Shehzada NAZIR
GMC reference number:	4220080
Primary medical qualification:	MB ChB 1995 University of Liverpool

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

Summary of outcome

Suspension, 12 months
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Gerry Wareham
Lay Tribunal Member:	Ms Wanda Rossiter
Medical Tribunal Member:	Dr Matthew O'Meara

Tribunal Clerk:	Miss Ciara Fogarty

Attendance and Representation:

Medical Practitioner:	Not present, represented
Medical Practitioner's Representative:	Mr Scott Ivill, Counsel, instructed by Weightmans LLP
GMC Representative:	Mr Bob Sastry, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in 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 and Impairment - 02/04/2024

1. This determination will be handed down in private. However, as this case includes an allegation of misconduct, a redacted version will be published at the close of the hearing.

Background

2. Dr Shehzada Nazir qualified in 1995 from the University of Liverpool and, prior to the events which are the subject of the hearing, Dr Nazir practised as a General Practitioner, Chief Medical Advisor, Civilian Medical Practitioner to the Military and Prison Medical Officer. At the time of the events Dr Nazir was practising as a Locum GP working for Compass, an enterprise which provides consultations to patients who have been refused treatment by traditional GP services due to behavioural issues.

3. The Allegation subject of this hearing can be summarised as that, on 31 January 2020, Dr Nazir undertook a telephone consultation with Patient A during which he failed to adequately assess them and made inappropriate comments to the patient. It is also alleged that Dr Nazir failed to provide Patient A with a clear follow up plan or safety netting advice and to take necessary action to ensure his patient's safety, and the safety of third parties.

4. It is further alleged that following the consultation Dr Nazir failed to make adequate or accurate records including a failure to record that Patient A was having suicidal thoughts.

The Outcome of Applications Made during the Facts Stage

5. Mr Ivill, counsel for Dr Nazir, made an application pursuant to Rule 41 for the hearing to be heard entirely in private, as the considerations of XXX would be central to all the Tribunal's considerations. The Tribunal allowed the application; the full decision is included at Annex A.

6. Mr Sastry proposed agreed minor typographical amendments to the Allegation which were allowed by the Tribunal.

The Allegation and the Doctor's Response

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

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

1. On 31 January 2020 you undertook a telephone consultation with Patient A, and you:

    a. failed to adequately assess them, in that you did not:

        i. consider Patient A's threats against himself and others as credible; **Admitted and found proved**

        ii. obtain more detail about Patient A's threats, such as if they were: **Admitted and found proved**

            1. imminent; **Admitted and found proved**

            2. contingent upon other events occurring; **Admitted and found proved**

        iii. explore if Patient A had access to means of self and third-party harm; **Admitted and found proved**

    b. made inappropriate comments in that you:

        i. used the language as detailed at Schedule 1; **Admitted and found proved**

        ii. made misogynistic comments as detailed at Schedule 2; **Admitted and found proved**

        iii. said 'XXX'; **Admitted and found proved**

        iv. said 'XXX'; **Admitted and found proved**

        v. discussed religion and/or made millennial comments as detailed at Schedule 3: **Admitted and found proved**

            1. when such discussions/comments were not:

a. invited; **Admitted and found proved**

b. therapeutic; **Admitted and found proved**

c. suitable for a consultation; **Admitted and found proved**

c. failed to take further action following the consultation to ensure Patient A's safety, and the safety of third parties, in that you failed to:

i. discuss the threats with: **Admitted and found proved**

1. a general practitioner colleague who might have knowledge of Patient A; **Admitted and found proved**

2. a member of the mental health care team who might have knowledge of Patient A; **Admitted and found proved**

ii. consider whether the gravity of the threats reported by Patient A would justify the involvement of: **Admitted and found proved**

1. emergency psychiatric services; **Admitted and found proved**

2. the police; **Admitted and found proved**

d. failed to provide Patient A with a clear follow up plan, or any safety netting advice, for if his thoughts of self-harm, or thoughts of harm to third parties, escalated, such as contacting the:

i. Compass Medical Surgery; **Admitted and found proved**

ii. psychiatric team; **Admitted and found proved**

iii. emergency services; **Admitted and found proved**

e. failed to keep adequate records in that you:

i. recorded 'nil DSH [deliberate self harm]/suicidal'; **Admitted and found proved**

ii. did not to record that Patient A was having suicidal fantasies in which third parties were being threatened; **Admitted and found proved**

iii. stated you had given safety netting advice to Patient A when you had not. Admitted and found proved

2. XXX

3. XXX

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

XXX

The Admitted Facts

8. Dr Nazir did not attend in person but was represented through his Counsel, Mr Ivill, to whom he had given full instructions. At the outset of these proceedings Mr Ivill entered full admissions to the Allegation in its entirety on behalf of Dr Nazir, 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 to be admitted and found proved.

Impairment

9. 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 Nazir's fitness to practise is impaired by reason of misconduct XXX.

The Evidence

10. 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 further evidence as follows.

11. On behalf of the GMC from the following witnesses:

- XXX
- XXX

12. Dr Nazir provided his own witness statements but did not give oral evidence at the hearing. Dr Nazir's witness statement focused on reflections on his conduct with Patient A XXX.

In addition, the Tribunal received evidence from the following witnesses on Dr Nazir's behalf:

- Dr D, Consultant Psychiatrist, via video link

13. The Tribunal also received:

- Witness statement of Mr I dated 12 August 2021
- XXX
- XXX
- XXX
- Transcript of telephone consultation on Friday 31 January 2020 between Dr Nazir and Patient A
- Expert report of Dr D dated 5 October 2021
- XXX
- XXX
- Previous MPT determinations dated May 2009
- Supplementary statement of Dr Nazir dated 19 March 2024

Submissions

14. On behalf of the GMC, Mr Bob Sastry, Counsel, submitted that Dr Nazir's fitness to practise is impaired by reason of XXX his misconduct XXX.

15. Mr Sastry referred the Tribunal to the case law relevant to impairment, this included; *Cheatle v General Medical Council [*2009] EWHC 645 (Admin) (27 March 2009), *Roylance v. The General Medical Council* (Medical Act 1983), *Dame Janet Smith's test in The Fifth Shipman Report, cited in CHRE v NMC and P Grant* [2011] EWHC 927 (Admin), *Nandi v General Medical Council [2004] EWHC 2317* (Admin) (04 October 2004).

16. Mr Sastry addressed the Tribunal first on the issue of misconduct and referenced the definition set out in the case of *Roylance,* which defines misconduct as *'a word of general effect'.*

17. Mr Sastry reminded the tribunal of the findings in Doctor D's uncontested expert report. Dr D had considered the transcript of the consultation and the subsequent medical records made by Dr Nazir. He was of the view that the Doctor's conduct in relation to his dealings with Patient A on the date in question fell seriously below the standard expected. Dr D was of the view that the conduct breached Good Medical Practice (2013) ('GMP'), specifically paragraphs 15, 18, 19, 21, 46, 54, 71 which state:

> *"15 You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:*
>
> *a adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient*
>
> *b promptly provide or arrange suitable advice, investigations or treatment where necessary*
>
> *c refer a patient to another practitioner when this serves the patient's needs.*
>
> 18 *You must make good use of the resources available to you*
>
> *19 Documents you make (including clinical records) to formally record your work must be clear, accurate and legible. You should make records at the same time as the events you are recording or as soon as possible afterwards*
>
> *21 Clinical records should include:*
>
> *a relevant clinical findings*
>
> *b the decisions made and actions agreed, and who is making the decisions and agreeing the actions*
>
> *c the information given to patients*
>
> *d any drugs prescribed or other investigation or treatment e who is making the record and when.*
>
> 46 *You must be polite and considerate*
>
> *54 You must not express your personal beliefs (including political, religious and moral beliefs) to patients in ways that exploit their vulnerability or are likely to cause them distress*

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

.

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

b You must not deliberately leave out relevant information''

18. Mr Sastry submitted that there have been significant departures from specific paragraphs of GMP and the fundamental tenets of the profession, which were of such a nature as to render the misconduct serious, as evidenced by Dr G's report. XXX. He submitted that nevertheless it was the GMC position that whilst XXX may have the capability to mitigate to some degree, the misconduct was of such a nature and gravity as to remain 'serious misconduct' and as such required addressing by the Tribunal. XXX.

19. Mr Sastry submitted that although this misconduct may relate to a single occasion and a single patient, that does not mean that it is not serious, and invited the Tribunal to look at the overall picture. He reminded the Tribunal that there are 5 separate elements of misconduct under the charge. He submitted that any responsible practitioner would find Dr Nazir's conduct 'deplorable', and that the uncontested expert evidence found it to be seriously below the standard expected.

20. Mr Sastry submitted that Dr Nazir has demonstrated limited insight into the seriousness of his conduct as regards the consultation with Patient A. XXX. He submitted that considering the lack of insight the risk of repetition remains very high as does the associated risk to any patients.

21. Mr Sastry referred the Tribunal to Dame Janet Smith's test for impairment in the Fifth Shipman Report, cited in *CHRE v NMC and P Grant [2011] EWHC 927* (Admin), the *Grant* case, of which he submitted limbs (b) and (c) were most relevant in this case:

'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.'

He submitted that *Grant* emphasised the need to protect the public and maintain confidence in the profession and that where a Tribunal determines there has been a fundamental breach of professional rules a finding of impairment may be justified to reaffirm standards. He submitted that Dr Nazir's actions and comments brought the profession into disrepute, undermined public confidence in the profession and posed an ongoing risk to public protection.

22. Mr Sastry noted that XXX. He therefore invited the Tribunal to find Dr Nazir's fitness to practice currently impaired by reason of misconduct XXX.

23. On behalf of Dr Nazir, Mr Ivill submitted that the doctor's conduct on the 31 January 2020, be it act or omission, was inextricably linked to XXX. He submitted that the impact of XXX on his actions mitigates his conduct such that the Tribunal could find any misconduct not to be serious, and not to meet the high threshold of 'deplorable'.

24. Mr Ivill reminded the Tribunal XXX. He also reminded the Tribunal that the allegation of misconduct related to a single incident with Patient A, whom he had treated on four earlier occasions, most recently on 18 November 2019. Dr D and Dr G had considered those assessments and found them to be adequate and consistent with expected standards.

25. Regarding insight, Mr Ivill reminded the Tribunal that Dr Nazir has admitted the Allegation in its entirety and has stated that in future he will not express his personal beliefs to patients, and that he wants to go back to work as a doctor. He submitted that Dr Nazir has reflected on what occurred, has accepted that he crossed his professional boundaries and 'lost his filter'. Mr Ivill reminded the Tribunal of the reflections Dr Nazir made in his witness statement,

''I fully acknowledge that the way I conducted the consultation with Patient A on 31 January 2020 was not appropriate and I apologise for my actions [which] I *have previously described as a "rant" on my part, which was unprofessional and not in the patient's best interests. I have reflected on why I behaved in this way at the time, and I now recognise that XXX.''*

26. XXX

27. Mr Ivill also drew the Tribunal's attention to XXX. He submitted that this demonstrates powerful evidence of insight and risk mitigation.

28. Mr Ivill XXX. He invited the Tribunal to accept the strong link between XXX and his conduct such that and that it was not appropriate to find that there was serious misconduct.

The Relevant Legal Principles

29. 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.

30. 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.

31. The Tribunal must determine whether Dr Nazir'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. It should also consider whether a finding of impairment is warranted taking into account the wider public interest.

32. Throughout its deliberations, the Tribunal must be mindful of its responsibility to uphold the overarching objective, as set out in the Medical Act 1983 (as amended). That objective is the protection of the public and involves the pursuit of the following:

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.

33. Whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance provided by *Dame Janet Smith in the Fifth Shipman Report*, as adopted by the *High Court in CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin. The Tribunal noted that any of the following features are likely to be present when a doctor's fitness to practise is found to be impaired:

a. '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; and/or

b. Has in the past and/or is liable in the future to bring the medical profession into disrepute; and/or

c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

34. The LQC drew the Tribunal's attention to the case of *Yeong v GMC* [2009] EWHC 1923 (Admin), which states that '*where a FTPP considers that fitness to practise is impaired for such reasons, and that a firm declaration of professional standards so as to promote public confidence in that medical practitioner and the profession generally is required, the efforts made by the practitioner to address his problems and to reduce the risk of recurrence of such misconduct in the future may be of far less significance than in other cases, such as those involving clinical errors or incompetence'*.

35. The LQC highlighted the case of *Roylance v GMC* (no2) (2000) 1 AC 311 in which 'misconduct' was defined as 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'*. In the case Nandi v GMC [2004] EWHC 2317 (Admin), it was said that serious misconduct is sometimes described as misconduct which would be considered deplorable by fellow practitioners.

36. The LQC also drew the Tribunal's attention to *Cohen v GMC* (2008) EWHC 581 in which the Court held that the task of the panel, in considering impairment, is to take account of the practitioner's misconduct and then consider it in light of all the other relevant factors known to them. The Court stated that it will be highly relevant in determining if fitness to practise is impaired to consider:

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

37. XXX

38. XXX

The Tribunal's Determination on Impairment

XXX

39. XXX

40. XXX

41. XXX

42. XXX

43. XXX

Misconduct

44. The Tribunal noted the two-stage process, as set out above, and next considered whether Dr Nazir's actions, as admitted and found proved in relation to paragraph 1 of the Allegation, amounted to misconduct and whether that misconduct was serious.

45. The Tribunal looked to the conduct itself, as considered by Dr D, and whether XXX mitigated that conduct.

46. The Tribunal reminded itself of the details of the conduct alleged. Of particular concern were the misogynistic views he expressed, and the failure to appreciate, act upon and record Patient A's comments regarding his own welfare and threats to members of the medical profession. It noted that Dr Nazir's conduct seriously departed from the fundamental tenets of GMP, and in particular those paragraphs identified by Dr D. Dr D stated that in all aspects the conduct was seriously below the standards expected. The Tribunal concurred with the uncontested evidence of Dr D and was of the view that the misconduct as set out in paragraph 1 of the Allegation was of itself serious. It then went on to consider whether and to what extent XXX mitigated the seriousness of the misconduct.

47. XXX

48. The Tribunal noted that it was alleged Dr Nazir undertook an inadequate and improper assessment, and also that he failed to make adequate records. The Tribunal noted that Dr Nazir's written medical record, made near-immediately following the consultation, read as coherent and cogent, and yet in many significant and serious ways was divergent from what actually occurred, as evidenced by the recording and transcript of the consultation. XXX.

49. In conclusion, the Tribunal determined that despite any mitigating influence XXX, his conduct fell so far short of the standards reasonably to be expected of a doctor as to amount to serious misconduct.

50. The Tribunal also concluded that Dr Nazir's conduct so fundamentally undermined confidence in the profession and fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct. In such circumstances the Tribunal was of the view that it was necessary for the Tribunal to address the misconduct to ensure public confidence was maintained.

Impairment

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

52. In determining whether a finding of impairment is necessary, the Tribunal was mindful throughout of the overarching objective and had regard to Dr Nazir's insight, remediation, and the likelihood of repetition.

53. The Tribunal had regard to paragraph 76 of the judgment in *CHRE v NMC & Paula Grant [2011] EWHC 927 (Admin),* in which Mrs Justice Cox set out the helpful and comprehensive approach of Dame Janet Smith in her 5th Shipman Report when determining current impairment (see above). The Tribunal determined limbs (a), (b) and (c) were engaged for the reasons set out below.

54. The Tribunal was satisfied that the misconduct was serious and that there had been significant past risk to a patient, other members of the public and health-care professionals. This was most clearly illustrated by his failure to act upon or record patient A's comments as regard his expressed thoughts of serious harm to himself and others. XXX. Accordingly the Tribunal was of the view that limb (a) was engaged in that Dr Nazir '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.'

55. The Tribunal was of the view that the misconduct as established was a breach of the fundamental tenets of the medical profession and brought the profession into disrepute. The Tribunal considered Dr Nazir's use of derogatory language and inappropriate comments, in particular the misogyny, the failure to make any plans or take any action to address the risks apparent to patient A and others and the inaccurate record would be highly damaging to public confidence in the profession. Accordingly, the Tribunal found that Dr Nazir's actions satisfied limbs (b) and (c):

b. Has in the past and/or is liable in the future to bring the medical profession into disrepute; and/or

c. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession….

56. The Tribunal has therefore determined that Dr Nazir's fitness to practise is impaired by reason of misconduct XXX.

57. Taking into account all of the above, the Tribunal determined that a finding of impairment is necessary in relation to each of the three limbs of the Overarching Objective:

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

Determination on Sanction - 03/04/2024

58. Having determined that Dr Nazir's fitness to practise is impaired by reason of misconduct XXX, 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

59. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching its decision on sanction. It received no further evidence at this stage of the proceedings.

Submissions

60. On behalf of the GMC, Mr Sastry submitted that the appropriate sanction in this case was an order of suspension. He referred the Tribunal to the Sanctions Guidance (2024) ('the SG') throughout his submissions.

61. Mr Sastry referred the Tribunal to those factors the GMC submitted were aggravating in this case. Mr Sastry noted Dr Nazir's previous MPT Hearing could be regarded as an aggravating feature but accepted that it occurred some time ago, in May 2009, and was completely different in nature. He submitted that the Tribunal's findings regarding the incomplete development of Dr Nazir's insight was an aggravating feature, but conceded that

XXX may have contributed. He submitted that whilst there may have been some effort to remediate, this was limited by XXX.

62. Mr Sastry submitted that it is necessary to suspend Dr Nazir's registration both to protect patients and to maintain confidence in the profession. He submitted that such a suspension must be of sufficient duration to allow Dr Nazir adequate time to remediate and develop insight into his misconduct, XXX.

63. Mr Sastry submitted that the Tribunal had determined that the misconduct was of a serious nature. The Tribunal had noted the misogynistic views expressed and the fact that the inadequate and improper assessment and failure to make adequate records had involved potential risk to Patient A and others.

64. Mr Sastry submitted that in such circumstances only a suspension at the 'upper end of the scale' would serve to adequately mark the misconduct and allow time for Dr Nazir to prepare to return to practise without risk to others.

65. On behalf of Dr Nazir, Mr Ivill first drew the Tribunal's attention to the mitigating factors of the case. He submitted that Dr Nazir has admitted to the Allegation in it's entirety, very much regrets the events of the 31 January 2020 and has apologised. He noted that the events relate to one patient and a single consultation more than four years ago and that he had co-operated with the investigation. He submitted that Dr Nazir has reflected on the way he behaved XXX.

66. Mr Ivill also submitted that there was evidence that XXX Dr Nazir could conduct consultations in a professional manner, XXX.

67. Mr Ivill submitted that a sanction of suspension would be appropriate in this case. Erasure was a sanction which should be reserved for the most serious of cases. In this case XXX had been a major contributory factor and was therefore significant mitigation, and that it would not therefore be appropriate to say he should never practise again.

68. XXX

The Relevant Legal Principles

69. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on Dr Nazir's registration is a matter for this Tribunal alone, exercising its independent judgement. In reaching its decision, the Tribunal has taken account of the SG.

70. The Tribunal took into account its decision on impairment, the submissions of both parties, and the documentary evidence adduced during the course of these proceedings.

71. The Tribunal recognised that the purpose of a sanction is not to be punitive, although it may have a punitive effect. The Tribunal must impose a sanction if it is required in order to protect patients, maintain public confidence in the profession, and to promote and maintain proper professional standards. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Nazir's interests with the public interest.

72. In deciding what sanction, if any, to impose, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, to establish which sanction is appropriate and proportionate.

73. The Tribunal were reminded of the case of *Bolton v The Law Society [1993] EWCA Civ 32 (06 December 1993),* in which Sir Thomas Bingham stated,

'16 [...]The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.'

The Tribunal's Determination on Sanction

Mitigating and Aggravating Factors

74. The Tribunal first identified the aggravating features present in this case. It reminded itself of the scope and gravity of the misconduct, encompassing behaviour and language which caused serious disrepute to the profession. It was concerned that some of the behaviour exhibited, particularly the misogynistic comments, may prove difficult to fully remediate. The inadequate assessment, lack of action and inaccurate records had put Patient A, and others, at risk; the Tribunal noted that Patient A was particularly vulnerable at the time of the assessment. The Tribunal did not consider the previous finding recorded for Dr Nazir to be relevant to its deliberations.

75. XXX

76. The Tribunal then considered matters which mitigated Dr Nazir's misconduct. It noted that Dr Nazir had admitted all matters, expressed regret regarding his conduct and apologised. XXX. The Tribunal noted this was an isolated incident regarding one patient. The Tribunal noted that Dr Nazir had some limited insight into XXX and his conduct, though was of the view that this needed to develop.

77. Having considered these factors, the Tribunal then went on to consider what sanction, if any, to impose, starting with the least restrictive

No action

78. The Tribunal first considered whether to conclude the case by taking no action. It noted that to take no action following a finding of impaired fitness to practise would only be appropriate in exceptional circumstances.

79. The Tribunal was satisfied that there were no exceptional circumstances in Dr Nazir's case which could justify it taking no action. It determined that, given the Tribunal's findings in respect of impairment, to take no action, would not be sufficient, proportionate or in the public interest.

Conditions

80. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Nazir's registration. It had regard to paragraphs XXX 82(a), 82(c), and XXX of the SG, which state:

'XXX

…

82 Conditions are likely to be workable where:

a the doctor has insight

b …

c the tribunal is satisfied the doctor will comply with them

d …

…

XXX

81. The Tribunal acknowledged that conditions may, in some circumstances, be an appropriate sanction to support a doctor XXX to remain in clinical practice, while protecting the public. However, XXX, the Tribunal was of the settled opinion that conditions would not be appropriate or workable in this case.

82. The Tribunal was also of the view that conditions would not appropriately mark the seriousness of the misconduct. Therefore, the Tribunal concluded that imposing conditions on Dr Nazir's registration would not be appropriate and proportionate and would not meet the overarching objective.

Suspension

83. The Tribunal then considered whether an order of suspension would be proportionate in these circumstances.

84. The Tribunal has borne in mind paragraphs 91-97 of the SG. In particular paragraph 97,

> *97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate*
>
> *a A serious departure from Good medical practice, but where the misconduct is not so difficult to remediate that complete removal from the register is in the public interest. However, the departure is serious enough that a sanction lower than a suspension would not be sufficient to protect the public.*
>
> *b…*
>
> *XXX*

85. The Tribunal was of the view that the misconduct was so serious that it must consider whether erasure was necessary to protect public confidence. The Tribunal was of the settled view that the professional failings and the language used, in particular the misogynistic views, was deplorable and under normal circumstances erasure would be under strong consideration. However, it determined that the mitigating nature of XXX was such that in the particular circumstances of this case that was not proportionate and necessary. The Tribunal

was of the view that any member of the public or professional colleague fully aware of all the circumstances would understand and accept the course it adopted in imposing a suspension.

86. The Tribunal decided that imposition of a suspension was appropriate, necessary and proportionate. XXX. It would also serve to mark the serious nature of the misconduct, uphold public confidence in the profession and ensure the overarching objective was upheld.

Length of Suspension

87. Having determined to impose a period of suspension on Dr Nazir's registration, the Tribunal went on to consider the length of the period of suspension. It considered the following paragraphs of SG:

> *'100 The following factors will be relevant when determining the length of suspension:*
>
> > *a) the risk to patient safety/public protection*
> > *b) the seriousness of the findings and any mitigating or aggravating factors*
> > *c) ensuring the doctor has adequate time to remediate.*
> >
> > *101 The tribunal's primary consideration should be public protection and the seriousness of the findings. Following any remediation, the time all parties may need to prepare for a review hearing if one is needed will also be a factor'*

88. In considering the length of suspension, the Tribunal bore in mind that there should be sufficient time to allow for Dr Nazir to gain insight into his misconduct and XXX. The Tribunal was also of the view that despite the mitigation afforded by the impact of XXX on his misconduct it remained of such seriousness that it was necessary that a significant period of suspension was imposed to protect public confidence in the profession. For those reasons it determined that a period of 12 months suspension was appropriate in this case.

Review Hearing

89. The Tribunal determined to direct a review of Dr Nazir'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 it will be Dr Nazir's responsibility to demonstrate that he is fit to practise. To assist, the Tribunal indicated that any future review panel may wish to see evidence that he has XXX. This may include demonstrating that he has remediated his misconduct and addressed the underlying source of the misogynistic and unprofessional views he expressed when 'XXX'.

Determination on Immediate Order - 03/04/2024

90. Having determined that Dr Nazir's registration should be suspended for a period of 12 months, 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

91. On behalf of the GMC, Mr Sastry, Counsel, submitted that an immediate order is necessary to reflect the seriousness of the findings of the Tribunal and its decision to suspend Dr Nazir for 12 months from the Medical Register. Mr Sastry submitted that an immediate order is necessary in order to protect the public interest, in particular to uphold standards and maintain public confidence in doctors.

92. On behalf of Dr Nazir, Mr Ivill made no submissions in relation to an immediate order.

The Tribunal's Determination

93. In reaching its decision, the Tribunal considered the relevant paragraphs of the SG and exercised its own independent judgement. In particular, it took account of paragraphs 172, 173 and 178, which state:

> *'172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.*
>
> *173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided*

poor clinical care or abused a doctor's special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.

…

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.'

94. The Tribunal determined that, given XXX, the seriousness with which it viewed Dr Nazir's misconduct, its findings on impairment and the sanction it has imposed, it is in the public interest to suspend his registration with immediate effect in order to protect the public, uphold standards for doctors and maintain public confidence in the medical profession.

95. This means that Dr Nazir's registration will be suspended today. The substantive direction, as already announced, will take effect 28 days from the date on which written notification of this decision is deemed to have been served, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

96. The interim order will be revoked when the immediate order takes effect.

97. That concludes the case.

ANNEX A – 02/04/2024

Privacy application

98. On day one of the hearing Mr Ivill, Counsel for Dr Nazir, made an application, pursuant to Rule 41, that the hearing should be held entirely in private. XXX.

99. XXX

GMC submissions

100. On behalf of the GMC, Mr Bob Sastry, Counsel, did not oppose the application or propose a more limited approach to the entire hearing being conducted in private.

The Tribunal's Approach

101. The Tribunal considered the submissions made by both counsels.

102. The Tribunal bore in mind Rule 41 of the Rules which states:

"41.

(1) Subject to paragraphs (2) to (6) below, hearings before the Committee and a Medical Practitioners Tribunal shall be held in public.

(2) The Committee or Medical Practitioners Tribunal may determine that the public shall be excluded from the proceedings or any part of the proceedings, where they consider that the particular circumstances of the case outweigh the public interest in holding the hearing in public.

(3) Subject to paragraphs (4) to (6), the Committee or a Tribunal shall sit in private, where they are considering-

(a) whether to make or review an interim order; or
(b) the physical or mental health of the practitioner.

(4) Where it is considering an allegation or a non-compliance matter, the Medical Practitioners Tribunal may revoke an interim order in public.

(5) A Tribunal shall, where it is considering matters under paragraph (3)(a), sit in public where the practitioner requests it to do so.

(6) Subject to paragraph (5), the Committee or Tribunal may, where they are considering matters under paragraph (3)(a) or (b), hold a hearing in public where they consider that to do so would be appropriate, having regard to-

(a) the interests of the maker of the allegation (if any); (b) the interests of any patient concerned;
(c) whether a public hearing would adversely affect the health of the practitioner; and
(d) all the circumstances, including the public interest.''

103. The Tribunal balanced Dr Nazir's interests with the public interest in deciding whether the hearing should be held in private, noting that the presumptive position is that a hearing will be heard in public.

104. The LQC reminded the Tribunal of its responsibilities as set out in rule 41, Article 6 of the Convention of Human Rights and the general public interest in hearing the matter in public.

The Tribunal's Decision

105. XXX

106. XXX

107. XXX

108. The Tribunal therefore determined that the particular circumstances of the case required that the proceedings would be heard entirely in private.

XXX