

PUBLIC RECORD

Dates: 07/03/2022 - 14/03/2022

Medical Practitioner’s name: Dr Zahid HUSSAIN

GMC reference number: 4165080

Primary medical qualification: MB BS 1982 University of Punjab (Pakistan)

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Not Impaired

Summary of outcome
Warning

Tribunal:

Lay Tribunal Member (Chair)	Ms Gail Mortimer
Lay Tribunal Member:	Mr Geoffrey Brighton
Medical Tribunal Member:	Mr Julian Williams
Legal Assessor:	Ms Catherine Audcent (7/03/22 & 11/03/22) Mr Stephen Killen (8/3/22 & 14/03/22) Mr Julian Weinberg (9/3/22 & 10/3/22)
Tribunal Clerk:	Ms Lauren Duffy

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner’s Representative:	Ms Rebecca Harris, Counsel, instructed by Clyde&Co
GMC Representative:	Mr Terence Rigby, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held 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 - 09/03/2022

Background

1. Dr Hussain graduated with an MBBS from the University of Punjab, Pakistan in 1982. He moved to the UK in 1990 and commenced practice in 1991, obtaining Consultant status in 2003. He became a fellow of the Royal College of Physicians (MRCP) in 2009. Dr Hussain is currently employed as a Consultant in General Internal and Geriatric Medicine at Hampshire Hospitals NHS Foundation Trust. He also regularly teaches University of Southampton Medical Students and is a clinical and educational supervisor for foundation year trainees and an examiner for membership of the MRCP.
2. The Allegation that has led to Dr Hussain's hearing can be summarised as: on 6 September 2019 and 17 October 2019, in his capacity as a doctor whilst working at Basingstoke and North Hampshire Hospital ('the Hospital'), Dr Hussain completed Confirmatory Medical Certificates (Cremation 5) in respect of two patients which contained information which he knew was untrue. It is further alleged that on 20 September 2019, when challenged about the information contained in one of the certificates, Dr Hussain maintained that the information it contained was true. It is alleged that Dr Hussain's actions were dishonest.
3. The initial concerns were raised with the GMC on 29 October 2019 by Dr C, the Medical Referee to Basingstoke Crematorium.

The Allegation and the Doctor's Response

4. The Allegation made against Dr Hussain is as follows:

Patient A

1. On 6 September 2019, you completed the Confirmatory Medical Certificate in respect of Patient A and you:
 - a. ticked 'yes' to the question 'have you questioned any other medical practitioner who attended the deceased?'; **Admitted and found proved**
 - b. documented Nurse B as the medical practitioner referred to in paragraph 1.a. **Admitted and found proved**
2. At the time of completing the Confirmatory Medical Certificate you included information that was untrue in that you had not questioned:
 - a. any other medical practitioner who attended Patient A; **Admitted and found proved**
 - b. Nurse B about Patient A. **Admitted and found proved**
3. You knew that the information you had included in the Confirmatory Medical Certificate was untrue. **Admitted and found proved**
4. On 20 September 2019, when challenged by Dr C about why you had documented that you had questioned Nurse B about Patient A on the Confirmatory Medical Certificate, you suggested that Nurse B had forgotten your discussion with her or words to that effect. **Admitted and found proved**
5. The information you provided to Dr C, referred to in paragraph 4, was untrue. **Admitted and found proved**
6. You knew that the information you provided to Dr C, referred to in paragraph 4, was untrue. **To be determined**

Patient D

7. On 17 October 2019, you completed the Confirmatory Medical Certificate in respect of Patient D and you:
 - a. ticked 'yes' to the question 'have you questioned any other medical practitioner who attended the deceased?'; **Admitted and found proved**
 - b. documented Ms E as being the medical practitioner referred to in paragraph 7.a. **Admitted and found proved**

8. At the time of completing the Confirmatory Medical Certificate you included information that was untrue in that you had not questioned:
- a. any other medical practitioner who attended Patient D; **Admitted and found proved**
 - b. Ms E about Patient D. **Admitted and found proved**
9. You knew that the information you had included in the Confirmatory Medical Certificate was untrue. **To be determined**
10. Your actions as described in paragraph 1 were dishonest by reason of paragraphs 2 and 3. **Admitted and found proved**
11. Your actions as described in paragraph 4 were dishonest by reason of paragraphs 5 and 6. **To be determined**
12. Your actions as described in paragraph 7 were dishonest by reason of paragraphs 8 and 9. **To be determined**

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

5. At the outset of these proceedings, through his Counsel, Ms Harris, Dr Hussain made admissions to some 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'). 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.

The Facts to be Determined

6. In light of Dr Hussain's response to the Allegation made against him, the Tribunal is required to determine whether Dr Hussain was dishonest in relation to the conversation with Dr C. Further, the Tribunal will need to determine whether Dr Hussain's actions surrounding the Confirmatory Medical Certificate (Cremation 5) in respect of Patient D were dishonest.

Witness Evidence

7. The Tribunal received evidence on behalf of the GMC, via video-link, from Ms E, a Ward Manager Assistant at Basingstoke and North Hampshire Hospital.

8. The Tribunal also 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:

- Dr C, GP Partner at Crown Heights Medical Centre and a Medical Referee to Basingstoke Crematorium; and
- Nurse B, a Sister in the Emergency Department at Basingstoke and North Hampshire Hospital.

9. Dr Hussain provided his own witness statement, dated 1 February 2022 and also gave oral evidence at the hearing.

Documentary Evidence

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

- Online GMC complaint form dated 29 October 2019;
- Patient A cremation form dated 6 September 2019;
- Patient D cremation form dated 17 October 2019;
- Trust investigation report dated 29 January 2020;
- Dr Hussain's Rule 7 response letter dated 29 October 2020; and
- Dr Hussain's CV.

The Tribunal's Approach

11. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Hussain does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

12. In respect of the allegation that Dr Hussain acted dishonestly, the Tribunal applied the test laid down by the Supreme Court in *Ivey v Genting Casinos (UK) Ltd [2017] UKSC 67*, namely that the Tribunal should first ascertain subjectively the actual state of Dr Hussain's knowledge or belief as to the facts. Whether the belief is reasonable may be a matter of evidence, but reasonableness is not an additional requirement when considering whether the belief was genuinely held. The Tribunal should then ascertain whether his conduct was dishonest applying the objective standards of ordinary decent people.

13. The Legal Assessor provided the Tribunal with a ‘good character direction’. Firstly, Dr Hussain’s good character is relevant to his credibility as a witness; Dr Hussain has given his account of these matters on a number of occasions and has given evidence to the Tribunal. The Legal Assessor advised that the Tribunal may take into account Dr Hussain’s good character and in particular the evidence received as to his honesty and integrity when assessing whether or not he is telling the truth. Secondly, Dr Hussain’s good character is potentially relevant to his propensity to have acted dishonestly as alleged.

The Tribunal’s Analysis of the Evidence and Findings

14. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

Patient A

Paragraph 6

15. The Tribunal noted Dr Hussain’s admission that on 6 September 2019, when completing a Confirmatory Medical Certificate (Cremation 5) in respect of Patient A, he ticked ‘yes’ to the question ‘*have you questioned any other medical practitioner who attended the deceased?*’ and documented Nurse B as the medical practitioner that he was referring to, incorrectly noting her job title as Staff Nurse. Dr Hussain admitted that, at the time of completing the certificate, he knew his answer was untrue as he had not questioned Nurse B about Patient A. The Tribunal noted that in keeping with his usual practice, Dr Hussain stated that he had spoken to Dr F who had earlier completed the Medical Certificate (Cremation 4). The Tribunal further noted that it is Dr Hussain’s case that he then tried to contact Nurse B, but he had not been able to do so. He stated that he was confident, having spoken to Dr F and having looked at the medical records, that there was nothing untoward about Patient A’s death and therefore, in order to save time and mindful of the fact that he was not going to be at work on Monday 9 September 2019, ticked the box confirming he had spoken to Nurse B with the intention that he would speak with her as soon as possible.

16. The Tribunal also noted Dr Hussain’s admission that, on 20 September 2019, when challenged by Dr C about why he had documented that he had questioned Nurse B about Patient A on the Confirmatory Medical Certificate (Cremation 5), Dr Hussain suggested that Nurse B had forgotten his discussion with her or words to that effect. The Tribunal had regard to Dr C’s witness statement, dated 19 February 2020 in which he stated:

'Dr Hussain then [sic] something along the lines of it was a while ago and perhaps she'd forgotten.'

17. Given Dr Hussain's admission, the Tribunal went on to determine whether he knew that the information that he provided to Dr C was untrue. The Tribunal first considered Dr Hussain's evidence. The Tribunal was of the view that Dr Hussain's oral evidence was consistent with his written statement. The Tribunal found him to be a credible and reliable witness who did his best to assist the Tribunal in answering questions and making the appropriate concessions where he could not remember something.

18. The Tribunal had regard to the chronology of events. It noted that Dr Hussain signed the form on Friday 6 September 2019 and gave it to the bereavement office. It was Dr Hussain's evidence that he had every intention of speaking to Nurse B that day. He told the Tribunal that he went to the Emergency Department to find Nurse B, but his attempts were unsuccessful. He explained that he then made a note in his phone that he would need to attempt to find her again. It is apparent from the evidence that Dr Hussain attended a XXX.

19. XXX on Friday 20 September 2019 Dr Hussain took a call from Dr C. Dr Hussain told the Tribunal that, at the time of the call, he was XXX. It was during this phone call that Dr Hussain suggested to Dr C that Nurse B had *'perhaps'* forgotten that he had spoken to her. Returning to work on the following Monday 23 September 2019, Dr Hussain went to speak with Nurse B and it became apparent that he had not spoken to her previously. Dr Hussain apologised to Nurse B and then contacted Dr C on the same day to confirm that he had spoken to the sister involved in Patient A's care.

20. The Tribunal had regard to Dr Hussain's witness statement in which he set out his general approach to completing the Confirmatory Medical Certificates (Cremation 5):

'My general approach was to only sign off a Confirmatory Medical Certificate after speaking to everyone I needed to speak to. However, it was sometimes difficult to contact the people who had last cared for the patient at the time of signing the cremation forms, if I knew and/or was able to identify the people who had last cared for the patient and was confident that there was nothing concerning about the death, I would make a note of the deceased's details and details of the witness/ward I needed to contact in relation to specific cremation forms and would speak to them at a later date (as soon as possible).'

21. The Tribunal did not consider that Dr Hussain's hitherto good character assisted it in reaching its decisions given his admission of dishonesty in relation to paragraph 10 of the Allegation.

22. In his oral evidence, Dr Hussain was consistent with his witness statement although he had no clear recollection of the relevant events and relied upon his normal practice for explanation. He explained to the Tribunal that his usual practice would be that, following a review of the medical notes, he would go and speak to the person involved in the patient's care.

23. The Tribunal went on to consider the circumstances surrounding the telephone call between Dr C and Dr Hussain. Dr Hussain explained he did not want to have that conversation at that time as he was in a public place XXX. He explained that he had only answered his phone because he recognised the prefix on the telephone number and thought it might be a quick query from one of the junior doctors at the hospital where he worked. The Tribunal considered this to be a plausible explanation. XXX the Tribunal was of view that it was understandable if, to Dr C, Dr Hussain came across as 'evasive' during the telephone conversation. Dr C was not aware, at the time of the call, that Dr Hussain was XXX.

24. The Tribunal had regard to the stressful circumstances surrounding the telephone call, Dr Hussain's explanation as to his usual practice and the fact that he did not have any access to the medical notes referred to during the telephone call. It was of the view that when Dr Hussain provided that untrue statement to Dr C he did not know at the time, that he was being untruthful. The Tribunal accepted that, given the context in which the call took place, Dr Hussain had made a mistake.

25. Accordingly, the Tribunal found paragraph 6 of the Allegation not proved.

Paragraph 11

26. The Tribunal has already determined that, at the time of the telephone conversation with Dr C, Dr Hussain did not know that the information provided was untrue. During the conversation, Dr Hussain did not have access to the medical notes. Taking into account his usual practice, the Tribunal was satisfied that Dr Hussain's state of mind at the time of the telephone conversation was that he had assumed, albeit mistakenly, that he had spoken to

someone. The Tribunal was of the view that this would not be considered dishonest by the standards of ordinary decent people.

27. Therefore, the Tribunal found paragraph 11 of the Allegation not proved.

Patient D

Paragraph 9

28. The Tribunal noted Dr Hussain's admission that on 17 October 2019, when completing a Confirmatory Medical Certificate (Cremation 5) in respect of Patient D, he ticked 'yes' to the question 'have you questioned any other medical practitioner who attended the deceased?' and documented Ms E as the medical practitioner that he was referring to. He admitted that this information was untrue at the time he completed the certificate as he had not questioned Ms E about Patient D.

29. The Tribunal went on to consider whether Dr Hussain knew that he had included information on the Confirmatory Medical Certificate (Cremation 5) that was untrue.

30. The Tribunal had regard to Ms E's evidence. In her written statement dated 26 June 2020, she stated:

'I do not normally see cremation forms because I don't specifically look after any patients, so my name has never been on a cremation form. Although I was working on the date the cremation form was signed, Dr Hussain has never discussed this patient with me or any other patient. I have not spoken with anyone else about this patient. I have only become aware that my name was written on this cremation form, since being shown it by the GMC. I do not understand why Dr Hussain would put my name on this form, my name is not spelt correctly, and it does not have my correct job title as I am not a manager.'

31. The Tribunal was of the view that Ms E's oral evidence was consistent with her written statement. The Tribunal found Ms E's evidence in relation to this paragraph of the Allegation to be credible and reliable. In answering the questions put to her, the Tribunal considered that Ms E was clear about her role and left it in no doubt as to how she would respond when queried about her role and patients on the ward.

32. The Tribunal went on to consider Dr Hussain's evidence. In his witness statement, Dr Hussain stated:

'I cannot recall exactly, but in keeping with my usual practice, I expect I phoned the ward on 17 October 2019, in order to complete Part 2 of the form...'

In his oral evidence, Dr Hussain explained that he could not recall the circumstances of this case, but that he was certain that he would have spoken to someone (a second person in addition to Dr LP who was noted on the Medical Certificate (Cremation 4) about the circumstances of Patient D's death.

33. The Tribunal noted that it was clear from the evidence that Dr Hussain and Ms E did not know each other. Further, having regard to the Confirmatory Medical Certificate (Cremation 5) in respect of Patient D, the Tribunal noted that Ms E's name does not appear on the Medical Certificate (Cremation 4). The Tribunal was also satisfied that as Ms E was a Ward Manager Assistant, it would be unlikely that her name would appear in the medical notes. Given Dr Hussain's evidence as to his usual practice, the Tribunal was of the view that Dr Hussain's assumption that he must have telephoned the ward and spoken to Ms E during the course of his enquires was a plausible explanation as to how her name came to appear on the Confirmatory Medical Certificate (Cremation 5) despite the fact that neither Dr Hussain nor Ms E had any specific recollection of such a conversation.

34. The Tribunal noted that Dr Hussain examined Patient D's body on 16 October 2019 but that he did not sign the form and declaration until 17 October 2019. Dr Hussain's evidence was that the delay can be explained by his not signing the form until he had managed to speak to a second person involved in Patient D's care. Taking into account Dr Hussain's evidence as to his usual practice, the Tribunal considered his explanation that he had spoken to someone relevant about Patient D's care and at the time of calling the ward noted down Ms E's details, thus confusing the two individuals, to be plausible. The Tribunal was not therefore satisfied that he knew the information that he had included in the Confirmatory Medical Certificate (Cremation 5) was untrue.

35. Accordingly, the Tribunal found paragraph 9 of the Allegation not proved

Paragraph 12

36. The Tribunal has already determined that Dr Hussain did not know the information that he had included on Patient D's Confirmatory Medical Certificate (Cremation 5) was untrue. The Tribunal was satisfied that Dr Hussain had followed his usual practice and spoken to someone regarding Patient D and had mistakenly included Ms E's name on the form. In light of this, the Tribunal was of the view that this would not be considered dishonest by the standards of ordinary decent people.

37. Therefore, the Tribunal found paragraph 12 of the Allegation not proved.

The Tribunal's Overall Determination on the Facts

38. The Tribunal has determined the facts as follows:

Patient A

1. On 6 September 2019, you completed the Confirmatory Medical Certificate in respect of Patient A and you:
 - a. ticked 'yes' to the question 'have you questioned any other medical practitioner who attended the deceased?'; **Admitted and found proved**
 - b. documented Nurse B as the medical practitioner referred to in paragraph 1.a. **Admitted and found proved**
2. At the time of completing the Confirmatory Medical Certificate you included information that was untrue in that you had not questioned:
 - a. any other medical practitioner who attended Patient A; **Admitted and found proved**
 - b. Nurse B about Patient A. **Admitted and found proved**
3. You knew that the information you had included in the Confirmatory Medical Certificate was untrue. **Admitted and found proved**
4. On 20 September 2019, when challenged by Dr C about why you had documented that you had questioned Nurse B about Patient A on the Confirmatory Medical Certificate, you suggested that Nurse B had forgotten your discussion with her or words to that effect. **Admitted and found proved**
5. The information you provided to Dr C, referred to in paragraph 4, was untrue. **Admitted and found proved**
6. You knew that the information you provided to Dr C, referred to in paragraph 4, was untrue. **Not proved**

Patient D

7. On 17 October 2019, you completed the Confirmatory Medical Certificate in respect of Patient D and you:

a. ticked 'yes' to the question 'have you questioned any other medical practitioner who attended the deceased?'; **Admitted and found proved**

b. documented Ms E as being the medical practitioner referred to in paragraph 7.a. **Admitted and found proved**

8. At the time of completing the Confirmatory Medical Certificate you included information that was untrue in that you had not questioned:

a. any other medical practitioner who attended Patient D; **Admitted and found proved**

b. Ms E about Patient D. **Admitted and found proved**

9. You knew that the information you had included in the Confirmatory Medical Certificate was untrue. **Not proved**

10. Your actions as described in paragraph 1 were dishonest by reason of paragraphs 2 and 3. **Admitted and found proved**

11. Your actions as described in paragraph 4 were dishonest by reason of paragraphs 5 and 6. **Not proved**

12. Your actions as described in paragraph 7 were dishonest by reason of paragraphs 8 and 9. **Not proved**

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

Determination on Impairment - 11/03/2022

1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Hussain's fitness to practise is impaired by reason of misconduct.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows:

- A statement from Dr Hussain’s Responsible Officer, Dr G, dated 7 September 2021; and
- A bundle containing evidence of Dr Hussain’s Continued Professional Development (‘CPD’).

Submissions

3. On behalf of the GMC, Mr Rigby submitted that the facts admitted and found proved amounted to serious misconduct and that Dr Hussain’s fitness to practise is currently impaired.

4. In relation to the Confirmatory Medical Certificate (Cremation 5) that Dr Hussain completed for Patient A, Mr Rigby submitted that Dr Hussain’s actions amounted to serious misconduct. He submitted that the Medical Certificate (Cremation 5) has a serious purpose and Dr Hussain’s role in completing the document accurately was very important. He submitted that Dr Hussain signed a statement of truth when signing the certificate. He submitted that Dr Hussain, by his own admission, knew that he had not questioned Nurse B when he signed the statement of truth and has accepted that, in doing so, he was acting dishonestly. Mr Rigby submitted that, whatever Dr Hussain’s motive and, however busy he may have been, there could be no excuse for signing the certificate when he did.

5. Mr Rigby referred the Tribunal to Good Medical Practice (2013 edition) (‘GMP’) and submitted that Dr Hussain had breached paragraphs 1, 19, 65 and 71 (set out below). Notwithstanding the personal mitigation, Dr Hussain’s good character and his admissions to the Allegation, Mr Rigby submitted that Dr Hussain’s dishonest conduct amounted to serious misconduct.

6. Mr Rigby conceded that, in light of the Tribunal’s findings in relation to Dr Hussain’s telephone conversation with Dr C, namely that Dr Hussain made a *‘mistake’*, his actions in this regard do not constitute serious misconduct.

7. Mr Rigby accepted that Dr Hussain’s conduct in relation to the Confirmatory Medical Certificate (Cremation 5) that he completed for Patient D was not as serious compared to that of Patient A. However, Mr Rigby submitted that Dr Hussain should have made a note of the person he spoke to in relation to Patient D and should have recorded this information correctly on the certificate after speaking to them. Bearing in mind that Dr Hussain does not claim to have any positive recollection of speaking to the nurse who last cared for Patient D, Mr Rigby submitted that it is highly unlikely that he did what he was required to do. He

submitted that the Tribunal can reasonably conclude that Dr Hussain was guilty at least of very poor practice, far short of what was required of him. Mr Rigby submitted that Dr Hussain's actions were in breach of paragraphs 19, 65 and 71 of GMP. Considering that Dr Hussain's dishonesty occurred a month before, Mr Rigby submitted that this conduct, though not dishonest, was also serious misconduct.

8. Mr Rigby submitted that a finding of impairment is necessary in this case to maintain public confidence in the profession and to promote and uphold professional standards and conduct for members of the medical profession.

9. He submitted that Dr Hussain's admitted dishonesty creates a presumption of impairment which would be very difficult to displace by any insight or remediation on his part. Dr Hussain's admission of guilt, his acceptance of the obvious that he should accurately record information and his apology for what he did not do, in the GMC's submission, demonstrate a sufficient understanding of why he acted as he did. Mr Rigby submitted that Dr Hussain has not demonstrated that he has remediated his misconduct such that the risk of repetition has been eradicated.

10. Mr Rigby submitted that where there has been dishonesty and serious breaches of GMP, it would have to be an exceptional case where the public interest would not require a finding of impairment, which this case is not. He referred to the case of *PSA v GMC and Dr Hilton [2019] EWHC 1638 (Admin)* and submitted that there is nothing about Dr Hussain's dishonest conduct that can be properly regarded as exceptional. He submitted that Dr Hussain failed to do what was required of him for no other reason than he was '*busy and forgot*'.

11. Mr Rigby concluded that Dr Hussain's fitness to practise is currently impaired by reason of his misconduct.

12. On behalf of Dr Hussain, Ms Harris told the Tribunal that it will need to carefully consider whether the paragraphs of the Allegation admitted by Dr Hussain cross the threshold for serious misconduct in all the circumstances of this case.

13. In relation to Dr Hussain's actions in completing the Confirmatory Medical Certificate (Cremation 5) in respect of Patient A, Ms Harris reminded the Tribunal of the circumstances of Dr Hussain's conduct. She submitted that Dr Hussain has never sought to avoid responsibility for his wrongdoing. Ms Harris submitted that, when assessing the level of culpability to be attached to Dr Hussain's behaviour, the Tribunal should bear in mind the

circumstances in which these forms were being completed and the circumstances in which Dr Hussain found himself.

14. Ms Harris acknowledged that there are very few cases where an admission of dishonesty will not lead to a finding of misconduct. She submitted that Dr Hussain behaved dishonestly but with good intentions and very much trying to help others. She submitted that this dishonesty was an isolated incident. Whilst Dr Hussain's actions were serious, Ms Harris asked the Tribunal to carefully consider whether, in all the circumstances of this case, Dr Hussain's actions in relation to Patient A's confirmatory certificate cross the threshold for serious professional misconduct.

15. In relation to Dr Hussain's telephone conversation with Dr C, Ms Harris acknowledged Mr Rigby's concession that this does not amount to misconduct. She submitted that, given the Tribunal's findings, no culpability should be attached to what happened during this telephone conversation.

16. In relation to Dr Hussain's conduct regarding the Confirmatory Medical Certificate (Cremation 5) for Patient D, Ms Harris reminded the Tribunal that Dr Hussain had admitted to mistakenly including Mrs E's details as the person he spoke with. Whilst this type of error is clearly undesirable, it was an error. She submitted that there is no suggestion that Dr Hussain did not talk to the relevant doctor and no suggestion that Dr Hussain did not check the medical records thoroughly. She submitted that this error would not be considered '*deplorable*' by fellow members of the profession and, in light of the Tribunal's clear factual findings, does not cross the high threshold for misconduct.

17. Ms Harris reminded the Tribunal that it should only consider impairment if a finding of misconduct has been made. She submitted that looking forward, Dr Hussain's fitness to practice is not currently impaired.

18. Ms Harris referred to the case of *PSA v GMC and Dr Hilton [2019] EWHC 1638 (Admin)* and submitted that there is no presumption of a finding of impairment in dishonesty cases. Ms Harris submitted that the misconduct in Dr Hussain's case is at the lower end of the spectrum. She submitted that, whilst Dr Hussain was acting dishonestly, he was doing so in very particular circumstances, with good intentions, with no malicious motive and for no real personal gain.

19. Ms Harris referred the Tribunal to Dr Hussain's CV and stated that Dr Hussain qualified as a doctor just under 40 years ago. She submitted that this is the first time he has ever found himself facing disciplinary proceedings. She also asked the Tribunal to have regard to the positive testimonials provided in support of Dr Hussain and submitted that they demonstrate he is an excellent doctor. She submitted that the evidence in this case reveals an *'unblemished record'* against which the Tribunal should view the misconduct in this case.

20. Whilst this case is not clinical in nature, Ms Harris submitted that the misconduct is capable of remediation. She submitted that there is no evidence of any deep-seated attitudinal issue and instead this was an error of judgment but in very specific circumstances. In relation to Patient D's certificate, Dr Hussain made a mistake.

21. Ms Harris submitted that Dr Hussain accepted his wrongdoing from the outset. Further, in addition to personal reflections, Ms Harris submitted that Dr Hussain has undertaken relevant courses and reflected on those courses. She told the Tribunal that Dr Hussain also took the immediate practical step of not completing any more Confirmatory Medical Certificates (Cremation 5). She submitted that Dr Hussain has taken considerable steps to remedy the misconduct in this case such that there is no risk at all of the misconduct being repeated.

22. Ms Harris submitted that Dr Hussain has very good insight into his misconduct. He accepted his wrongdoing when first asked about it and he has engaged fully and openly with both the Trust investigation and the GMC investigation. She submitted that Dr Hussain's insight has been further developed, over time, through reading, reflection, and attendance on appropriate courses.

23. Notwithstanding the admission of dishonesty, Ms Harris submitted that this is not a case where *'public confidence in the profession would be undermined if a finding of impairment were not made'*. She submitted that this a case where the circumstances in which the single incident of dishonest conduct occurred, albeit serious, provide important context to the allegations that Dr Hussain has admitted. She submitted that Dr Hussain has fully remediated, there is no risk of repetition and there should be a finding of no impairment in this case.

The Relevant Legal Principles

24. 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.
25. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct and then whether the finding of that misconduct could lead to a finding of impairment. In this context, misconduct means serious professional misconduct.
26. The Legal Assessor reminded the Tribunal that misconduct has been defined as '*a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances*' and that, '*the standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances*', per Lord Clyde in *Roylance v GMC (No.2) [2000] 1 AC 311*).
27. If the Tribunal makes a finding of misconduct, it must then determine whether Dr Hussain'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. The Tribunal must also bear in mind that even if the matters are remediated, have been remedied and there is no likelihood of repetition, in some instances, the need to uphold professional standards and public confidence in the profession would be undermined if a finding of impairment were not made.
28. Whilst there is no statutory definition of impairment, the Tribunal was assisted by the guidance provided by Dame Janet Smith in the Fifth Shipman Report, as adopted by the High Court in *CHRE v NMC and Paula Grant [2011] EWHC 297 Admin*. In particular, the Tribunal considered whether its findings of fact showed that Dr Hussain's fitness to practise is impaired in the sense that he:
- a. Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
 - b. Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

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

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

29. The Legal Assessor referred the Tribunal to the case of *GMC v Armstrong [2021] EWHC 1658 (Admin)* which demonstrates that the impact on public confidence in cases involving dishonesty, in particular in a regulatory regime, is not diminished because the practitioner in question is unlikely to repeat their dishonesty. Tribunals must have proper regard to the nature and extent of a practitioner's dishonesty and engage with the weight of the public interest factors tending to a finding of impairment in such cases. In cases of significant professional dishonesty, mitigation has a necessarily limited role.

The Tribunal's Determination on Impairment

Misconduct

30. The Tribunal first considered whether Dr Hussain's actions amounted to misconduct.

Confirmatory Medical Certificate (Cremation 5) in respect of Patient A

31. The Tribunal acknowledged Dr Hussain's admission that when signing the declaration on the Confirmatory Medical Certificate (Cremation 5) in respect of Patient A, he knew he had not spoken with Nurse B. Dr Hussain admitted that his actions in this regard were dishonest.

32. The Tribunal noted the importance of the Confirmatory Medical Certificate (Cremation 5) in that it is a statutory document with a declaration of truth which the doctor completing the form is required to sign once speaking to a second person involved in a patient's death. It had regard to Dr Hussain's acknowledgement of the seriousness of his role in completing this document. Whilst the Tribunal had regard to Dr Hussain's explanation that he was under significant pressure to return the document, that he had every intention to speak to Nurse B that day and there is no suggestion that his actions were for financial gain, the Tribunal was of the view that this did not amount to justification for Dr Hussain's dishonesty.

33. The Tribunal went on to consider the paragraphs of GMP which set out the standards that a doctor must continue to meet throughout their professional career. It considered that the following paragraphs of GMP had been engaged in relation to Dr Hussain's dishonest conduct:

'1 Patients need good doctors. Good doctors are honest and trustworthy and act with integrity and within the law.

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 your conduct justifies your patient's 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.'

34. The Tribunal was of the view that members of the profession finding that the name of a healthcare professional had been used dishonestly on a statutory document, without that individual's knowledge, would consider such conduct deplorable. The Tribunal concluded that Dr Hussain's dishonest conduct was a sufficiently serious breach of the standards of conduct as set out in GMP as to amount to misconduct which is serious.

The telephone conversation between Dr C and Dr Hussain

35. The Tribunal was of the view that, in light of its findings in relation to Dr Hussain's telephone conversation with Dr C, namely that Dr Hussain had made a '*mistake*', his actions in this regard do not constitute serious misconduct.

Confirmatory Medical Certificate (Cremation 5) in respect of Patient D

36. The Tribunal reminded itself of its earlier findings that Dr Hussain had not acted dishonestly in relation to the Confirmation Medical Certificate (Cremation 5) in respect of

Patient D. The Tribunal has already determined that it was *'satisfied that Dr Hussain had followed his usual practice and spoken to someone regarding Patient D and had mistakenly included Ms E's name on the form.'*

37. The Tribunal went on to consider the paragraphs of GMP which set out the standards that a doctor must continue to meet throughout their professional career. It considered that the paragraphs 19 and 71a of GMP (set out above) had been engaged in relation to his actions of completing the Confirmatory Medical Certificate (Cremation 5) incorrectly.

38. The Tribunal considered that Dr Hussain's actions amounted to a breach of the standards expected of him. However, it was mindful of its finding that Dr Hussain's conduct in this regard amounted to a mistake rather than a deliberate error. Notwithstanding the fact that Dr Hussain's mistake amounted to a breach of the standards expected of him, the Tribunal was satisfied that his actions were not sufficiently below the expected standard as to amount to misconduct that is serious.

39. Taking the paragraphs of the Allegation as a whole, the Tribunal found that Dr Hussain's admission of dishonesty in relation to paragraphs 1,2,3 and 10 of the Allegation amounted to misconduct that was serious.

Impairment

40. The Tribunal, having determined that Dr Hussain's dishonesty amounted to misconduct, went on to consider whether, as a result of that misconduct, his fitness to practise is currently impaired.

41. The Tribunal considered its findings in light of the guidance indicating that a doctor's fitness to practise might be impaired as set out by Dame Janet Smith and cited in the *Grant* case referred to above.

42. The Tribunal has not received any evidence to suggest that Dr Hussain has or is liable in the future to pose a clinical risk to patients. However, the Tribunal was satisfied that the remaining three factors set out in the case of *Grant* above are relevant in this case, in that Dr Hussain's conduct brought the medical profession into disrepute, he had breached one of the fundamental tenets of the medical profession and had acted dishonestly.

43. The Tribunal reminded itself of the circumstances in which the dishonesty in this case had arisen. Dr Hussain has admitted that, at the time he signed Patient A's Confirmatory Medical Certificate (Cremation 5), he knew that the contents were not true to the extent that he had not yet spoken to Nurse B. He admitted from the outset that this was dishonest. However, the Tribunal was mindful of Dr Hussain's explanation that he did not intend anyone to be permanently misled. It noted Dr Hussain's evidence which was that he fully intended that he would speak to Nurse B shortly after signing the certificate. He noted Nurse B's details, visited the Emergency Department where she worked in order to speak to her, but was unable to find her. He made a note that he had to speak to her but then forgot to do so.

44. Whilst the Tribunal was of the view that any dishonest conduct on the part of a doctor should be regarded as serious, it considered that Dr Hussain's dishonesty occurred in very particular circumstances. It accepted Dr Hussain's evidence that he had good intentions, with no malicious motive. The Tribunal concluded that his dishonesty was one isolated instance of dishonesty in an otherwise unblemished 40-year career as a doctor. It was satisfied that the dishonesty fell at the lower end of the spectrum.

45. The Tribunal first considered Dr Hussain's level of insight into his dishonesty. The Tribunal considered that Dr Hussain had admitted his dishonest conduct at the earliest opportunity during the Trust's investigation. The Tribunal had regard to Dr Hussain's witness statement in which he stated:

'In hindsight, I accept that the approach I took when completing the Confirmatory Medical Certificate for Patient A was wrong. Although I had every intention of only submitting the form after I had spoken to Nurse B (in which case the information on the form would be completely accurate), I omitted to speak to her, and therefore submitted a form which had misleading information on it. I signed the form before speaking to XXX in order to save time and avoid delay for the family but accept that was not the right approach and I should have not written her name on the form, or ticked the box to say I had spoken to her, until I had in fact had that conversation. I deeply regret the approach I took and sincerely apologise.'

The Tribunal noted that Dr Hussain immediately apologised to Nurse B when he was asked, by Dr C, to go and speak to her. On meeting Nurse B, Dr Hussain realised that he had not spoken to her previously. The Tribunal was satisfied that Dr Hussain has demonstrated genuine remorse and accepts that what he did was wrong. The Tribunal was satisfied that he

has developed insight. The Tribunal noted that Dr Hussain made early admissions to the facts of the case and took steps to prevent such an error of judgement recurring.

46. The Tribunal acknowledged that, whilst dishonesty is capable of being remedied, remediation is difficult to demonstrate. The Tribunal noted that this incident took place over two years ago and it has not been provided with any evidence that Dr Hussain has acted dishonestly before, or since.

47. The Tribunal noted that Dr Hussain has taken positive steps to remediate his misconduct. He has attended a variety of CPD courses relevant to his misconduct, including *'Ethics and Ethical Standards for doctors'*. In his reflections, Dr Hussain stated:

'I also learnt that it's not just the facts but also the perception that can matter about a doctor's probity, honesty and integrity. I, therefore, intend to ensure that I am not going to act in a way that can give a wrong perception to anyone I communicate with. I understand the importance of maintaining trust in the profession and that this also applies to written as well as verbal communication, including when completing paperwork, and I appreciate the importance of this being done accurately.'

The Tribunal noted that Dr Hussain has also taken steps to improve his record keeping by attending on online module, *'Good Practice in Record Keeping for Hospital Doctors'*.

48. The Tribunal bore in mind the positive testimonials submitted on Dr Hussain's behalf from consultant colleagues and other medical practitioners with whom he works attesting to his integrity, honesty and probity. It is clear that Dr Hussain continues to be held in high regard by his colleagues who are fully aware of the Allegation made against him.

49. The Tribunal took particular note of the fact that Dr Hussain had discussed his misconduct with his Responsible Officer, Dr G. In a statement dated 7 September 2021, Dr G stated:

'I am aware that the matters for consideration by the Medical Practitioners Tribunal relate to probity concerns around the documentation of Confirmatory Medical Certificates and discussions with other clinicians...

A Trust investigation was completed in January 2020. Dr Hussain engaged fully and openly with the investigation.

Dr Hussain has expressed regret around his documentation practice at the time leading up to the complaint and investigation and has taken appropriate steps to prevent reoccurrence...

Dr Hussain has fully complied with the recommended actions arising from the investigation, in particular stopping his involvement in the completion of Confirmatory Medical Certificates. He has undertaken relevant CPD courses and has discussed and reflected extensively on the issue, learning and actions with his appraiser at his most recent appraisal on 19 March 2021.

Dr Hussain is no longer involved in the completion of Confirmatory Medical Certificates. This function now falls within the remit of the Medical Examiner team. Dr Hussain does not, and does not intend to, undertake any Medical Examiner work.

Dr Hussain continues to undertake his full-time role as a Consultant Physician at HHFT. There are no other concerns regarding his probity or fitness to practice.'

50. The Tribunal was satisfied that Dr Hussain has taken the appropriate steps to remediate his misconduct and has taken all practical steps that could reasonably be expected of him. Further, the Tribunal was satisfied that he has put appropriate measures in place to ensure that the circumstances that gave rise to his misconduct are not repeated. Having regard to his early admissions and remediation, the Tribunal was satisfied that Dr Hussain has developed meaningful insight into his misconduct. Further, the Tribunal was satisfied that, given his appreciation of the seriousness of the Tribunal's findings, the period of time elapsed since the incident without any probity concerns, and his remediation, the likelihood of repetition in this case is extremely low.

51. In reaching its decision on impairment, the Tribunal was mindful of the need to properly take account of the wider public interest. It bore in mind, in the case of *Grant*, the observations of Mrs Justice Cox that:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant Tribunal should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public

confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

52. The Tribunal also took into account the cases of *Armstrong* and *Hilton*. Both of these address the issue of dishonesty within a doctor's professional practice and the issues to be taken into account by a Tribunal in its approach to impairment. The Tribunal was mindful that a finding of impairment will often follow a finding of dishonesty. Having regard to Dr Hussain's insight into his misconduct, the significant evidence of remediation and the low risk of repetition, the Tribunal must carefully balance the public interest and the impact that a finding of no impairment could have on the reputation of the profession and regulatory process where dishonesty has been found.

53. The Tribunal considered that, in light of the particular circumstances in which this isolated instance of dishonesty arose, the confidence of members of the public fully informed of the circumstances of this case, would not be undermined were there to be a finding of no impairment. The need to promote and maintain public confidence in the medical profession did not require a finding of impairment in this case. The Tribunal concluded that its duty to promote and uphold proper professional standards for the profession was satisfied by this regulatory process which had resulted in a finding of serious misconduct.

54. The Tribunal therefore determined that Dr Hussain's fitness to practise is not currently impaired.

Determination on Warning - 14/03/2022

1. As the Tribunal determined that Dr Hussain's fitness to practise was not impaired it considered whether in accordance with s35D(3) of the 1983 Act, a warning was required.

Submissions

2. On behalf of the GMC, Mr Rigby referred the Tribunal to the relevant paragraphs of the Guidance on warnings (March 2021) ('the Guidance'). He submitted that a warning is necessary in this case.

3. Mr Rigby asked the Tribunal to have regard to its earlier determinations. He submitted that a warning would operate as a necessary deterrent and will send a clear message to Dr Hussain, the profession as a whole and to the wider public that such behaviour is unacceptable.

4. Mr Rigby referred to the test to be applied to warnings in paragraph 16 of the Guidance and submitted that Dr Hussain's actions constituted a significant departure from Good Medical Practice. Further, he also referred the Tribunal to paragraphs 24 and 25 of the warning's guidance which state:

'24 There is a presumption of impaired fitness to practise where the allegations concern dishonesty or violence. This presumption can be rebutted however where the doctor's behaviour is not a risk to public protection which includes maintaining public confidence in the medical profession.'

25 There will be some cases involving dishonesty or violence that are not related to the doctor's professional practice and/or which are sufficiently low level in nature that taking action on the doctor's registration would be disproportionate. A warning is likely to be appropriate in these cases. Examples might include, in the absence of any other concerns, police cautions for theft or common assault.'

5. Mr Rigby also asked the Tribunal to have regard to the case of *PSA v GMC and Dr Hilton [2019] EWHC 1638 (Admin)* when making its decision as to whether a warning is appropriate in this case.

6. On behalf of Dr Hussain, Ms Harris invited the Tribunal to consider carefully whether a warning is required in the circumstances of this case. She submitted that the imposition of a warning is not an automatic alternative in a case where there has been a finding of no impairment. She submitted that a warning is still a serious response with consequences for Dr Hussain and the Tribunal needs to be satisfied that one is necessary in the particular circumstances of this case.

7. Ms Harris submitted that it is clear from the Guidance that the primary purpose of a warning is to act as a deterrent. She submitted that it is intended to remind a doctor that their conduct fell significantly below the standards expected of them and that if they were to repeat their misconduct, it is likely to lead to a finding of impairment. Ms Harris submitted that throughout the investigation, Dr Hussain had continued to commit himself to the profession working frontline throughout the pandemic. She submitted that these proceedings have had an effect on Dr Hussain's family and colleagues. Further, this process has had a salutary effect on Dr Hussain, and she submitted that he needs no reminder about how serious these matters were.

8. Ms Harris reminded the Tribunal of its findings that its duty to promote and uphold proper professional standards for the profession was satisfied by this regulatory process which had resulted in a finding of serious misconduct. She submitted that the imposition of a warning is not necessary.

9. Ms Harris referred the Tribunal to paragraph 32 of the Guidance and submitted that 32a, b, c, d and g apply:

'32 If the decision makers are satisfied that the doctor's fitness to practise is not impaired or that the realistic prospect test is not met, they can take account of a range of factors to determine whether a warning is appropriate. These might include:

- a the level of insight into the failings*
- b a genuine expression of regret/apology*
- c previous good history*
- d whether the incident was isolated or whether there has been any repetition*
- ...*
- g relevant and appropriate references and testimonials'*

10. Ms Harris submitted that these factors mitigate and point away from the need for a warning in the particular circumstances of this case. Given Dr Hussain's admissions from the outset, his meaningful insight and genuine remorse, his long unblemished career and the fact that this was an isolated incident, Ms Harris submitted that a warning is not necessary.

The Tribunal's Determination on Warning

11. The Tribunal took into account the evidence already adduced, the submissions made by Mr Rigby on behalf of the GMC and by Ms Harris on behalf of Dr Hussain. It also had regard to its own findings. The Tribunal accepted the legal advice it received and considered the Guidance.

12. The Tribunal was mindful that it had to have regard to the statutory overarching objective and that its power to issue a warning is central to its role in protecting the public, which includes maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour. It also bore in mind the principle of proportionality, and the need to balance Dr Hussain's interests with the interests of the

public and the profession. The Tribunal had particular regard to paragraphs 14, 16 and 20 of the Guidance:

‘14 Warnings should be viewed as a deterrent. They are intended to remind the doctor that their conduct or behaviour fell significantly below the standard expected and that a repetition is likely to result in a finding of impaired fitness to practise. Warnings may also have the effect of highlighting to the wider profession that certain conduct or behaviour is unacceptable.

16 A warning will be appropriate if there is evidence to suggest that the practitioner’s behaviour or performance has fallen below the standard expected to a degree warranting a formal response by the GMC or by a MPTS tribunal. A warning will therefore be appropriate in the following circumstances:

- there has been a significant departure from Good medical practice, or*
- there is a significant cause for concern following an assessment of the doctor’s performance.*

20 The decision makers should take account of the following factors to determine whether it is appropriate to issue a warning.

a There has been a clear and specific breach of Good medical practice or our supplementary guidance.

b The particular conduct, behaviour or performance approaches, but falls short of, the threshold for the realistic prospect test or in a case before a tribunal, that the doctor’s fitness to practise has not been found to be impaired.

c A warning will be appropriate when the concerns are sufficiently serious that, if there were a repetition, they would likely result in a finding of impaired fitness to practise. Warnings may be an appropriate response to any type of allegation (subject to the comments in paragraph 7 regarding cases solely relating to a doctor’s health); the decision makers will need to consider the degree to which the conduct, behaviour or performance could affect patient care, public confidence in the profession or the reputation of the

profession. If the decision makers consider that a warning is appropriate, the warning should make clear the potential impact of the conduct, behaviour or performance in question, accordingly.

d There is a need to record formally the particular concerns (because additional action may be required in the event of any repetition).

13. The Tribunal first considered whether the test for issuing a warning was met in paragraph 16 of the Guidance, namely whether there had been a significant departure from Good Medical Practice. The Tribunal found that Dr Hussain had breached paragraphs 1, 19, 65,71 and 71a of GMP. Given the importance of doctors to act with honesty and integrity, it was of the view that these breaches were significant. The Tribunal concluded that there had been a significant departure from GMP.

14. In addition, when considering paragraph 20 of the Guidance, the Tribunal reminded itself that, although Dr Hussain's breaches of GMP fell short of a finding of current impairment, nevertheless, his actions were clear and significant breaches of professional standards. Whilst the Tribunal acknowledged its earlier findings that the likelihood of repetition was very low, it considered that if Dr Hussain were to repeat his misconduct and act dishonestly again, his conduct would likely result in a finding of impaired fitness to practise. The Tribunal therefore considered that paragraphs 20a, b and c were all met in this case.

15. With reference to paragraph 32 of the Guidance, the Tribunal considered the mitigating factors. The Tribunal noted Dr Hussain's admissions, his genuine remorse, insight, remediation and the positive testimonials provided by his colleagues.

16. The Tribunal was also mindful of the case of *Hilton* in which the case of *PSA v (1) GMC (2) Uppal [2015] EWHC 1304 (Admin)* was quoted. In *Uppal* Lang J found at paragraph 41 that *'the decision not to have a warning was unduly lenient, given the nature of the misconduct. In particular, I consider that the failure to impose any sanction did not uphold standards in the profession and was capable of undermining public confidence in the profession'*.

17. Notwithstanding the mitigation in this case, together with the Tribunal's conclusions at the impairment stage, the Tribunal nevertheless determined that it was necessary to send a clear message to Dr Hussain, the profession as a whole and the wider public, that Dr Hussain's conduct was serious, unacceptable and had the potential to bring the profession

into disrepute. If repeated, such conduct would be likely to result in a finding of impaired fitness to practise. The Tribunal concluded that a warning was a necessary and proportionate outcome in these regulatory proceedings and would act as a deterrent to the profession and reinforce the importance of maintaining proper professional conduct.

18. The Tribunal determined to issue the following warning in accordance with Section 35D(3) of the Medical Act 1983 and Rule 17(2)(m) of the Rules. It determined to impose a warning on Dr Hussain's registration in the following terms:

Dr Hussain

'On 6 September 2019, Dr Hussain completed a Confirmatory Medical Certificate (Cremation 5) in respect of Patient A and ticked 'yes' to the question 'have you questioned any other medical practitioner who attended the deceased?' He documented Nurse B as the medical practitioner. Dr Hussain accepted that, at the time of completing the Confirmatory Medical Certificate (Cremation 5), this information was untrue. Dr Hussain accepted that his actions in this regard were dishonest.

This conduct does not meet with the standards required of a doctor. It risks bringing the profession into disrepute and it must not be repeated.

In this case Dr Hussain breached the required standards set out in Good medical practice, specifically:

'1 Patients need good doctors. Good doctors are honest and trustworthy and act with integrity and within the law.

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 your conduct justifies your patient's 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.'

Whilst this failing, in itself, is not so serious as to require any restriction on Dr Hussain's registration, it is necessary in response to issue this formal warning.

This warning will be published on the medical register in line with the GMC's publication and disclosure policy, which can be found at www.gmc-uk.org/disclosurepolicy.'

19. There is no interim order to revoke.
20. That concludes this case.