

PUBLIC RECORD

Dates: 16/12/2020
21/12/2020

Medical Practitioner’s name: Dr Tarek SEDA

GMC reference number: 6124507

Primary medical qualification: MB BCh 2002 Ain Shams University

Type of case	Outcome on impairment
Review - Misconduct	Impaired

Summary of outcome
Conditions, 18 months.
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Ms Louise Sweet QC
Medical Tribunal Member:	Dr Edward Doyle
Medical Tribunal Member:	Dr Róisín Finn
Tribunal Clerk:	Ms Fiona Johnston (16/12/2020) Ms Evelyn Kramer (21/12/2020)

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner’s Representative:	Mr Alan Jenkins, Counsel
GMC Representative:	Ms Georgina Goring, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Impairment - 16/12/2020

Background

1. In 2017, Dr Seda was practising as a private GP for Doctorcall in Harley Street London and as a Specialty Doctor in Emergency Medicine at King's Mill Hospital and Sherwood Forest Hospitals NHS Foundation Trust ('SFHFT').
2. Dr Seda failed to adhere to his allocated break times at King's Mill Hospital and fell asleep whilst on duty (without telling anyone he was going on a break). There were also concerns related to Dr Seda's treatment of three patients; he failed to carry out several actions required for the assessment and treatment of patients.
3. Dr Seda did not inform Silverstone Medical locum agency of his IOT conditions and offered to take up one day's employment in breach of conditions, which was dishonest.
4. Dr Seda also created a false certificate of employment purporting to be from Doctorcall Medical Services and submitted this to the Dataflow Group.
5. Initial concerns were raised with the GMC on 20 July 2017 by the Trust after an internal investigation, arising from concerns about record keeping, clinical management and conduct.

The December 2019 Tribunal ('the 2019 Tribunal')

6. At the outset of the 2020 hearing, Dr Seda made full admissions to the facts.
7. The 2019 Tribunal considered all the documentary evidence provided by both parties, as well as the facts admitted, to determine whether or not his actions amounted to misconduct. This evidence included, but was not limited to, patient medical records, the SHFHT Disciplinary Investigation Report and Dr Seda's written submissions. The Tribunal also received evidence from Dr Seda including certificates of continuing professional development (CPD), reflective statements, references and his Personal Development Plan (PDP).

8. The Tribunal also received evidence from Mr A, Consultant in Emergency Medicine and Clinical Team Leader at a large teaching hospital Trust, unconnected with Dr Seda.

9. The Tribunal considered that Dr Seda's misconduct involved serious breaches of GMP. Dr Seda did not demonstrate sufficient insight into the possible consequences of misleading employers or medical colleagues. He appeared to lack confidence and good judgement when under pressure. The Tribunal determined to suspend his registration for 12 months on 12 December 2019.

10. The Tribunal believed that the maximum period of suspension was required to give Dr Seda enough time to develop his insight and to provide a review tribunal with evidence of this. It would also mark the seriousness of his misconduct and maintain public confidence in the medical profession. The tribunal recommended that the following evidence would assist at the review of Dr Seda's case:

- A reflective piece detailing the potential consequences of dishonesty in a clinical context;
- The steps he has undertaken to improve his abilities in basic medical care as outlined by this Tribunal in its determination on impairment;
- Any other relevant evidence he wishes to present to assist the Tribunal, for example, evidence of his continuing professional development.

Today's hearing

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

The Evidence

12. The Tribunal received documentary evidence, including:

- Record of Determination dated 22 – 26 July 2019, 21 August 2019, 11 – 12 December 2019;
- Letter from GMC to Dr Seda introducing the investigation officer for MPT Review Hearing;
- Email from GMC to Dr Seda concerning early review criteria dated 23 March 2020;
- Dr Seda to GMC with early review documentation;

- Email from Dr Seda to GMC attaching certificates dated 13 April 2020;
- Case Examiner decision regarding early referral to MPT dated 4 May 2020;
- Email from GMC to Dr Seda regarding AR review dated 6 May 2020;
- Email from Dr Seda to GMC dated 12 May 2020 regarding suspension of clinical attachments to reduce risk of infection;
- Email from Dr Seda to GMC concerning employment opportunities dated 13 May 2020 with evidence of offers;
- Email from GMC to Dr Seda concerning evidence of remediation dated 27 May 2020;
- Email from GMC to Dr Seda dated 9 October 2020 concerning legal representative;
- Email from Dr Seda to the GMC dated 28.10.2020 enclosing documentation including:
- Email from Dr Seda to GMC confirming service by email of info letter and hearing bundle dated 3 November 2020;
- Cover email from Dr Seda dated 18 November 2020 attaching numerous course certificates;
- Email between GMC and Dr Seda concerning no witnesses dated 23 November 2020;
- Email from Dr Seda attaching his CPD diary, dated 15 December 2020.

13. Dr Seda provided oral evidence to the Tribunal. He apologised, expressed his remorse and told the Tribunal there was no risk of repetition.

Submissions

Submissions on behalf of the GMC

14. On behalf of the GMC, Ms Goring submitted that Dr Seda's fitness to practise remains impaired by reason of his misconduct. He had not been able to do any clinical placements due to Covid 19, there were limited opportunities to improve his clinical skills in practice and his clinical skills remain impaired as a result.

15. She submitted that Dr Seda's willingness to engage had started with his reflective statement and the provision of some evidence of CPD. Ms Goring submitted that, whilst Dr Seda has begun to address some of the concerns raised by the 2019 Tribunal, he still has further work to do in order to fully remediate. The Tribunal should also consider whether his behaviour is likely to be repeated.

16. As to whether he remained impaired by reason of his dishonesty, she left that to the judgement of the Tribunal.

17. Ms Goring referred the Tribunal to the overarching objective and stated that it must consider the need to help promote the health and safety of the public by ensuring patients are not placed at risk by an unrestricted return to practice. She also referred to the need to promote and maintain public confidence in the medical profession and to maintain proper professional standards and conduct for members of that profession. Ms Goring submitted that Dr Seda's insight is developing, and the Tribunal could not be satisfied that his conduct would not be repeated in the future until concerns about his clinical skills have been resolved.

Submissions on behalf of Dr Seda

18. Mr Jenkins submitted that Dr Seda understands the gravity of his misconduct and that he has taken responsibility for it. He submitted that he has not repeated the misconduct.

19. Mr Jenkins reminded the Tribunal that its duty was to look at the position before it today as well as the past. Dr Seda had given evidence at the impairment stage and the Tribunal was given sight of his reflective statement and CPD diary. Dr Seda had made full admissions from the outset and credit should be given for those. He also has apologised and accepted that he did breach parts of GMP and his conduct did not meet the standards expected of a doctor.

20. Mr Jenkins conceded that Dr Seda's clinical skills remain impaired, he has tried to do more to improve his skills but was not able to, due to Covid 19. This was not through lack of effort on his part. He also completed a number of online courses designed to improve his skills, again demonstrating a continued desire to do better.

21. As far as his dishonesty is concerned, Mr Jenkins submitted that Dr Seda had done everything he can. He stated it was a matter for the Tribunal as to whether it was enough. He accepted dishonesty was more difficult to remediate but this dishonesty has been characterised by the 2019 Tribunal as on the 'low/ middle part of the spectrum of seriousness'.

The Tribunal's Decision

22. 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. The doctor bears the evidential burden to demonstrate he is not currently impaired.

23. The Tribunal must determine whether Dr Seda'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.

24. The Tribunal also took into account the overarching objective in particular the risk to patient safety and the impact upon public confidence.

25. The Tribunal considered whether Dr Seda's fitness to practise is currently impaired by reason of his misconduct. The Tribunal has taken account of all the documentary evidence presented to it, submissions made by Ms Goring on behalf of the GMC and those made by Mr Jenkins.

Clinical Skills

26. The Tribunal first considered whether Dr Seda's fitness to practise was impaired by reason of his clinical competence. The Tribunal had regard to the further evidence provided at the impairment stage. The Tribunal noted that, Dr Seda completely accepts the finding of the 2019 Tribunal and understands why the conclusion was reached.

27. The Tribunal took into consideration Dr Seda's reflective statement. The Tribunal was of the view that Dr Seda had clearly demonstrated that he had learned some lessons from his conduct. However, the Tribunal concluded that whilst his admissions and evidence demonstrated a level of insight, Dr Seda cannot provide evidence of his clinical practice or reports from a workplace supervisor as he cannot secure a clinical placement due to the restrictions in place. The Tribunal noted Dr Seda had kept a CPD diary and had undertaken relevant courses such as:

- Tachycardias – Current Treatment;
- Advanced Cardiovascular Life Support;
- Sepsis;
- ECG Skills: Tachycardia.

28. It remained concerned that Dr Seda that was not able to satisfy the Tribunal that he is currently fit to practice unrestricted. In addition, the Tribunal considered that public confidence would be undermined if a finding of impairment were not made in a case such as this. Accordingly, it found Dr Seda's fitness to practise currently impaired by reason of his misconduct.

Dishonesty

29. The Tribunal considered that Dr Seda dishonesty was serious and constituted a breach of a fundamental tenet of the profession, namely acting with honesty and integrity. The public must have confidence that doctors will at all times act with honesty. Dr Seda did not do this.

30. The Tribunal took account of the steps Dr Seda has taken to remediate and address the issues of the 2019 Tribunal earlier findings. Whilst acknowledging that dishonesty is difficult to remediate, the Tribunal noted the relevant courses he has undertaken and reflected upon.

- Ethics in General Practice;
- Fundamentals of Medical ethics;
- Understanding Medical ethics;
- Medical Ethics one to one with Dr Sokol (specialist in ethics and probity).

31. The Tribunal noted that Dr Seda has also engaged a mentor to discuss how he could change his behaviour and to gain further insight.

32. The Tribunal noted that Dr Seda has expressed remorse that his actions have brought the profession into disrepute. The Tribunal noted that there has been no repetition of this misconduct. The Tribunal was satisfied on the evidence before it that it was not likely to be repeated.

33. The Tribunal acknowledged that Dr Seda is not in a position to demonstrate insight by way of testimonials supporting the practical application of his ethics in practice. Nevertheless, he has demonstrated that he does have insight into his dishonesty. The Tribunal determined that he has engaged properly in reflecting upon the fundamental tenet of probity required for a member of the medical profession. He has reflected on the adverse impact of a failure to adhere to these standards. He has adequately remediated the adverse impact on public confidence. The Tribunal therefore determined he was no longer impaired by this reason of dishonesty.

Determination on Sanction - 21/12/2020

1. Having determined that Dr Seda's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(g) of the Rules on the appropriate sanction, if any, to impose.

Submissions

2. Ms Goring submitted that the appropriate and proportionate sanction in this case would be an order of conditions. She directed the Tribunal's attention to the Sanctions Guidance (November 2020 edition) ('SG') when making its determination and in particular paragraph 163:

163 It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.

3. Ms Goring assisted the Tribunal in identifying the mitigating factors in the case. She submitted that Dr Seda has engaged with the GMC, he has shown evidence of remorse, made full admissions from the outset and shown some insight into his clinical failings.

4. She submitted that conditions are workable and proportionate in this case. She submitted that the Tribunal may want to impose requirements for an educational supervisor, a clinical supervisor and for Dr Seda to design a personal development plan which addresses the concerns raised with this case.

Submissions of behalf of Dr Seda

5. Mr Jenkins accepted that taking no action would not be appropriate in light of the Tribunal's findings on impairment. He agreed with Ms Goring that conditions would be the most proportionate and appropriate sanction in this case.

6. Mr Jenkins invited the Tribunal to impose a 12-month order of conditions on Dr Seda's registration, he submitted that Dr Seda recognises that an order of conditions is appropriate given his current circumstances, and that he would benefit from the structure they provide. He submitted this would allow Dr Seda to demonstrate his skills and that through patient feedback and testimonials that he has improved.

The Relevant Legal Principles

7. The Legally Qualified Chair reminded the Tribunal that the decision as to the appropriate sanction, if any, is a matter for this Tribunal's own independent judgement. The Tribunal was reminded that it should consider the least restrictive sanction first, before moving on to consider more serious sanctions.

8. In reaching its decision, the Tribunal should take into account the SG and the statutory overarching objective, which includes protecting and promoting the health, safety and wellbeing of the public, promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct. The Tribunal should consider the overarching objective as a whole and not give excessive weight to any one limb.

9. Throughout its deliberations, the Tribunal has borne in mind that the purpose of sanctions is not to be punitive, but to protect the public interest. In making its decision, the Tribunal also had regard to the principle of proportionality and it weighed Dr Seda's interests with those of the public. It also considered and balanced the mitigating and aggravating factors in this case.

10. The Tribunal also gave careful consideration to the determinations of the initial 2019 Tribunal, together with its own findings on Dr Seda's fitness to practise.

The Tribunal's Determination on Sanction

11. The Tribunal did not identify any further aggravating factors beyond the Allegation itself.

12. The Tribunal identified the following to be mitigating factors;

- Dr Seda has shown some insight throughout the proceedings;
- Dr Seda has engaged with the hearing process;
- Dr Seda made full admissions from the outset of the hearing;
- Dr Seda has expressed regret and apologised for his actions in his reflective statement.

No action

13. The Tribunal first considered whether to conclude the case by taking no action. The Tribunal determined that, given its findings, there are no exceptional circumstances in this case. Accordingly, it would not be sufficient, proportionate, or in the public interest to conclude this case by taking no action.

Conditions

14. The Tribunal moved on to consider whether to impose an order of conditions on Dr Seda's registration. In so doing, it bore in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

15. The Tribunal also considered whether conditions were workable following the guidance in paragraphs 82(a), 82(b), 82(c) and 82(d) of the SG. The Tribunal was satisfied that Dr Seda has demonstrated some insight, that he is very likely to comply with the conditions and would respond positively to remediation and supervision.

16. The Tribunal acknowledged that both parties agreed that conditions are both appropriate and workable. It noted that both the parties agree that further suspension would be disproportionate. The Tribunal determined that conditions are the least restrictive and proportionate to properly protect patient safety and therefore public confidence in the medical profession.

17. With regards to what conditions can be put in place with the facts of this case, the Tribunal noted that the 2019 Tribunal determined that it had found *'enough instances of individual actions or omissions which could be said to form part of a wider picture of misconduct. Some were particularly serious such as the giving of a dangerous drug to an already compromised patient without senior advice, the failure to examine Patient C, the failure to produce any sort of clinical record for patient C and the failure, despite advice to do so, to safety net'*. The 2019 Tribunal therefore determined that these allegations, taken as a whole, amounted to serious misconduct. This Tribunal determined that to return safely to practise Dr Seda would need a close level of supervision.

18. The Tribunal considered the next higher sanction, an order of suspension. It determined that such a sanction would be unnecessary and wholly disproportionate in the

circumstances of this case. A further period of suspension would also deprive Dr Seda of the opportunity to remediate fully by being in clinical practice.

19. When considering which conditions to impose, the Tribunal had regard to the current interim order conditions. Having done so, it has concluded that the conditions set out below are appropriate and proportionate to address the concerns identified, as well as necessary to meet the overarching objective.

20. The following conditions relate to Dr Seda's employment and will be published:

1 He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:

- a the details of his current post, including:
 - i his job title
 - ii his job location
 - iii his responsible officer (or their nominated deputy)
- b the contact details of his employer and any contracting body, including his direct line manager
- c any organisation where he has practising privileges and/or admitting rights
- d any training programmes he is in

2 He must personally ensure the GMC is notified:

- a of any post he accepts, before starting it
- b that all relevant people have been notified of his conditions, in accordance with condition 10

- c if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - d if any of his posts, practising privileges, or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination
 - e if he applies for a post outside the UK.
- 3 He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.
- 4 a He must have a workplace reporter appointed by his responsible officer (or their nominated deputy).
- b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his workplace reporter
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.
- 5 a He must get the approval of the GMC before accepting any post.
- 6 a He must be closely supervised in all of his posts by a clinical supervisor, as defined in the *Glossary for undertakings and conditions*. His clinical supervisor must be approved by his responsible officer (or their nominated deputy).
- b He must not work until:
 - i his responsible officer (or their nominated deputy) has appointed his clinical supervisor and approved his supervision arrangements
 - ii he has personally ensured that the GMC has been notified of the name and contact details of his clinical supervisor and his supervision arrangements.

- 7 a He must design a Personal Development Plan (PDP), with specific aims to address the deficiencies in the following areas of his practice: professionalism and clinical skills
- i A portfolio of patient cases that demonstrates his clinical competence in taking a medical history
 - ii A portfolio of patient cases that demonstrate his clinical competence in good record keeping
 - iii A portfolio of patient cases that demonstrate his clinical competence in working with others
 - iv A portfolio of patient cases that demonstrates his clinical competence in working within his limitations and recognises when to ask for help of others
 - v Reflection upon the impact a failure to maintain his clinical skills may have on patient safety.
 - vi Reflection as to how he will use his experience to avoid further clinical error or other misconduct
 - vii To demonstrate insight into how his misconduct adversely impacted public confidence in him and the profession as a whole.
- b His PDP must be approved by his responsible officer (or their nominated deputy).
- c He must give the GMC a copy of his approved PDP within three months of these substantive conditions becoming effective.
- d He must give the GMC a copy of his approved PDP on request.
- e He must meet with his responsible officer (or their nominated deputy), as required, to discuss his achievements against the aims of his PDP.

- 8 He must not work:
- a In any organisation outside the NHS
 - b At any level/grade unless it is equivalent to foundation or core trainee
 - c Outside Emergency Medicine or General Medicine.
- 9 He must not work in any locum post or fixed term contract of less than three months duration.
- 10 He must personally ensure the following persons are notified of the conditions listed at 1 to 9:
- a his responsible officer (or their nominated deputy)
 - b the responsible officer of the following organisations:
 - i his place(s) of work, and any prospective place of work (at the time of application)
 - ii all of his contracting bodies and any prospective contracting body (prior to entering a contract)
 - iii any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)
 - iv any locum agency or out of hours service he is registered with
 - v if any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify that person, he must contact the GMC for advice before working for that organisation.
 - c his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

21. In considering the length of time the conditions should be imposed on Dr Seda's registration, the Tribunal had regard to the importance of balancing Dr Seda's desire to get back to work, and the public interest. The Tribunal concluded that it is appropriate, necessary and proportionate to impose conditions on Dr Seda's registration for a period of 18 months. The Tribunal considered that this was the minimum period to allow Dr Seda to address his clinical issues, whilst giving him the time to demonstrate that he can return to work at the level expected of a medical practitioner.

22. The Tribunal determined to direct a review of Dr Seda's case. A review hearing will convene before the end of the period of conditional registration. The Tribunal reminds Dr Seda that at the review hearing, the onus will be on him to demonstrate the extent to which he has remediated and that he is safe to return to unrestricted practice. The Tribunal considered that it may assist the reviewing tribunal if Dr Seda provided:

- i. Reflections on his progress;
- ii. Reports from his clinical and educational supervisors;
- iii. Report from his workplace reporter;
- iv. Evidence that he has kept clinical skills up to date.

This is not intended to be an exhaustive list and Dr Seda may provide any other information he considers will assist at a future review hearing.

23. The Tribunal have determined to impose conditions on Dr Seda's registration for a period of 18 months.

Immediate Order

24. Both parties submitted that an immediate order of conditions could be imposed by the Tribunal.

25. The Tribunal determined that it would impose an immediate order of conditions as it could put in place adequate safeguards to protect patients and the public. This will satisfy the overarching objective.

26. The MPTS will send Dr Seda a letter informing him of his right of appeal and when the direction and the new sanction will come into effect.

Record of Determinations –
Medical Practitioners Tribunal

Confirmed

Date 21 December 2020

Ms Louise Sweet QC, Chair