

## PUBLIC RECORD

Date: 02/11/2022

Medical Practitioner's name: Dr Vivek GOEL

GMC reference number: 5206990

Primary medical qualification: MB BS 1998 Allahabad University

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired
Review - Conviction	Not Impaired

## Summary of outcome

Suspension to expire

## Tribunal:

Legally Qualified Chair	Mrs Laura Paul
Lay Tribunal Member:	Mrs Carrie Ryan-Palmer
Medical Tribunal Member:	Dr William Seligman

Tribunal Clerk:	Mrs Sam Montgomery
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## Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Michael Rawlinson, Counsel, instructed by Medical Protection
GMC Representative:	Miss Faye Rolfe, Counsel

### **Attendance of Press / Public**

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

### **Overarching Objective**

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

### **Determination on Impairment - 02/11/2022**

1. At this review hearing 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 Goel's fitness to practise is impaired by reason of misconduct and conviction for a criminal offence.

### **The Outcome of Applications Made during the Impairment Stage**

2. The Tribunal granted Mr Rawlinson's application, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that parts of the hearing should be in private XXX.

3. This determination will be read in private. However, as this case concerns Dr Goel's misconduct and conviction, a redacted version will be published at the close of the hearing with private matters removed.

### **Background**

4. Dr Goel qualified MBBS from MLN Medical College, Allahabad, India in 1992. He undertook postgraduate work in Orthopaedics, obtaining a Masters in Orthopaedic Surgery in 1997, before coming to the United Kingdom in 2001. Dr Goel became MRCS in 2003, before undertaking training as a middle grade and attaining FRCS in Trauma and Orthopaedics in 2011. Dr Goel joined the Specialist Register in November 2016.

5. In 2012 Dr Goel commenced his first post as a locum Consultant at Kingsmill Hospital, Mansfield. Since then, Dr Goel worked predominantly as a locum Consultant in various locations.

6. From February 2019 Dr Goel commenced a fellowship post in orthopaedics at Wrightington, Wigan and Leigh NHS Foundation Trust. He completed his fellowship there on 6 August 2019.

7. From 5 August 2020, Dr Goel was employed as a locum Registrar in Orthopaedics at Queen Elizabeth Hospital, Birmingham.

8. The facts found proved at Dr Goel's hearing which concluded in July 2022 (the July Tribunal) can be summarised as follows:

- On 20 September 2019 Dr Goel sent an email to the GMC denying that he was under the influence of alcohol, following a report from a member of the public expressing their suspicion that Dr Goel might have driven whilst under the influence of alcohol on 30 August 2019.
- On 3 January 2020 at Nottingham Magistrates Court Dr Goel pleaded guilty to consuming an amount of alcohol exceeding the prescribed limit contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. Dr Goel was ordered to carry out unpaid work for 120 hours and was disqualified from driving for 3 years. He was arrested shortly thereafter and interviewed by the police, who took specimens of his breath.

9. The July 2022 Tribunal also noted that Dr Goel had previously been convicted for driving with an excess alcohol level on 15 May 2018 and at the time of the 2019 conviction he was subject to GMC undertakings, from 12 April 2019, XXX.

10. Dr Goel gave evidence at the initial hearing regarding XXX. He also referred to XXX issues and work related stress at the time of the drink driving incident. XXX.

11. In relation to misconduct, the July Tribunal considered that Dr Goel's actions in communicating dishonestly with his regulator constituted a serious departure from the principles set out in Good Medical Practice (GMP) and breached fundamental tenets of the profession, namely to act with integrity and to make sure that your conduct justifies your patients' trust in you and the public's trust in the profession. Furthermore, the July 2022 Tribunal did not accept that Dr Goel's actions were impulsive or spur of the moment as his dishonesty occurred some three weeks after the incident of driving under the influence of alcohol. Given the passage of time and the structured form the correspondence to the GMC took, the July 2022 Tribunal concluded that Dr Goel had clearly thought about the incident and carefully drafted his letter, and as such had deliberately attempted to mislead the regulator regarding the event.

12. The July 2022 Tribunal considered that, whilst Dr Goel's dishonesty could be viewed as persisting for a period of several months, it did constitute a single incident of dishonesty. The drink driving event occurred in August 2019 with Dr Goel self-reporting in September 2019 and admitting his offence in January 2020. The July 2022 did not accept that Dr Goel's dishonesty was an inevitable XXX. It considered that Dr Goel had made a conscious decision to lie to his regulator in order to minimise the seriousness of his actions and that his actions constituted a particularly serious incident of misconduct. The July 2022 Tribunal considered

that whilst this might have been an isolated incident, Dr Goel's insight into his dishonesty was incomplete and there remained a risk of repetition.

13. The July 2022 Tribunal concluded that a member of the public informed of the case would be appalled were a finding of impairment not made, and that fellow practitioners would find Dr Goel's behaviour deplorable and that standards in the profession would be undermined were a finding of impairment not made.

14. In relation to Dr Goel's conviction, the July 2022 Tribunal considered that Dr Goel appeared to be insightful XXX, and had talked to colleagues, friends and family members about it. However, it concluded that his insight remained developing as he demonstrated insight into his personal circumstances, but his written and oral evidence did not satisfactorily address the wider impact, both in terms of the impact to his profession and public trust, and in terms of public safety in the wider context. As such, the July 2022 Tribunal considered that there remained a low risk of repetition, XXX.

15. The July 2022 Tribunal concluded that, given the seriousness of Dr Goel's actions, a member of the public informed of the facts would be appalled if a finding of impaired fitness to practise was not made. Furthermore, that Tribunal considered that, given the serious nature of Dr Goel's actions and the risk he exposed the public to, public confidence in the profession would be undermined if a finding of impairment were not made.

16. Accordingly, the July 2022 determined that Dr Goel's fitness to practise was impaired by reason of his conviction and misconduct.

17. The July 2022 Tribunal considered that whilst all dishonesty is serious, Dr Goel's dishonesty was at the lower end of the spectrum and was not fundamentally incompatible with continued registration. That Tribunal accepted that Dr Goel's dishonesty and conviction, XXX.

18. The July 2022 Tribunal also considered that Dr Goel has accepted fault and had demonstrated sufficient insight into both his XXX, dishonesty and the conviction, that the risk of repetition was low, and that he had taken all the necessary steps to mitigate and remediate his actions. It therefore determined that a period of suspension, for three months, would be both appropriate and proportionate to; mark the seriousness of Dr Goel's dishonesty and his conviction; promote and maintain public confidence in the medical profession, and; promote and maintain proper professional standards and conduct for the members of the profession.

19. The July 2022 Tribunal directed a review hearing of Dr Goel's case. It considered that it may assist a reviewing Tribunal if Dr Goel provided:

- XXX
- Evidence of ongoing CPD ('Continuous Professional Development')

## The Evidence

20. This Tribunal has taken into account all the evidence received, including but not limited to:

- Record of Determinations from Dr Goel’s MPT hearing, which concluded in July 2022;
- XXX
- XXX
- Dr Goel’s reflection on the incident and fitness to practise proceedings (undated);
- Dr Goel’s reflections on case studies;
- XXX
- XXX
- XXX
- XXX
- Certificate of appraisal, dated 24 August 2022;
- CPD certificates;
- Testimonial from Mr F, Consultant Orthopaedic Surgeon, dated 31 October 2022.

## Submissions

21. On behalf of the GMC, Ms Rolfe submitted that the GMC’s position is neutral in relation to impairment.

22. On behalf of Dr Goel, Mr Rawlinson submitted that Dr Goel has done all that has been asked of him by the former Tribunal and has ‘stuck to the promises he has made’. Mr Rawlinson referred to the time that has elapsed since the index offence, he submitted that there has been no repetition and Dr Goel has XXX.

23. XXX

XXX

XXX

24. Mr Rawlinson referred to the CPD undertaken by Dr Goel to keep his skills and knowledge up to date and his further reflections in relation to the incident. Mr Rawlinson submitted that Dr Goel has fully developed insight and has to the best of his ability addressed the concerns raised by the July 2022 Tribunal.

25. Mr Rawlinson submitted that it is clear that the primary purpose of the suspension was to address the public interest concern, which has now been fulfilled by the finding of impairment made against Dr Goel and the sanction imposed upon him. He submitted that the public interest is also concerned with allowing a good and competent doctor to return to

work when they are fit to do so. He submitted that this is clearly the case in relation to Dr Goel. XXX.

26. Mr Rawlinson informed the Tribunal that Dr Goel has a start date for a general practice course and is keen to return to work. He drew the Tribunal's attention to the previous finding that there are no patient safety concerns. He submitted that Dr Goel has taken positive steps to address the concerns he had regarding his stressful work environment in his previous role in orthopaedics and has sought to train in an alternative specialty.

27. Mr Rawlinson submitted that Dr Goel has satisfied the persuasive burden placed upon him to demonstrate that his fitness to practise is no longer impaired and he is fit to return to unrestricted practice.

### **The Relevant Legal Principles**

28. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

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

30. The Tribunal bore in mind that its primary responsibility is to the statutory overarching objective which is as follows:

- To protect, promote and maintain the health, safety and well-being of the public;
- To promote and maintain public confidence in the medical profession;
- To promote and maintain proper professional standards and conduct for members of that profession.

### **The Tribunal's Determination on Impairment**

31. The Tribunal noted that the July 2022 Tribunal considered a period of suspension for three months would be both appropriate and proportionate to mark the seriousness of Dr Goel's dishonesty and his conviction, promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for the members of the profession. That Tribunal also noted that a reviewing Tribunal may be assisted by evidence XXX and of ongoing CPD.

32. The Tribunal has considered the evidence presented today including Dr Goel's further reflections on his conviction and misconduct, XXX and evidence of CPD.

33. The Tribunal considers that Dr Goel has continued to engage with the remediation process and has been proactive in addressing the matters raised by the July 2022 Tribunal. XXX.

34. XXX

35. XXX

36. XXX

37. The Tribunal also considers that Dr Goel has taken positive steps to further reflect on his misconduct and conviction, which has been demonstrated in his reflective statement. The Tribunal had particular regard to the following comments made by Dr Goel:

‘My physical and XXX: Regular physical exercise and practicing yoga- this improves both my physical and XXX and abilities. It helps to focus my mind and body; it has given me a better sense of wellbeing. Spending quality time with family, learning new skills and surrounding myself with honest people and people with integrity in my social network.

‘I would like to express my deepest regrets and once again, apologise to the members of panel about my prior behaviour and misconduct. I have developed a deeper insight about the issue. I completely understand how this behaviour can impact the confidence of and safety for the public in medical profession but also the wider impacts on both my personal life and the people around me (my family and friends).’

XXX

38. The Tribunal has borne in mind that, whilst the matters before it are serious, Dr Goel’s actions relate to a one-off incident of dishonesty which has not been repeated. Furthermore, he has XXX and there has been no repetition of the matters which resulted in his conviction. The Tribunal considers that Dr Goel has reflected deeply on his past conduct, has taken full responsibility for his behaviour and demonstrated a broad understanding of the wider impact of such behaviour, both in terms of the impact to his profession and public trust in the profession.

39. The Tribunal is satisfied that Dr Goel has remediated the concerns raised by the July 2022 Tribunal. XXX. The Tribunal considers that Dr Goel has learnt a salutary lesson from this experience and, given the positive remedial steps taken, it considered the risk of repetition is low.

40. In addition, whilst the Tribunal notes that Dr Goel has undertaken CPD to keep his skills and knowledge up to date, it accepts that there are no patient safety concerns. XXX.

41. In all the circumstances the Tribunal has determined that Dr Goel's fitness to practise is no longer impaired by reason of misconduct or conviction.

42. The Tribunal noted that the period of suspension of three months imposed by the July 2022 Tribunal was imposed to mark the seriousness of Dr Goel's misconduct and conviction, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for the members of the profession. In the circumstances, this Tribunal determined that the current order of suspension on Dr Goel's registration should lapse upon its expiry on 8 November 2022.

43. That concludes this case.