PUBLIC RECORD

Dates: 22/05/2023 - 26/05/2023

Medical Practitioner's name:	Dr Tariq Aziz SIDDIQUI Please note at least one other Medical Practitioner faced allegations at this hearing
GMC reference number:	6136276
Primary medical qualification:	MB BS 1986 University of Sind

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

Summary of outcome

Suspension, 12 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mr Nathan Moxon
Lay Tribunal Member:	Mr Paul Curtis
Medical Tribunal Member:	Dr Shri Babarao

Tribunal Clerk:	Miss Racheal Gill

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr James Buchanan, Counsel, instructed by MDDUS
GMC Representative:	Mr Tim Grey, 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 Facts and Impairment - 24/05/2023

Background

1. Dr Siddiqui qualified with MBBS from Liaquat Medical College, Pakistan in 1988. Prior to the events which are the subject of the hearing Dr Siddiqui worked as a General Practitioner ('GP') in the Republic of Ireland, between 2008 and 2015.

2. At the time of the events Dr Siddiqui had been a GP partner at Cleveland Surgery ('the Surgery') since 1 July 2016 and became Quality Outcome Framework ('QOF') Lead in early 2018. Dr A was GP partner at the Surgery since November 2015.

3. The Allegation that has led to Dr Siddiqui's hearing is in relation to the administration of the Care Quality Commission ('CQC') Quality Outcomes Framework ('QOF'). The QOF is a way the CQC, NHS England ('NHSE') and the Clinical Commissioning Group ('CCG') monitor the quality of the output from a GP surgery.

4. Following a CQC inspection in January 2018 the Surgery was rated as 'inadequate' and placed into special measures. One of the areas of concerns was that the Surgery's QOF results were 65% of the total number of points available compared with the CCG average of 94% and national average of 96%.

5. On 1 November 2018 the CQC conducted a further inspection of the surgery. On this occasion the QOF results were still below the national average and the CCG average but there was an overall improvement in the Surgery's performance since the previous January 2018 inspection. Following assurances from the Surgery that they would improve the QOF performance, the surgery was rated as 'good'.

6. While reviewing the QOF records, a number of staff at the Surgery discovered that the QOF coding and entries were not accurate. In January 2019, they made anonymous allegations to the GMC and NHSE that the GP Partners, namely Dr Siddiqui, Dr A and another doctor, had been backdating QOF data in patient records.

7. The disclosure made by the informants to NHSE, led to various investigations by the NHSE, CCG and the CQC which found evidence confirming in part the informant's concerns. It was found that many of the 'QOF reviews' were not supported by evidence, just a clinical code that a review had taken place. There was no supporting care plans or text within the consultation to suggest there had been a discussion with the patient. In some cases, the appointment had been with a different clinician to the one recording the review.

8. The CCG investigated the matter and sought to reclaim money which had been paid to the Surgery based on falsified QOF records. It investigated the 2017/18 and 2018/19 years. Its findings showed that in cancer care patients in 2017/18, 85% of reviews had been backdated. In 2018/19, 67% of reviews had been backdated. The CCG found little or no evidence of reviews being undertaken even where there was no back dating. For rheumatoid arthritis reviews the findings were that in 2017/18, 88% of entries had been backdated. In 2018/19 that figure was 51%, with a similar lack of evidence for those not backdated. For mental health reviews 2017/18, 9% were backdated, in 2018/19 that figure was 41%. For depression reviews the backdating figure for 2017/18 was 72%, for 2018/19 it was 28%, with the similar lack of evidence in non backdated entries. The false records had resulted in overpayments made to the Surgery of £44,687.53.

The Outcome of Applications Made during the Facts Stage

9. Mr Grey on behalf of the GMC, made an application, pursuant to Rule 17(6) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), to amend entries in Schedule 1 of the Allegation. Mr Buchanan, counsel on behalf of Dr Siddiqui raised no objection to the amendments of the schedules. The Tribunal was satisfied that the amendments could be made without injustice. It was also satisfied that the amended schedules better reflected the evidence upon which the Allegation is based. The Tribunal therefore decided to grant the application.

The Allegation and the Doctor's Response

10. The Allegation made against Dr Siddiqui is as follows:

1. From January 2018 to February 2019, you inappropriately entered Quality Outcomes Framework ('QOF') codes to patient medical records, in that you:

    a. added entries in patient consultations without any corresponding completed QOF compliant review as set out in Schedule 1;
    Admitted and found proved

    b. carried out the bulk coding, as set out in Schedule 2, without spending sufficient time to review the earlier clinical entries to satisfy yourself the QOF code you entered was justified.
    Admitted and found proved

2. You failed to mark any of the backdated QOF code entries as being made retrospectively and the reason for this.
Admitted and found proved

3. When you added the QOF codes at paragraph 1 you knew they were inaccurate in that:

   a. the patient consultations described in paragraph 1a did not contain any:

      i. evidence of either a face to face or telephone appointment for the review referenced by the QOF code you entered;
      Admitted and found proved

      ii. narrative to support the QOF code you entered;
      Admitted and found proved

   b. your QOF code entries as at paragraphs 1a-b indicated a QOF compliant review had been completed when you had not satisfied yourself it had.
   Admitted and found proved

4. Your actions described at paragraph 1 were carried out to wrongly:

   a. improve the QOF performance data;
   Admitted and found proved

   b. demonstrate the improvements required by the CQC were being achieved;
   Admitted and found proved

   c. persuade the CQC to remove the services from remaining placed in special measures.
   Admitted and found proved

5. Your actions described at paragraph 1a were dishonest by reason of paragraphs 3 and 4.
Admitted and found proved

6. Your actions at paragraph 1b were dishonest by reason of paragraphs 3b and 4.
Admitted and found proved

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

To be determined

The Admitted Facts

11. At the outset of these proceedings, through his counsel, Mr Buchanan, Dr Siddiqui made admissions to all paragraphs and sub-paragraphs of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'). The Tribunal noted that there appeared to be some prevarication within Dr Siddiqui's witness statement as to whether he was accepting the subjective element of dishonesty, but Mr Buchanan assured the Tribunal that Dr Siddiqui was fully accepting all elements of dishonesty in relation to his actions. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

Determination on Impairment

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

The Evidence

13. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Ms B, Assistant Practice Manager at the Surgery with responsibility for QOF compliance and informant, dated 27 May 2021;
- Ms C, CCG Manager and QOF lead for Primary Care, dated 13 May 2021;
- Ms D, CCG lead investigator, dated 21 May 2021;
- Mr E, CQC inspector, dated 6 April 2021.

14. Dr Siddiqui provided his own witness statement, dated 4 January 2023.

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

- CQC Inspection Report, dated 30 January 2018 and CQC Inspection Report and Evidence table, dated 23 May 2019;
- NHSE Investigation and Update Report, dated 1 May 2019
- NHSE review of: bulk QOF code entries; Specific Queries; Specific Patient Reviews; Task Review, dated 15 May 2019;
- Reviews of: Cancer care; Mental Health; Depression; Rheumatoid Arthritis, dated 6 September 2019;
- Guidance on General Medical Services contract QOF, dated 2018/2019.

Expert Witness Evidence

16. The Tribunal reviewed evidence from an expert witness, Dr F whose area of expertise is General Practice. Dr F produced an expert report dated 15 January 2022 upon instructions from the GMC. His report addressed whether any of Dr Siddiqui's actions fell below the standard expected of a reasonably competent General Practitioner. The Tribunal accepted Dr F's opinions and he was not called to give oral evidence at the hearing.

Submissions

On behalf of the GMC

17. Mr Grey, Counsel, submitted that conduct found proved amounted to serious misconduct and Dr Siddiqui's fitness to practise was impaired.

18. In regard to misconduct, Mr Grey referred to the cases of *Roylance v GMC [2000] 1 AC 311* and *Nandi v GMC [2004] EWHC 2317,* in both of which he submitted the High Court made it clear that the act or omission needs to be the sort of act or omission that fellow members of the profession or organisation would consider to be a serious falling short from the standards required of a doctor. In other words, something other practitioners would consider deplorable.

19. He highlighted paragraphs 19, 22, 65 and 71 in Good Medical Practice (2013 edition) ('GMP') that he submitted were present in Dr Siddiqui's case. He submitted that Dr Siddiqui had brought the medical profession into disrepute, breached fundamental tenets of the profession, and behaved dishonestly, and that this amounted to serious misconduct.

20. Mr Grey invited the Tribunal to consider that whether or not Dr Siddiqui's actions represented a risk to patients. He submitted that whilst there was no demonstrable harm to patients, patient records were amended as such to make it look as though there had been reviews or that patient progress was being monitored when it had not. He submitted that regardless of the Tribunal's consideration in relation to the risk to the public, this type of conduct undermined public confidence in the medical profession. Therefore, a finding of impairment was necessary to uphold public confidence in the profession and proper professional standards and conduct for members of that profession.

On behalf of Dr Siddiqui

21. Mr Buchanan, Counsel, submitted that he agreed with the GMC submissions and conceded on behalf of Dr Siddiqui that his fitness to practise was impaired.

22. However, Mr Buchanan submitted that Dr Siddiqui's actions did not represent risk to patient safety.

The Relevant Legal Principles

23. When considering impairment, the Tribunal must have particular regard to the statutory overarching objective:

> *a To protect, promote and maintain 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.*

24. There is no burden or standard of proof to adopt.

25. The Tribunal must consider whether or not the facts found proved amount to misconduct, whether the misconduct was serious and whether the misconduct that was serious leads to a finding of impairment. There are two distinct processes: firstly, to consider whether there has been serious misconduct and secondly, to consider whether this leads to a finding of impairment.

26. The Tribunal must consider each doctor separately.

27. There is no legal definition for the word "serious" and the word should be given its ordinary meaning.

28. For the purpose of fitness to practise proceedings, "misconduct" is defined as follows:

> *"….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 practitioner in the particular circumstances."*

29. The Tribunal must determine whether Dr Siddiqui's fitness to practise is impaired today, taking into account their conduct at the time of the events, whether the matters are remediable, whether they have been remedied and the likelihood of repetition. The Tribunal must determine whether they have demonstrated insight, and if so, to what extent.

30. The Tribunal must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

31. The Tribunal shall consider any paragraphs of Good Medical Practice it believes is applicable. It must consider the versions of Good Medical Practice that was in force at the date of the Allegation.

32. The decision on impairment is a matter for the Tribunal's judgment alone. Written reasons must be given for the Tribunal's decision.

The Tribunal's Determination on Impairment

Misconduct

33. In determining whether Dr Siddiqui's fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amounted to misconduct.

34. The Tribunal considered the paragraphs of GMP which set out the standards that a doctor must continue to meet throughout their professional career. The Tribunal had particular regard to paragraphs of GMP that state:

> ***1*** *Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues,* ***are honest and trustworthy, and act with integrity*** *and within the law. (Emphasis added)*
>
> ***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.*
>
> ***65*** *You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.*
>
> ***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.*

35. Dr Siddiqui inappropriately entered QOF codes in patient medical records, with consultations and reviews that did not take place, in effect to improve the QOF data and achieve a better CQC rating which was not representative of the actual quality of the Surgery. The Tribunal considered that Dr Siddiqui's dishonest actions in falsifying these records would be regarded as serious misconduct to a reasonably informed member of the public.

36. Furthermore, Dr Siddiqui's dishonesty was found to have occurred over a 14-month period between January 2018 to February 2019. The Tribunal considered Dr Siddiqui's conduct to be premeditated and calculated dishonesty. For example, he falsely coded 99 depression reviews in a period of less than 3 hours as a response to a regulatory inspection of the Surgery's performance. His actions were designed to mislead in order to evade regulatory inspection teams as to the Surgery's performance. Dr Siddiqui stated that his motivation was not for any financial gain for the Surgery, but recognised that his actions may have had financially advantageous implications for the Surgery. While the Tribunal acknowledged Dr Siddiqui's actions were not motivated for financial gain, there had been a potential impact on the public purse. As a consequence of the CQC rating, assessed upon the falsified QOF

records, the Surgery received over £44,000, of which it was not entitled. That money has since been repaid.

37. The Tribunal considered that doctors occupy a position of privilege and trust, and issues of probity and honesty are fundamental tenets of the medical profession. Doctors are expected to act in a manner which maintains public confidence in them and in the medical profession, and to uphold proper standards of conduct.

38. Therefore, the Tribunal considered that Dr Siddiqui's actions had breached the fundamental tenet of probity and honesty and had been in contravention of paragraphs 1, 19, 65 and 71 of GMP.

39. When considering the issue of public safety, the Tribunal had regard to the following extracts of evidence:

NHSE Summary of Practice Visit, dated 15 May 2019:

> *"For each patient reviewed, Dr H and Dr I were asked to consider whether they were at immediate harm/risk due to lack of review. There was no instance found where this was the case, but there are patients where the practice will need to call the patient in for review and this information will be provided to them."*

Lincolnshire West Clinical Commissioning Group ('LWCCG') Summary Report of Practice Visit dated 15 May 2019 and provided to the CQC. Ms D summarised the team's conclusion in the following way:

> *"The team were satisfied that there was no immediate patient safety risks in relation to the patients reviewed during the visit. The team were concerned about the management of patients with long term conditions and that there were a number of patients who had false information recorded in their records. The team did not discuss the leadership within the practice with the practice team during the closing session however the team felt concerned that there was a lack of clinical and managerial leadership at the practice. On speaking with staff during the day there appeared to be a lack of accountability of staff and the team were concerned that there was an element of blaming others in relation to the allegations."*

Ms D's witness statement, dated 21 May 2021:

> *"We found no evidence of immediate harm/risk to patients due to a lack of review."*

Dr F's expert report, dated 15 January 2022:

> *The act of adding the codes would not have any implication in patient safety and care, except that it contributes to the culture of omitting reviews – and obscuring the fact that they had not been carried out - that are generally held to be important in overall patient care.*

40. The dishonesty was serious as it was premeditated, repeated, prolonged and designed to mislead regulators to avoid appropriate regulatory scrutiny.

41. The Tribunal also noted Dr F's opinion as set out in his expert report that "*The retrospective coding of QOF activities in the absence of evidence that such activities had taken place was seriously below the standard expected of a reasonably competent General Practitioner".*

42. The Tribunal was satisfied that Dr Siddiqui's actions did not put patient safety at risk.

43. The Tribunal concluded that notwithstanding any patient safety risks, Dr Siddiqui's misconduct was serious, his actions had brought the medical profession into disrepute and breached fundamental tenets of GMP. The Tribunal determined that Dr Siddiqui's dishonesty amounted to misconduct that was serious.

Impairment

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

45. The Tribunal noted that when Dr Siddiqui's conduct came to light, he initially denied his mistakes and blamed others for his actions. In reality, he was attempting to cover his own errors. Concerning Dr Siddiqui's denial of facts, the Tribunal considered the following statements:

NHSE Summary of Practice Visit, dated 15 May 2019:

> *"There is a real blame culture within the practice and clear lack of accountability from the partners. Their attitude did not demonstrate to me that there was strong accountable leadership at the practice and that they had the skills to turn around the issues found."*

Email from Ms J, Primary Care Support Contract Manager, to Ms D, dated 16 May 2019:

> *"My main area of concern is the lack of recognition with the partnership of their reasonability's, the blame culture that unfortunately has spread throughout the practice. Unless they accept responsibility for their failings, I feel nothing will change only staffing."*

Ms C's witness statement, dated 13 May 2021, in respect to a visit to the Surgery on 15 May 2019:

> *"Ms K opened up the meeting and outlined the purpose of the meeting. She discussed the allegations and summarised the findings from the remote reviews. I recall Dr A saying that it was the Practice Manager and Deputy Practice Manager's fault that their QOF results were poor and that there was a restructuring of the practice management being undertaken due to the performance issues of the team. They denied that their actions in trying to improve QOF were financially motivated but said that it was because the CQC had been very critical of them in their previous visit around their management of QOF. We tried to explain that they were accountable for the contract and it was not down to the practice staff. We also explained that by the nature of what they had done, not only had it generated income, but patients had not received the care they should have expected. There was a real lack of accountability from the partners and a blame culture towards the practice staff … At the end of the day, we held a second meeting to summarise our findings and the next steps. The GP partners didn't deny the backdating, but again tried to blame it on the Practice Manager, Ms M and Deputy Practice Manager, Ms B for poor management."*

Mr E, the CQC inspector, in his witness statement dated 6 April 2021 which related to an inspection a week following the CCG visit said:

> *"It was obvious from this presentation that there was a blame culture as the GP partners appeared to blame the Practice Manager and admin staff for the dysfunctional aspects of the Surgery…No explanation was given by any of the GP Partners about the issues identified. There was a blame culture and the Surgery was totally dysfunctional with a massive gap between the GP Partners and the rest of the management staff. It was very evident that they didn't get on or talk to each other."*

46. The Tribunal was satisfied that, there was no evidence of initial insight by Dr Siddiqui and, in fact, a concerted attempt to blame others for his wrongdoing. He has however subsequently made full admissions to the facts and in his witness, statement recognised and accepted that his actions were dishonest. This demonstrates developing insight as he now accepts his misconduct.

47. Dishonesty is difficult to remediate, but there is evidence of remedial action, namely his admissions to the Allegation in full and his expressions of remorse and regret.

48. The Tribunal shall further consider insight, remediation and risk of repetition upon hearing oral evidence from Dr Siddiqui at stage three of the proceedings.

49. In any event, given its findings that the misconduct did not threaten public / patient safety, the Tribunal was satisfied that, regardless of any risk of repetition, a finding of impairment was not necessary to protect the public.

50. Notwithstanding any conclusions on risk of repetition, the Tribunal found that reasonable and well-informed members of the public and medical profession would expect a finding of impairment to be made in this case, both to mark the seriousness of Dr Siddiqui's misconduct, and to uphold proper standards across the medical profession. It considered that Dr Siddiqui's misconduct has brought the medical profession into disrepute. In addition, the Tribunal considered that public confidence in the profession would be undermined if a finding of impairment were not made in this case.

51. Overall, the Tribunal determined that a finding of impairment was necessary under limbs *b* and *c* of the overarching objective.

52. The Tribunal has therefore determined that Dr Siddiqui's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 26/05/2023

53. Having determined that Dr Siddiqui's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

54. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction. In addition, the Tribunal received a remediation bundle from Dr Siddiqui enclosing:

- Continuing Professional Development ('CPD'), various dates 2019-2023;
- Reflections and learning from CPD courses, various dates 2022-2023;
- Patient feedback, dated 2023;
- Testimonials in support of Dr Siddiqui from colleagues and employers, dated 2022-2023.

55. The Tribunal has also taken into account the oral evidence given by Dr Siddiqui, during which he accepted that his behaviour was dishonest and that he knew at the time that he falsified the QOF records that this was inappropriate. He expressed his remorse and regret.

Submissions

56. The following is a non-exhaustive summary of submissions made during the sanction stage.

On behalf of the GMC

57. Mr Grey, Counsel, submitted that the appropriate sanction in this case was erasure. He referred the Tribunal to the paragraphs of the Sanctions Guidance (November 2020 edition) ('the SG') that were relevant in this case.

58. With regard to the mitigating factors in this case, Mr Grey submitted that Dr Siddiqui has developed some insight into his dishonesty and expressed remorse. He acknowledged that four years have passed since the misconduct occurred and that there had been evidence regarding workplace pressure arising from the closure of the neighbouring GP Surgery and the subsequent increase to patient list of Dr Siddiqui's Surgery.

59. Turning to the aggravating factors, Mr Grey submitted that Dr Siddiqui had not accepted his dishonesty within his rule 7 response to the Allegation in May 2022. While he has now realised his dishonest actions, Mr Grey invited the Tribunal to assess the authenticity of that realisation. He also invited the Tribunal to consider how Dr Siddiqui's insight had really developed and to measure it against Dr Siddiqui's evidence. He submitted that Dr Siddiqui misled various regulatory bodies such as the CQC and CCG and his actions were premeditated. He submitted that the persistent dishonesty was fundamentally incompatible with continued registration.

60. Mr Grey also referred the Tribunal to the judgment in the case of *Bolton v. Law Society* [1994] 1 WLR 512, in which Lord Bingham stated that:

> *"the second purpose is the most fundamental of all: to maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission…".*

61. In regard to considerations which would ordinarily weigh in mitigation of punishment, Lord Bingham stated:

> *'…all of these matters are relevant and should be considered. But none of them touches the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness".*

62. Mr Grey submitted that, while the GMC acknowledged Dr Siddiqui's mitigation, it does not touch the essential issue in this case and therefore the only realistic sanction is one of erasure.

On behalf of Dr Siddiqui

63. Mr Buchanan, Counsel, submitted that context is important in this case. Dr Siddiqui provides healthcare in a deprived area and at the time of the events, a neighbouring healthcare practice had closed and that there was risk of the Surgery closing too. Mr

Buchanan submitted that it was in those circumstances that Dr Siddiqui embarked upon an admittedly dishonest course of conduct. Mr Buchanan made it clear to the Tribunal that, despite this mitigation, it was not intended to minimise the dishonest conduct.

64. He reminded the Tribunal of the testimonials before it, which he submitted are highly relevant to Dr Siddiqui's insight, good character, clinical skills and what he has to offer to the profession and the community he serves. He referred to the testimonials of Mr L, Chief Operating Officer of the Welby Group of Practices, and Mr G, Clinical Partner of the Welby Group of Practices and submitted they both regarded Dr Siddiqui in similar terms of probity, trust and honesty. Mr G stated:

> *"Dr Siddiqui has been a credit to himself and the Cleveland clinical team for the entire time that I have known him. He has always been a voice of wisdom and I have valued his counsel throughout the journey that we have taken to turn the surgery around. He is now part of a thriving surgery team that has been instrumental in changing the CQC raring from special measures to Good, which we have maintained after reinspection."*
> *…*
> *"All Welby Group Clinicians have their clinical record keeping audited on a regular basis, there have been no concerns raised about Dr Siddiqui during this process. I have never been made aware of any probity concerns from colleagues. Dr Siddiqui's character and professionalism are part of the DNA of what is making Cleveland Surgery a surgery that is 'on the up' and a great place to work."*

65. Mr Buchanan invited the Tribunal to consider Dr Siddiqui's 'exceptional' 2023 Patient Feedback. He submitted Dr Siddiqui is a practitioner held in high esteem in respect to the pastoral care that he provided to patients, going over and above that which is clinically required.

66. Mr Buchanan submitted that Dr Siddiqui has had an unblemished practice over a period of decades and has continued to practice since the allegations with no concerns as to his honesty and probity.

67. Mr Buchanan submitted whilst there was not an immediate acceptance of dishonesty from Dr Siddiqui, he has now arrived at an appropriate level of insight and there is evidence of remedial action.

68. With regards to risk of repetition, Mr Buchanan submitted that there is a wealth of evidence before the Tribunal for it to determine that the risk of Dr Siddiqui repeating dishonest conduct is low.

69. Mr Buchanan submitted that suspension of Dr Siddiqui's registration is the appropriate response, that will enable him to demonstrate that insight has been completed and conduct has been fully remediated.

The Tribunal's approach

70. When considering sanction, the Tribunal must again have particular regard to the statutory overarching objective:

> *a To protect, promote and maintain 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.*

71. The Tribunal must consider the objective as a whole and should not give excessive weight to any one limb, although it will take into account its conclusions on impairment.

72. The Tribunal must consider each doctor separately.

73. The Tribunal must apply the principle of proportionality; balancing the doctors' interests with the public interest.

74. The purpose of sanction is not to be punitive although the sanction imposed may have a punitive effect.

75. The decision as to the appropriate sanction, if any, to impose is a matter for the Tribunal exercising its own judgement. It must consider the least restrictive sanction first and then, if necessary, consider the other sanctions, taking into account the submissions that have been heard. The Tribunal must consider its determination on impairment and take those matters into account during its deliberations on sanction.

76. The Tribunal must consider any relevant mitigating and aggravating factors and address them within the context of the determination.

77. In reaching its decision the Tribunal must take into account the Sanctions Guidance. If the Tribunal departs from the Guidance, the relevant paragraph should be referenced and reasons given for doing so.

78. The Tribunal's reasons must be outlined in writing.

The Tribunal's Determination on Sanction

Insight and remediation

79. The Tribunal considered the current level of Dr Siddiqui's insight and remediation. It noted that Dr Siddiqui had demonstrated insight into his dishonesty and had made progress in addressing it by completing relevant training.

80. The Tribunal accepted that Dr Siddiqui has taken steps to develop insight. The Tribunal was satisfied that Dr Siddiqui has expressed remorse and regret and it accepted that

Dr Siddiqui felt shame at his actions. In his reflections, Dr Siddiqui described how his behaviour impacted public confidence in the medical profession.

81. However, the Tribunal was concerned as to the efforts by Dr Siddiqui in his witness statement and written reflections to minimise his behaviour by claiming that his intentions had been good and that his wrongdoing was somehow associated with his lack of knowledge of QOF.

82. For example, in his written reflections, Dr Siddiqui stated the following:

> Probity for Doctors course dated 6 December 2022 –
> *"This investigation has had a huge impact on me and has been a learning curve -I have learned from my mistakes, and this course has helped me to develop a high level of insight, particularly in respect of lack of my knowledge of QOF that gave rise to this investigation. I have developed myself as a better person and clinician, with strong character and probity."*

83. Within his witness statement, dated 4th January 2023, he stated:

> "*My actions were as a result of a lack of knowledge and understanding and my intentions had always been good…..Since this time, I have spent a significant amount of time reflection on my actions and my own mindset. I recognise that my poor documentation was misleading, although this had not been my intention..I feel that I have developed a better understanding of my own mistakes and I deeply regret my actions*".

84. Whilst during his oral evidence, Dr Siddiqui accepted that he knew that his actions were wrong and dishonest and the time that he undertook the misconduct, the Tribunal was concerned that his development of insight and reflection has been constrained by his tendency to regard his actions as a record keeping mistake or a lack of knowledge of QOF, rather than a deliberate dishonest act. It considered that this response is Dr Siddiqui trying to deflect from his own wrongdoing in order to minimise his own liability.

85. Although his insight has developed, the Tribunal considered that remnants of this minimisation have been evident throughout this hearing and further reflection is required. The Tribunal concluded that Dr Siddiqui was continuing his journey of insight, and it remained developing.

86. The Tribunal considered that dishonesty can be difficult to remediate but Dr Siddiqui has made appropriate attempts to address his probity issues and has undertaken some relevant training, such as a Probity and Ethics course.

<u>Aggravating and mitigating factors</u>

87. The Tribunal has already set out its decision on the admitted facts and

impairment determination and took these into account during its deliberations on sanction. Before considering what action, if any, to take in respect of Dr Siddiqui's registration, the Tribunal first considered the aggravating and mitigating factors present.

88. The Tribunal identified the following to be aggravating factors in this case:

- Dr Siddiqui's dishonesty was premeditated, repeated and prolonged;
- His actions were designed to mislead regulators about the performance of the Surgery. The Surgery subsequently received an improved rating of 'good' from the CQC after assurances from the CCG, which were not representative of its actual performance;
- His actions had the potential to mislead any health care professional who may have needed access to a patient's medical records, as such they would have inaccurate information;
- Although it has been accepted that Dr Siddiqui's actions were not financially motivated, the Surgery nevertheless obtained money from public funds as a consequence of the false QOF records.

89. Having identified aggravating factors in this case, it considered the following mitigating factors to be of relevance:

- Dr Siddiqui has fully engaged with the GMC investigation and cooperated with the hearing;
- He has demonstrated that he has undertaken a number of steps to remediate the concerns regarding his probity and ethics;
- Dr Siddiqui has shown remorse and regret for his dishonesty and failings;
- Dr Siddiqui has evidenced significant insight into his dishonest actions;
- The Tribunal received evidence that a neighbouring Healthcare Practice had closed down and 5,000 patients were displaced to the Surgery which was already struggling. The Surgery was under pressure to perform and, as GP Partner, Dr Siddiqui had the responsibility for those displaced patients and was concerned that repeated failures would lead to the CQC closing his Surgery too, leaving thousands of patients without adequate care. Dr Siddiqui stated that this led to his actions to falsify the QOF entries;
- He had an unblemished professional record before these actions;
- Significant time has lapsed since the incidents giving rise to the Allegation (last being March 2019) and there is no evidence of any misconduct by him in the intervening period.

90. The Tribunal also bore in mind the positive testimonials provided on Dr Siddiqui's behalf which attest to his clinical competence, good character and their view of his integrity. It gave greater weight to the testimonials from Dr Siddiqui's current employer the Welby Group. Mr G, Clinical Partner of the Welby Group of Practices, stated in his testimonial:

"Since he became part of a larger organisation that prides itself on quality. I have never felt that his attitudes or professionalism contrasted with this. I believe that he has genuinely benefitted from the change of leadership and the structure and processes that we put in place on taking over.

All Welby Group Clinicians have their clinical record keeping audited on regular basis, there have been no concerns raised about Dr Siddiqui's during this process. I have never been made aware of any probity concerns from colleagues.

Dr Siddiqui's character and professionalism are part of the DNA of what is making Cleveland Surgery a surgery that is 'on the top' and a great place to work."

91. The Tribunal was of the view these proceedings have been a salutary lesson for Dr Siddiqui and therefore he is less likely to repeat his misconduct. It acknowledged that Dr Siddiqui no longer held any management responsibilities, and he has stated in evidence he would not in the future put himself in similar high-pressure situations again. The Tribunal also considered that, while Dr Siddiqui's dishonesty covered a significant and protracted period of time, it related to one specific set of incidents, in an otherwise unblemished and lengthy career. The Tribunal determined upon all of the material before it that Dr Siddiqui does not pose a significant risk of future dishonesty and that the risk can be properly assessed as low.

92. The Tribunal concluded that, whilst Dr Siddiqui's dishonesty was serious, there were a number of mitigating factors present in this case. These include his developing insight and efforts to remediate, and that Dr Siddiqui is of previous good character and has practiced for a number of years without any apparent concerns. The Tribunal was clear that none of the mitigating circumstances in any way excuse Dr Siddiqui's dishonest behaviour, but instead provide some explanation for his actions and enable the Tribunal to assess the risk of repetition as low.

No action

93. In coming to its decision as to the appropriate sanction, the Tribunal first considered whether to conclude the case by taking no action. It reminded itself that there should be exceptional circumstances to justify taking no action where a finding of impairment has been made.

94. The Tribunal determined that there were no exceptional circumstances in this case. It determined that given the serious nature of the Tribunal's findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

Conditions

95. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Siddiqui's registration. The Tribunal took into account that any order of conditions would need to be appropriate, proportionate, workable and measurable.

96. The Tribunal had regard to the various paragraphs of the SG which indicate the cases in which conditions might be appropriate. Given the nature of Dr Siddiqui's misconduct, which involves dishonesty, the Tribunal could not formulate appropriate conditions which would be workable. In any event, it did not consider that conditions would be sufficient to mark the seriousness of the misconduct. The Tribunal considered that an order of conditions would not be appropriate or proportionate, nor would it be in the public interest.

Suspension

97. The Tribunal then went on to consider whether imposing a period of suspension on Dr Siddiqui's registration would be appropriate and proportionate. It has borne in mind the SG in relation to suspension, including paragraphs 91, 92, and 97 which state:

> *91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.*
>
> *92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (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)*
>
> *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.*
> > *b …*
> > *c …*
> > *d …*
> > *e No evidence that demonstrates remediation is unlikely to be successful, e.g. because of previous unsuccessful attempts or a doctor's unwillingness to engage.*
> > *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.

98. The Tribunal also bore in mind paragraphs 124 and 128 of the SG which relate to dishonesty.

124 Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.

128 Dishonesty, if persistent and/or covered up, is likely to result in erasure

99. The Tribunal considered that Dr Siddiqui's misconduct was unacceptable for a medical practitioner. Dr Siddiqui was found to have abused his position as a doctor over a significant period of time and misled a number of regulatory bodies. Although it noted that Dr Siddiqui's misconduct did not relate to his clinical competence, it did relate to his conduct and behaviour within the context of his professional role. It also noted that the misconduct was not financially motivated. The Tribunal determined that Dr Siddiqui's misconduct undermined the trust and confidence in the medical profession as a whole.

100. The Tribunal also accepted that in all other respects that Dr Siddiqui was a good doctor. Testimonials showed he is clinically well regarded by his colleagues and his employers, has had no other complaints about his probity, and had received high patient satisfaction feedback.

101. The Tribunal noted that there was evidence that Dr Siddiqui was capable of engaging in a learning process and that he had done so with regard to his CPD and reflections.

102. The Tribunal had previously concluded that the risk of repetition of similar dishonest behaviour was low.

Erasure

103. In considering what sanction to apply, the Tribunal concluded that its decision was finely balanced between erasure and suspension. It was of the view that a serious sanction was required to have a deterrent effect and to remediate the adverse impact on public confidence. The Tribunal therefore considered whether erasure was appropriate in this case. It noted paragraph 108 and 109 of the SG which states:

108 Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the

profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.

109 *Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).*

a *A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.*
b *A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.*
c *…*
d *Abuse of position/trust (see Good medical practice, paragraph 65: 'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession').*
e …
f …
g *…*
h *Dishonesty, especially where persistent and/or covered up (see guidance below at paragraphs 120–128).*
i …
j *Persistent lack of insight into the seriousness of their actions or the consequences.*

104. The Tribunal carefully looked at the indicators of when a doctor's behaviour was likely to be fundamentally incompatible with continued registration as set out in paragraph 109 of the SG. The Tribunal found that Dr Siddiqui's dishonesty was serious (and persisted with) but was not so ingrained or so incapable of remediation that it is fundamentally incompatible with his continued registration.

105. It took the view that a sanction as severe as erasure would be disproportionate, and public interest and, maintenance of professional standards could be adequately achieved by a lengthy period of suspension rather than erasure.

106. Whilst the Tribunal had regard to paragraphs 108, 109 and 128 of the SG in relation to persistent dishonesty, it noted that paragraphs 108 109 detailed that such misconduct *"may"* necessitate erasure and paragraph 128 states that it is *"likely".* The SG does not specify that persistent dishonesty, such as that undertaken by Dr Siddiqui, must be marked by erasure from the register. The SG, at page 30, when outlining factors to consider when determining the length of suspension, gives the example of *"The extent of the doctor's significant or sustained acts of dishonesty or misconduct".* The SG therefore permits discretion, which is consistent with the nuanced approach encouraged in *Watters v Nursing and Midwifery Council* [2017] EWHC (Admin) 1888 and *Lusinga v Nursing and Midwifery Council* [2017] EWHC (Admin) 1458.

107. The Tribunal was satisfied that, despite the seriousness of the dishonesty, as outlined above, the mitigating features are such that public confidence in the medical profession and proper professional standards can be maintained by the imposition of a suspension of significant length

108. Therefore, the Tribunal was satisfied that a sanction of suspension would reflect the gravity of Dr Siddiqui's misconduct and send out a clear message to Dr Siddiqui, the profession and the wider public that such misconduct is unbefitting of, and unacceptable in, a registered doctor.

Duration of Suspension

109. The Tribunal went on to consider the length of suspension, taking into account paragraphs 99 and 100 of SG in that regard:

> *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*
> *c ensuring the doctor has adequate time to remediate.*

110. The Tribunal considered that the maximum period of suspension would mark the seriousness of Dr Siddiqui's misconduct. It is reflective of how serious the dishonesty is, and that erasure was carefully considered. Whilst the Tribunal was satisfied that suspension, rather than erasure, would maintain public confidence in the medical profession and proper professional standards, it considered that this would only be the case if the suspension is for a significant period. It determined that the elements of upholding proper standards within the profession, and of maintaining public confidence in the profession would be maintained by the maximum period of suspension. It concluded that a period of 12-month suspension was the appropriate and proportionate sanction in this case.

111. Moreover, the Tribunal considered that such period would enable Dr Siddiqui to complete his journey of insight and remediation and enable him, in due course, to return to practise and utilise his undoubted skills and abilities as a doctor to serve the public.

Review Hearing Directed

112. The Tribunal determined to direct a review of Dr Siddiqui's case. A review hearing will convene shortly before the end of the period of suspension. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Siddiqui to demonstrate how he has remediated, addressed his insight and is safe to return to unrestricted practice. It therefore may assist the reviewing Tribunal if Dr Siddiqui provided:

- Further evidence of progression of remediation: Dr Siddiqui may wish to reflect on his past actions, his dishonesty, and the impact upon public confidence in the medical profession as well as upon his colleagues;
- Evidence of Continuing Professional Development and that he has kept up to date clinically during his period of suspension;
- Reflections on any learning or relevant courses that Dr Siddiqui has undertaken.

This is not intended to be an exhaustive list and Dr Siddiqui will also be able to provide any other information that he considers will assist.

Determination on Immediate Order - 26/05/2023

113. Having determined that Dr Siddiqui's registration is to be suspended for a period of 12 months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Siddiqui's registration should be subject to an immediate order.

Submissions

114. On behalf of the GMC, Mr Grey submitted that an immediate order was not necessary in this case in light of the fact there is no risk to the public or patients. He reminded the Tribunal that there are no interim orders in place.

115. Mr Buchanan, on behalf of Dr Siddiqui, agreed that no immediate order was necessary.

The Tribunal's Determination

116. The Tribunal had regard to paragraph 172 and 173 of the SG 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.'*

117. The Tribunal considered that Dr Siddiqui does not pose a risk to patient or public safety, and he has been working for the past four years without evidence of concern. It bore in mind the above paragraphs of the SG and took into account the specific basis upon which the Tribunal reached its sanction determination, it did not consider an immediate order to be necessary.

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

119. This means that Dr Siddiqui'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 Siddiqui does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.

120. There is no interim order to revoke.

121. That concludes this case.