

**Dates:** 29/11/2018 – 29/11/2018

**Medical Practitioner's name:** Dr Zvi Meir Noyek

**GMC reference number:** 4685814

**Primary medical qualification:** State Exam 1997 Universita degli Studi di Torino

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

**Summary of outcome**  
Suspension to expire

**Tribunal:**

Legally Qualified Chair	Miss Sally Cowen
Lay Tribunal Member:	Mr Philip Geering
Medical Tribunal Member:	Dr Subir Datta
Tribunal Clerk:	

**Attendance and Representation:**

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Stephen Brassington, Counsel, instructed by RLB Solicitors
GMC Representative:	Ms Louise Kitchin, 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.

## Record of Determinations – Medical Practitioners Tribunal

### Determination on Impairment - 29/11/2018

#### Background

1. The Tribunal does not intend to rehearse the full background to Dr Noyek's Fitness to Practise hearing which concluded in November 2017 ('the 2017 Tribunal'). At the outset of that hearing, Dr Noyek made a number of admissions with the exception of one allegation. The Tribunal found that allegation not proved. In summary, the 2017 Tribunal found, amongst other things, that:

- Between 5 January 2014 and 1 February 2015, Dr Noyek undertook overlapping shifts for three separate contracting bodies, namely Primecare, Tascor and Med Team. It also found that Dr Noyek knew he could not undertake work for more than one of the contracting bodies at the same time but failed to disclose he was doing so to the various contracting bodies.
- In respect of the shifts worked, Dr Noyek sought remuneration for the overlapping hours from Primecare and Tascor.
- Between 12 January 2014 and 22 January 2015, Dr Noyek worked consecutive shifts for the contracting bodies but he did not leave adequate time between shifts to:
  - a. travel between Contracting Bodies;
  - b. rest sufficiently.

2. The 2017 Tribunal acknowledged that Dr Noyek had made early and full admissions and that he had made early apologies to Primecare and Tascor for his actions. The 2017 Tribunal considered that Dr Noyek had shown some insight into his actions in that he demonstrated an understanding of and the risks attached to working excessive hours; repaid Primecare and Tascor; sought support via a mentor and XXX. The 2017 Tribunal also determined that Dr Noyek showed genuine remorse for his actions.

3. The 2017 Tribunal determined that Dr Noyek's fitness to practise was impaired by reason of his misconduct. In light of its findings, the 2017 Tribunal decided to suspend Dr Noyek's registration for a period of 12 months. It considered that a period of suspension would mark the seriousness of Dr Noyek's dishonesty and also allow him the opportunity to further develop his insight and remediation.

4. It advised Dr Noyek that a Tribunal reviewing his case may be assisted by the following:

- Evidence that he has kept his medical skills and knowledge up-to-date;

## Record of Determinations – Medical Practitioners Tribunal

- Further evidence of reflection on his dishonest actions and further insight developed for example in the form of a diary or reflective statement;
- Any other information which he considered might assist the tribunal reviewing his case.

### This Hearing

5. The Tribunal has considered, under Rule 22(1)(f) of the Rules, whether Dr Noyek's fitness to practise remains impaired by reason of his misconduct. It considered the submissions made by Ms Louise Kitchin, Counsel, on behalf of the GMC and Mr Stephen Brassington, Counsel, on behalf of Dr Noyek. The Tribunal also took into account the documentary evidence placed before it.

### The Evidence

6. Dr Noyek provided a bundle which included his reflective statement dated 15 November 2017 (considered by the 2017 Tribunal and marked 'D1'); his further reflective statement dated November 2018; XXX; and certificates as evidence of courses he has undertaken to address his misconduct and keep his medical knowledge and skills up to date.

7. In his November 2018 written reflective statement, Dr Noyek reiterated the circumstances which led him to act in the way he did. He said that he was embarrassed and ashamed of his actions, the impact on his family, his colleagues and 'undoubtedly public confidence in the profession...'. Dr Noyek said that being a doctor is a huge part of his identity and he values being a member of such a well-regarded and trusted profession. Dr Noyek stated 'and I recognise that this is exactly why it is important to act with honesty and integrity at all times, to make sure we, as doctors, do maintain that trust and confidence of our patients and the public at large.'

8. Dr Noyek went on to explain that if he is allowed to return to clinical practice, he would never allow his misconduct to happen again. He said that he deceived his employers, and potentially put patients at risk, XXX.

9. XXX.

10. Dr Noyek explained the courses he has undertaken to keep his medical knowledge and skills up to date. These included reading monthly publications of Forensic Journal of Forensic and Legal Medicine (FFLM) and various text books on related topics. In addition he stated that he has attended courses such as 'Equality, Diversity and Human Rights – General Awareness' on 27 August 2018 and 'Mastering Professional Interactions' on 6 September 2018. He said that the courses he attended prepared him for returning to clinical practice in terms of managing difficult consultations and improving communication and safe practice.

## Record of Determinations – Medical Practitioners Tribunal

11. Finally, Dr Noyek apologised again to the GMC, his patients and colleagues, his employers and his family for his unprofessional and dishonest actions. He said he reflected on why he did what he did and has taken steps to address specific issues XXX, and by re-thinking how he works and organises his working life. Dr Noyek stated 'Most importantly though, the regulatory process and the suspension in particular has caused me to truly face up to the consequences of my actions - I will never risk jeopardising my career again.'

### Submissions

#### On behalf of the GMC

12. Ms Kitchin submitted that it is a matter for this Tribunal to determine whether Dr Noyek has demonstrated his fitness to practise is no longer impaired. She referred the Tribunal to paragraphs 21 and 63 of the Sanctions Guidance (SG). She said that the Tribunal needed to be satisfied that Dr Noyek fully appreciated the gravity of his misconduct.

13. Ms Kitchin said that Dr Noyek has been out of clinical practice for twelve months and whilst it is accepted that he has undertaken some Continuing Professional Development (CPD), there is limited or no objective evidence to support some of that CPD. Ms Kitchin acknowledged, XXX.

14. In relation to insight, Ms Kitchin said that dishonesty is difficult to remediate and the GMC accepts that it is hard to provide objective evidence of it. In relation to insight, she submitted that whilst there is some evidence of this, it is limited. She submitted that Dr Noyek has some way to go to achieve full insight.

#### On behalf of Dr Noyek

15. Mr Brassington told the Tribunal that Dr Noyek is utterly ashamed and embarrassed by his actions and the impact his actions had on his colleagues, the medical profession, public confidence and the wider public interest, as well as his patients. He said that Dr Noyek accepted his wrongdoing prior to and at the 2017 Tribunal hearing, and he admitted the allegations. In addition, Dr Noyek apologised to his employers for whom he had undertaken work. Further, Mr Brassington said that Dr Noyek accepted, without challenge, the sanction imposed by the 2017 Tribunal. He reminded the Tribunal that the 2017 Tribunal found Dr Noyek to be a credible witness and found that he demonstrated developing insight.

16. XXX.

17. XXX. Mr Brassington referred the Tribunal to Dr Noyek's CPD which he undertook to keep his medical knowledge and skills up to date. He said that as found

## **Record of Determinations – Medical Practitioners Tribunal**

by the 2017 Tribunal, Dr Noyek posed no risk to patient safety and the risk of repetition is low.

18. In all the circumstances, Mr Brassington submitted that Dr Noyek's fitness to practise is no longer impaired.

### **The Tribunal's Decision**

19. Whilst the Tribunal has borne in mind the submissions made, the decision as to whether Dr Noyek's fitness to practise remains impaired is a matter for this Tribunal exercising its own judgement.

20. The Tribunal is aware of its statutory over-arching objective which is 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 the medical profession.

21. In a review case the persuasive burden falls upon the doctor to demonstrate that the concerns which have been identified have been addressed, and that remediation has taken place. If so, a Tribunal might then conclude that the doctor's fitness to practise is no longer impaired.

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

22. The Tribunal took into account that the 2017 Tribunal suspended Dr Noyek's registration for a period of twelve months to allow him an opportunity to further develop his insight and to protect public confidence. It noted that the 2017 Tribunal found that Dr Noyek was on a journey of developing insight.

23. The Tribunal took into account that Dr Noyek has consistently recognised his wrongdoing and the circumstances which led to him acting the way he did. XXX.

24. The Tribunal had regard to Dr Noyek's reflective statement. It noted and is satisfied that Dr Noyek recognises the circumstances which led to him to act in the way he did, and he has developed and put in place strategies to help him to cope with future stresses. It noted that Dr Noyek's personal circumstances are now resolved. XXX.

25. The Tribunal has taken into account that throughout his previous and November 2018 reflective statement, Dr Noyek has recognised the impact his misconduct has had on the medical profession, his colleagues, and on public confidence in the profession. He has accepted his dishonesty and the criticisms of his actions. The Tribunal is satisfied that Dr Noyek had further developed insight into his misconduct since the 2017 Tribunal hearing.

## Record of Determinations – Medical Practitioners Tribunal

26. The Tribunal took account of Dr Noyek's CPD, including a course on ethics and courses to address keeping his clinical skills up to date. The Tribunal noted these courses were completed over a span of time demonstrating Dr Noyek's journey of remediation. The Tribunal also took account of Dr Noyek's voluntary work over the past year with a local charitable organisation which offers support to high risk mental health patients in the community. The Tribunal considered that this demonstrated his continuing development of his patient communication skills. The Tribunal is satisfied that Dr Noyek has sufficiently maintained his clinical skills and knowledge.

27. The Tribunal noted that Dr Noyek is an experienced doctor who has been practising medicine for some eighteen years and has no previous adverse history with the GMC. It has not been suggested that there are any patient safety concerns with regard to Dr Noyek's clinical skills.

28. The Tribunal noted the concerns identified by Ms Kitchin regarding the fact that Dr Noyek had not responded to correspondence sent to him by the GMC since the last hearing. The Tribunal concluded that it would have been preferable for Dr Noyek to have at least acknowledged the correspondence but also concluded that overall, this has little bearing on the issue of his fitness to practise: XXX, he has responded positively throughout the year to the issues identified by the last Tribunal, and he has engaged with today's review hearing.

29. Taking all the evidence before it, the Tribunal was satisfied that Dr Noyek has fully addressed his misconduct, which included dishonesty, and has acknowledged the adverse impact of his misconduct on the profession. The Tribunal concluded that Dr Noyek has remediated his misconduct. It noted that Dr Noyek has developed coping strategies and a support network, and is satisfied that in the future there is a low risk of him repeating his misconduct.

30. The Tribunal considered that the public interest has now been met with the period of suspension imposed on Dr Noyek's registration. It is clear from Dr Noyek's reflective statement that he recognises the seriousness of his actions and is therefore there is a low risk that he will behave in such a way in the future.

31. The Tribunal has therefore determined that Dr Noyek's fitness to practise is no longer impaired.

32. Prior to handing down its written determination on impairment, the Tribunal sought the views of the parties as to whether the current substantive sanction of suspension should be revoked with immediate effect or be allowed to run its course. Dr Noyek was not present as he had to leave due to a personal appointment but Mr Brassington informed the Tribunal he had Dr Noyek's full consent to proceed in his absence.

## **Record of Determinations – Medical Practitioners Tribunal**

33. Ms Kitchin submitted that it was matter for the Tribunal. However, she reminded the Tribunal that the order of suspension was imposed to protect the public interest.

34. Mr Brassington submitted that in light of the Tribunal's decision that Dr Noyek's fitness to practise is no longer impaired, it was proportionate to revoke the order of suspension with immediate effect. He said that the imposition of suspension had already had a significant impact on Dr Noyek circumstances.

35. The Tribunal has noted the submissions made by Ms Kitchin and Mr Brassington. It has had regard to its reasons for determining Dr Noyek's fitness to practise is no longer impaired. However, the Tribunal also had regard to the 2017 Tribunal's reasons for determining a suspension for a period of twelve months was necessary to mark the seriousness of Dr Noyek's misconduct and to protect the public interest. This Tribunal has therefore determined to allow the current substantive order of suspension to run its course. Therefore, the substantive order of suspension imposed on Dr Noyek's registration will expire on 20 December 2018. Dr Noyek will be free to practise from 21 December 2018.

36. That concludes this case.

**Confirmed**

**Date** 29 November 2018

Miss Sally Cowen, Chair