

PUBLIC RECORD

Date: 11/07/2024

Medical Practitioner's name: Dr Zeshan ALI

GMC reference number: 6071116

Primary medical qualification: MB ChB 2003 University of Liverpool

Type of case **Outcome on impairment**

Review - Misconduct Not Impaired

Summary of outcome

Suspension to expire

Tribunal:

Legally Qualified Chair	Ms Rachel Jones
Lay Tribunal Member:	Dr Amit Jinabhai
Medical Tribunal Member:	Dr Joanne Topping

Tribunal Clerk:	Miss Maria Khan
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Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Stephen Brassington, Counsel, instructed by the MDDUS
GMC Representative:	Mr Julian King, Counsel

Attendance of Press / Public

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

Overarching Objective

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

Determination on Impairment - 11/07/2024

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 Ali's fitness to practise remains impaired by reason of misconduct.

Background

2. Dr Ali qualified in Medicine in 2003 from the University of Liverpool. In 2008, Dr Ali completed General Practitioner ('GP') training and commenced work as a GP, working as a locum sessional GP at a number of practices across North West England since 2011. Along with his work as GP, Dr Ali held a number of further non-clinical roles, including as an OSCE Examiner for Manchester University Medical Students and a PLAB Examiner for the GMC.

3. The Allegation that led to Dr Ali's Medical Practitioners Tribunal ('MPT') hearing in September 2023 can be summarised as follows. While working as a locum sessional GP at St Andrews Medical Centre ('the Practice'), in Eccles, between 10 May 2022 and 14 June 2022, Dr Ali dishonestly recorded in the medical records of one or more patients that he had attempted to call them on several occasions, knowing that he had not made such calls.

4. Dr Ali made admissions to the Allegation in its entirety at the outset of the hearing and the Tribunal accordingly announced the facts of the Allegation as admitted and found proved in full. The 2023 Tribunal then proceeded to the next stage of the hearing, to consider whether Dr Ali's fitness to practise was impaired.

5. The 2023 Tribunal observed that Dr Ali had, on three separate occasions, over a four week period, acted dishonestly by falsifying the medical records of eight patients to say he had attempted to call them, when he knew he had not. The number of patient records Dr Ali had falsified increased on each occasion. On 10 May 2022, he falsified the record of one

patient he had failed to call. Subsequently, he falsified three patient records on 17 May 2022 and four patient records on 14 June 2022.

6. The 2023 Tribunal took into account that Dr Ali's dishonesty occurred in a clinical setting and directly related to the care of patients. Dr Ali had been falsifying the patients' medical records to ensure he could leave the Practice without being late for his next locum session elsewhere. He had failed, after the first occasion of falsifying a patient record, to take any remedial action to prevent a recurrence of his actions and further risk to patients. Instead, he compounded his dishonest actions by falsifying seven further patient records over two more sessions at the Practice.

7. The 2023 Tribunal considered the fact that Dr Ali not only failed to complete the telephone consultations himself, but he also failed to communicate to anyone at the Practice that he had not. Rather, Dr Ali had preferred to note dishonestly in the patient records that he had made attempts to call them and that there had been no reply. The 2023 Tribunal was of the view that these failings clearly put patients at the risk of harm. It also noted that Dr Ali had not been open and honest with the Practice when first confronted with the allegation of falsifying records and only made admissions when presented with the documentary evidence.

8. The 2023 Tribunal had regard to *Good medical practice* (November 2013 edition) ('GMP'). It concluded Dr Ali's dishonest behaviour, repeated in a clinical setting on three occasions over a four week period, had breached several paragraphs of GMP and determined that his conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

9. The Tribunal accepted that Dr Ali had acknowledged his failings and sought to remedy them. He had undertaken relevant courses on honesty, probity and ethics, as well as engaging the services of a mentor. However, the Tribunal was concerned about Dr Ali's "*level and depth of insight*" and considered that Dr Ali had demonstrated an unwillingness to identify and confront his actual motivation for his dishonesty. He had referred to challenging personal and financial circumstances without providing his reflections on how they had impacted on his decision-making. Further, there was no reflection about the potential consequences of his actions, including on patients.

10. The Tribunal was not satisfied that Dr Ali, as an experienced locum GP, had sufficiently reflected on what may have caused him to act dishonestly at the Practice on three separate occasions or that he had adequately explained his actions when putting his own interests above those of his patients.

11. On the basis that Dr Ali had completed a considerable amount of reflection and remediation and, from 22 June 2022 onwards, made full admissions and had apologised to the Practice, the Tribunal considered that Dr Ali had some insight into his misconduct. However, the Tribunal concluded that Dr Ali had further work to do to develop full

understanding of why he acted as he did and until this was completed, there remained a risk of repetition.

12. The Tribunal considered that Dr Ali's actions had placed patients at unwarranted risk of harm. He had acted dishonestly, which had brought the profession into disrepute and breached fundamental tenets of the profession. The Tribunal concluded that a finding of current impairment was required to uphold all three limbs of the overarching objective and, accordingly, determined that Dr Ali's fitness to practise was impaired by reason of misconduct.

13. The 2023 Tribunal then considered the appropriate and proportionate sanction, if any, to impose. It considered that this was not a case where taking no action was an option. As to conditions, the 2023 Tribunal concluded that as well as it not being possible to formulate appropriate and workable conditions in this case, a period of conditional registration would not be proportionate or sufficiently mark the seriousness with which the 2023 Tribunal viewed Dr Ali's dishonest conduct.

14. After taking into account its findings in relation to Dr Ali's insight, his commitment to remediation, and his good character, as well as giving weight to the testimonial evidence from different sources, the 2023 Tribunal concluded that Dr Ali's actions were not fundamentally incompatible with continued registration. A sanction of erasure would be disproportionate, and it would not be in the public interest to erase an otherwise good doctor.

15. Taking all of the evidence, submissions from parties and its own assessment of Dr Ali's misconduct into account, the 2023 Tribunal was satisfied that a period of suspension would appropriately mark the seriousness with which it viewed Dr Ali's dishonest conduct. The 2023 Tribunal determined to suspend Dr Ali's registration from the medical register for a period of nine months. It was of the view that this was an appropriate length of suspension to allow Dr Ali the time and opportunity to further develop his insight and remediate his misconduct.

16. The 2023 Tribunal also directed a review hearing. It set out that the reviewing Tribunal would be assisted if Dr Ali were to provide:

- Evidence that he has continued his development of insight and remediation, *"focussing in particular on demonstrating his thought processes in taking the dishonest actions that he did and providing further reflections on the potential impact of his actions, particularly on patients"*;
- Evidence of Continuing Professional Development ('CPD'), which shows how Dr Ali has maintained his skills and kept his clinical knowledge up to date;
- Any other information which Dr Ali considers would assist the reviewing Tribunal.

17. The 2023 Tribunal also determined that an immediate order of suspension was required to protect members of the public, maintain public confidence in the profession and uphold proper professional standards.

Today's Hearing

18. This is the first review of Dr Ali's case after the original finding of impairment in September 2023.

The Evidence

19. The Tribunal received the following documentary evidence:

- Record of Determinations, dated September 2023;
- Dr Ali's reflective statement (undated);
- Ethical remediation - reflection and insight;
- Medical remediation – reflection and insight;
- Letter from Mr A, PhD, confirming delivery of one-to-one course on medical ethics to Dr Ali on 23 January 2024, dated 23 January 2024;
- Certificate of Completion for the medical ethics course delivered by the Centre for Remedial Ethics, dated 23 January 2024;
- Dr Ali's Personal Development Plans ('PDP'), from October 2023 - June 2024;
- Dr Ali's Medico-Legal Pitfalls presentation, dated January 2024;
- MBA enrolment form, dated 7 February 2024;
- Practitioner Health Report, dated 18 March 2024;
- Life Coaching sessions documents, dated February and March 2024;
- CPD Certificate - GSK Spring COPD Event, dated 25 April 2024;
- CPD Certificate - Chronic Insomnia and its Management, dated 30 April 2024;
- CPD Certificate - Probity & Ethics in Healthcare with Integrity Part 1, dated 5 May 2024;
- CPD Certificate - Emergencies, dated 25 June 2024;
- CPD Certificate - Doctors in Deprivation Training Day, dated 27 June 2024;
- CPD Certificate - Asthma: diagnosis and 7 differentials, dated 28 June 2024;
- 20 testimonials, various dates from March 2024 - June 2024.

20. Dr Ali did not give oral evidence.

Submissions

21. On behalf of the GMC, Mr Julian King, of counsel, acknowledged the extensive body of evidence supplied by Dr Ali relating to remediation work undertaken since the 2023 hearing up to the present day, and took the Tribunal to Dr Ali's reflective statement.

22. Mr King submitted that Dr Ali has remained engaged in these proceedings starting from the original hearing to today's review. He then referred the Tribunal to the steps Dr Ali had taken to keep his knowledge and skills up to date, and also to the various positive testimonials including those provided by colleagues, all written in full knowledge of the

original Allegation and outcome of the 2023 hearing. Mr King further pointed to other documents, including those showing that Dr Ali had undertaken work shadowing of a GP to keep up-to-date while suspended, his coaching/mentoring, various courses including on ethics, and Dr Ali's Medico-Legal pitfalls presentation.

23. Mr King submitted that it was for the Tribunal to decide whether Dr Ali's fitness to practise remains impaired. The GMC was neutral on the matter. However, the GMC accepted that the material provided by Dr Ali was extensive, and said that Dr Ali had remained engaged with the process.

24. Mr King also referred the Tribunal to paragraph 164 of the Sanctions Guidance (February 2024 version)('the SG'):

164in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

a they fully appreciate the gravity of the offence

b ...

c they have maintained their skills and knowledge

d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration

25. On behalf of Dr Ali, Mr Stephen Brassington, of counsel, submitted that Dr Ali's fitness to practise was no longer impaired. He told the Tribunal that Dr Ali had been humbled and shamed by his actions and had started a journey of remediation and insight in June 2022 that Dr Ali hoped would end today.

26. Mr Brassington reminded the Tribunal that Dr Ali had admitted the Allegation in full at the 2023 hearing, and had conceded his fitness to practise was impaired. He had given evidence to attempt to explain why he had acted in the way he had. Since then, Dr Ali had been committed to developing further insight.

27. Mr Brassington drew the Tribunal's attention to the "wealth of material" demonstrating the amount of work undertaken by Dr Ali over the last 10 months and submitted that this led to the conclusion that there was no risk of repetition of his misconduct. Dr Ali's reflective statement had described the horror of going through the regulatory process and this was an underlining feature of why this behaviour would not be repeated.

28. Mr Brassington took the Tribunal through some of the steps that Dr Ali had taken to demonstrate his insight. He had sought medical ethics mentorship with renowned medical ethicist, Mr A, to completely deconstruct what had happened and to ensure no repetition. Dr Ali also explained in his reflective statement that he had not understood the impact of his actions on his patients, believing, at the time of the events, that his dishonesty was “mild”. Dr Ali readily accepted he had put his interests above that of his patients, and had ignored the seriousness of this.

29. Mr Brassington referred the Tribunal to the corrective action and list of CPD courses undertaken by Dr Ali, as well as Dr Ali’s ongoing PDP. Dr Ali had also taken a unique approach to his remediation by formulating and conducting a presentation to GP colleagues about his case and discussing what he learned to stop others making the same mistake, strengthen their ethical knowledge and also getting feedback from those colleagues. Mr Brassington submitted that Dr Ali chose to publicise what he had done and there was no better way to demonstrate insight into his failures than to attempt to teach others what he had done wrong; this was a remarkable demonstration of remediation.

30. Mr Brassington submitted that Dr Ali continued to complete purely medical CPD and was on a clinical attachment to keep his knowledge up to date. He also continued to do volunteer work, such as helping at food banks, giving health talks and working at a care home. Dr Ali had become a senior carer for patients with dementia and this brought home the importance of consultations for vulnerable patients.

31. Mr Brassington also highlighted to the Tribunal that Dr Ali had modified his lifestyle to reduce stress, participating in life coaching sessions through NHS England. Dr Ali continues to do mindfulness work privately on his own and still uses the techniques learned in coaching sessions.

32. Mr Brassington submitted that Dr Ali’s misconduct was capable of being remedied and had plainly been remedied. Looking at all Dr Ali had done, the Tribunal could be confident that the misconduct would not be repeated.

33. In relation to the wider public interest, Mr Brassington submitted that this had been dealt with by the substantive sanction of a nine month suspension and the message has been sent to wider public. Taken together with his remediation, it could be concluded that Dr Ali’s fitness to practise is no longer impaired, and such a finding would permit a hardworking, humble and committed practitioner to get back to work.

The Relevant Legal Principles

34. The Tribunal reminded itself that there is no legal test for determining impairment. It is a matter for the Tribunal’s judgement alone.

35. The Tribunal first had regard to the statutory overarching objective in section 1 of the Medical Act 1983: to protect and promote the health, safety and wellbeing of the public,

promote and maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for the members of the profession.

36. This Tribunal considered it must determine whether Dr Ali's fitness to practise is impaired today, taking into account Dr Ali's conduct at the time of the events: *Meadow v GMC* [2006] EWCA Civ 1390. The Tribunal was advised that it may wish to consider whether the matters are remediable, have been remedied, and any likelihood of repetition: *Cohen v GMC* [2008] EWHC 581 (Admin).

37. The Tribunal had regard to the guidance about impairment in *Council for Healthcare Regulatory Excellence v NMC and Paula Grant* [2011] EWHC 927 (Admin), endorsing four questions posed by Dame Janet Smith; namely, whether the Tribunal's findings of fact as to the misconduct indicate impaired fitness to practise in the sense that the doctor:

'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;

b) has in the past brought and/or is liable in the future to bring the profession into disrepute;

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.

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

38. The Tribunal bore in mind that, at this stage, there is a persuasive burden on the doctor to demonstrate that all of the concerns which have been identified previously have been adequately addressed and that he would be safe to return to unrestricted practice: *Abrahaem v GMC* [2008] EWHC 183 (Admin).

39. The Tribunal also had regard to *Sawati v GMC* [2022] EWHC (Admin) in which it was explained that as a general principle insight means "*an acknowledgment and appreciation of a failing, its magnitude, and its consequences for others*": and that insight is essential for the doctor's failing to be "*properly understood, addressed and eliminated for the future*". If the doctor's conduct is faulty, but they do not have insight into that, that can give good grounds for concern that the doctor is unlikely to be able to address it, and hence that they pose a continuing risk.

The Tribunal's Determination on Impairment

40. The Tribunal took into account all of the evidence provided, as well as the submissions from both parties.

41. At the outset of its deliberations, the Tribunal had regard to the 2023 Tribunal's expectations of the evidence which a reviewing Tribunal would be assisted by. In particular,

it noted the 2023 Tribunal’s suggestion that Dr Ali’s evidence for the review hearing focus “on demonstrating his thought processes in taking the dishonest actions that he did and providing further reflections on the potential impact of his actions, particularly on patients”.

42. This Tribunal also had regard to the finding in the previous determination that Dr Ali had some “developing insight” at the time of that hearing, and that the 2023 Tribunal had noted his “commitment” to continuing that insight.

43. This Tribunal considered that Dr Ali’s reflective statement showed how much further his insight has developed over the last 10 months. The Tribunal was of the view that Dr Ali has now demonstrated full insight into his misconduct. His reflective statement showed that he had thought carefully about the potential harm to his patients and had reflected on the impact of his actions, in particular the following passage:

“There are several reasons why I decided to make false entries in patients records and lie in my email response to Miss [C] on 16.6.22. I made false entries as I thought phone consultations were inferior in comparison to face-face. I thought at the time it was a trivial harmless matter which would not have any material impact on patients and colleagues. I thought it was an act on the mild end of the bad behaviour spectrum and a harmless way to catch up on time and get to my next afternoon surgery. I did not think I would get caught. My perceptions on reflection about this were so wrong. In fact phone consultations are just as important as patients need phone guidance and reassurance. I was selfish and cowardly. There was an abuse of power. I neglected the Hippocratic Oath. I lied and blamed the patients for their actions and put my interests above the patients. It was a deceptive tactic to avoid speaking to patients on the telephone. I was culpably ignorant of the full situation. I ignored the ethical seriousness of the situation.”

44. The Tribunal also had regard to Dr Ali’s reflections on his behaviour in the context of what he referred to as ‘Four Ethical Principles’ of ‘Respect for Autonomy’, ‘Non-maleficence’, ‘Beneficence’ and ‘Justice’, reflecting on his recent medical ethics mentorship course. The Tribunal noted, too, the apologies Dr Ali had expressed to (among others) the medical profession and colleagues in his reflective statement:

“My actions on those days caused may have caused harm and distress to the patients and families I failed to assist and give timely medical advice. This all goes against the Hippocratic Oath. My GP colleagues and staff should have been informed about my circumstances and handed over the telephone consultations by me...”

“The consequences of not informing the staff, handing over the telephone consultations and false record keeping are breaches of trust. Patients and the public trust doctors not to be selfish. A lack of trust would make patients and public less likely to visit their doctor or comply with any treatment. Colleagues expect us to show truthfulness in all matters. I fell way below the ethical criteria expected.”

45. The Tribunal considered that Dr Ali, through his employment as a senior carer and his voluntary work, had been able to gain further insight into the harm that could be caused by not carrying out telephone consultations with patients:

“My carer/ volunteer work has made me realise from a practical experience point of view how vulnerable and helpless these residents really are. They could potentially be my future patients who request phone call advice and we should never harm or neglect them or their families. It also has helped me to appreciate my job as a GP a lot more and what a privilege it was...”

46. The Tribunal then looked at the remediation undertaken by Dr Ali since the 2023 hearing. It concluded that Dr Ali has done as much as he could do to remediate while being suspended from clinical practice. The Tribunal acknowledged that Dr Ali had made extensive efforts to remediate his dishonest behaviour. One example of this was the medico-legal presentation he had given to GP colleagues, in which he explained the lessons he had learned from this regulatory experience, and sought their feedback. Dr Ali had also sought the help of a mentor to talk through what had gone wrong, and the lessons he had learned.

47. The Tribunal took into account that Dr Ali had identified lifestyle issues that had contributed to the dishonest actions and had embarked on life coaching and mindfulness techniques in an effort to modify his lifestyle and to reduce his stress and fatigue, going forwards.

48. The Tribunal had regard to Dr Ali’s Medical CPD which showed that he has kept his knowledge and skills up to date. In addition to this, Dr Ali wrote detailed reflections on what he had learned from these courses and how he would implement this learning in his future practice. Dr Ali had also shadowed a GP and used this, along with his work as a senior carer, as valuable experiences which informed his insight into the effect of his misconduct on vulnerable patients.

49. The Tribunal acknowledged that while dishonesty can be difficult to remediate, it is not impossible to do so. In this case, it was satisfied that Dr Ali had remediated adequately.

50. Taking into account its conclusions relating to Dr Ali’s extensive remediation and Dr Ali’s current, clear level of insight, the Tribunal was satisfied that Dr Ali’s risk of repeating the misconduct is extremely low.

51. In relation to the guidance about impairment set out in *Grant* (above), whereas the 2023 Tribunal had found all four questions posed by Dame Janet Smith were engaged, this Tribunal was satisfied that this was not the case now. The Tribunal also considered paragraph 164 of the SG to which the GMC’s counsel had referred. The Tribunal was satisfied that 164 (a),(c) and (d) were fulfilled: the doctor appreciated the gravity of his misconduct, he has maintained his medical skills and knowledge, and patients will not be placed at risk by Dr Ali’s resumption of practice.

52. The Tribunal was, thus, satisfied that there was no longer any risk to patient safety. It was also of the view that the wider public interest had been served by the doctor's suspension, and that this period of suspension was sufficient to mark the gravity of the wrongdoing and to restore public confidence. It determined that returning Dr Ali to unrestricted practice would not undermine the overarching objective.

53. This Tribunal has therefore determined that Dr Ali's fitness to practise is not impaired by reason of misconduct.

54. The Tribunal noted that the order of suspension on Dr Ali's registration expires on 27 July 2024. It invited submissions pursuant to Rule 22(1)(g) of the Rules about whether to make a direction under section 35D of the Medical Act 1983. Both parties were agreed that such a direction was not appropriate in this case, because the period of suspension imposed by the 2023 Tribunal was the period which appropriately protected the public interest. The Tribunal considered that this was a matter for its independent judgment. In agreement with the parties, it decided not to revoke the direction for the remainder of the current period of suspension. Accordingly, the suspension will end on 27 July 2024.

55. That concludes this case