

Dates: 13/02/2018 and 18 – 19/06/2018

Medical Practitioner's name: Dr Giuseppe Arcangelo VERRI

GMC reference number: 6142695

Primary medical qualification: State Exam 1983 Università degli Studi di Parma

Type of case **Outcome on impairment**

Review - Misconduct Impaired

Summary of outcome

Suspension, 12 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Mrs Claire Sharp
Lay Tribunal Member:	Mr Inderjeet Gill
Medical Tribunal Member:	Dr Shehleen Khan

Tribunal Clerk:	Mr John Poole / Lorraine Curry
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Koffman, instructed by Brian Koffman & Co
GMC Representative:	Mr Doran & Mr Williams instructed by GMC Legal

Attendance of Press / Public

The hearing was all heard in public.

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Determination on Impairment - 18/06/2018

1. Dr Verri's case was first considered by a Medical Practitioners Tribunal in January 2017 ('the January 2017 Tribunal'). The findings of the January 2017 Tribunal concerned Dr Verri's failings in regard to two patients, in one case over three consultations. It found that Dr Verri acted in a rushed, aggressive, insensitive manner towards Patient A during his consultation with her on 23 April 2014. There were failings in record keeping on two particular occasions relating to Patient A that were in themselves indicative of a rushed approach to the various consultations. It found that Dr Verri did not obtain consent before taking photographs of Patient A and spoke to her in an aggressive manner when taking the photographs. The January 2017 Tribunal concluded that Dr Verri had acted in a way which caused distress to the patient.
2. The January 2017 Tribunal determined that Dr Verri's actions were clearly serious and constituted a departure from Good Medical Practice ('GMP'). It concluded that, although it was not sufficiently serious of itself to constitute misconduct, Dr Verri's failure to document a number of relevant clinical findings when consulting with Patient A on three occasions should be taken into account when considering Dr Verri's interactions with Patient A.
3. The January 2017 Tribunal concluded that Dr Verri's behaviour in relation to Patient A fell far short of the standards of conduct that the public and patients are entitled to expect from all registered medical practitioners and amount to misconduct. It determined that, as it had received no evidence of remediation or insight, Dr Verri's fitness to practise was impaired.
4. The January 2017 Tribunal determined to suspend Dr Verri's registration for a period of six months, to allow him time to consider his actions and the impact they had on Patient A, to develop an appreciation of the need to treat patients with respect during all consultations, and to reflect on specific areas of his practice, such as record keeping. It also determined that this period would mark the seriousness with which it viewed Dr Verri's misconduct and maintain public confidence in the medical profession.
5. The January 2017 Tribunal directed that Dr Verri's case be reviewed shortly before the end of the period of suspension and advised him that the reviewing Tribunal might be assisted by seeing:
 - evidence of the measures he had taken during the period of suspension to ensure his continued professional development (CPD), including evidence that he had kept his medical skills and knowledge up to date;
 - evidence of his reflection on his behaviour and any insight he had developed, for example in the form of a reflective diary or statement. In particular,

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evidence of his participation in courses on obtaining patient consent, record keeping and communication skills;

- testimonial evidence from persons of good standing regarding his conduct;
- any other evidence that he considered would assist the Tribunal in reviewing his case.

First Review Hearing

6. Dr Verri's case was first reviewed by a Medical Practitioners Tribunal in July 2017 ('the July 2017 Tribunal'). It found that Dr Verri's fitness to practise remained impaired by reason his misconduct and determined to suspend his registration for a further period of six months.

7. The July 2017 Tribunal noted that while Dr Verri had provided some evidence to show that he had undertaken general CPD courses, there was no evidence to show that he had undertaken courses relating to the specific concerns of the January 2017 Tribunal. In particular, it noted that Dr Verri did not provide any evidence of CPD relating to patient consent or record keeping.

8. The July 2017 Tribunal were also provided with a reflective statement from Dr Verri. It was of the view that the reflections contained therein were generalised, did not address what went wrong or how Patient A might have felt and were not specifically targeted to the concerns of the January 2017 Tribunal. It was therefore concerned regarding the apparent lack of development of Dr Verri's insight into his misconduct. It did note two testimonials from senior colleagues of Dr Verri in Italy; however, these testimonials spoke to his clinical competence and did not specifically address his attitude towards patients or how he had addressed his practice in relation to the concerns of the January 2017 Tribunal.

9. Accordingly, the July 2017 Tribunal was of the view that the original concerns had not been allayed and that a risk of repetition remained. It concluded that public confidence in the profession would be undermined if a finding of impairment was not made. The July 2017 Tribunal therefore determined that Dr Verri's fitness to practise remained impaired by reason of his misconduct.

10. The July 2017 Tribunal was of the view that Dr Verri had engaged with the process and had made some progress in his demonstration of insight during the period of suspension. It also noted that there was no evidence before it of any repetition of such conduct since the index events took place between February 2012 and June 2014. As such, it was satisfied that the risk of repetition of such conduct was not significant.

11. The July 2017 Tribunal concluded that a further period of suspension was sufficient to protect patients and uphold public confidence in the profession. It concluded that a period of six months would allow Dr Verri to further reflect on his

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conduct and to more fully address the findings of the January 2017 Tribunal, as well as remediate and develop his insight. It was of the view that suspending Dr Verri for longer than six months would be disproportionate.

12. The July 2017 Tribunal directed a further review of Dr Verri's case shortly before the end of the period of suspension. It advised him that the reviewing Tribunal would be assisted by detailed and extensive submissions concerning:

- evidence of the measures he has taken during the period of suspension to ensure his continued professional development, including evidence that he has kept his medical skills and knowledge up to date;
- evidence of his reflection on his behaviour and any insight he has developed, for example in the form of a reflective diary or statement. In particular, evidence of his participation in and reflection on courses on obtaining patient consent, record keeping and communication skills;
- testimonial evidence from persons of good standing who are aware of these proceedings and the findings regarding Dr Verri's misconduct
- details of any plans Dr Verri has for any eventual return to practice in the UK;
- any other evidence that he considers will assist the Tribunal in reviewing his case.

Today's Review Hearing

13. This Tribunal has met to review Dr Verri's case. It has considered, under Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise Rules) 2004 as amended ('the Rule'), whether his fitness to practise is currently impaired by reason of his misconduct. In so doing, it has taken into account all of the evidence before it and the submissions made by Mr Ged Doran, Counsel, on behalf of the GMC and those made by Mr Brian Koffman, on behalf of Dr Verri.

Documentary Evidence

14. The Tribunal has taken into account all the documentary evidence adduced by the GMC as well as the documentary evidence submitted on behalf of Dr Verri. This includes but is not limited to:

- Dr Verri's reflective statement – dated 5 February 2018
- A testimonial letter from Dr B – dated 3 February 2018
- A testimonial letter from Professor C – dated 6 February 2018
- A testimonial letter from Dr D – dated 7 February 2018
- Translated copy of CPD certificate relating to '*Ethics, Bio-ethics, and Code of Conduct*' –dated 6 November 2017

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- Translated copy of CPD certificate relating to '*Application in the daily practice of the principles of evidence-based practice procedures*' – dated 10 November 2017
- Translated copy of CPD certificate relating to '*Application in the daily practice of the principles of evidence-based practice procedures*' – dated 13 January 2018
- Translated copy of CPD certificate relating to '*Epidemiology – prevention and health promotion with acquisition of notions of process relevant to the event itself*'
- Translated copy of a Certificate of Good Standing
- Results of IELTS test taken on 24 May 2018
- Voluntary erasure form completed by Dr Verri

Oral Evidence

15. In Dr Verri's oral evidence to the Tribunal, given with the assistance of an interpreter, he explained that he does 90 – 100 operations per year and there have never been any other complaints made against him. Dr Verri stated that he understood the reasons why his fitness to practice was previously found to be impaired and acknowledged that it is the responsibility of a doctor to keep accurate and legible records and patient notes. Dr Verri denied that he touched Patient A inappropriately but understood that these allegations were found proved on a previous occasion.

16. Dr Verri stated that he has undertaken various courses including reflections on the ethics of the medical profession. He said that he had reflected on the need to ensure that a chaperone is present and that patients have understood the information they have been given. Dr Verri accepted that he was sometimes rushed and did not give patients the time and attention needed, but had changed his practice to ensure that there was no repeat of the matters which gave rise to the original complaint.

17. When asked about his knowledge of the English language and how he would communicate with patients, Dr Verri explained that others could assist him to clarify what he was saying and write notes, such as the chaperone. He described his knowledge of the English language as being of a "medium to low" standard.

Submissions

18. On behalf of the GMC, Mr Doran submitted that Dr Verri's fitness to practise remained impaired by reason of his misconduct. Mr Doran submitted that the Tribunal could not be satisfied that Dr Verri has fully appreciated the gravity of his misconduct, developed sufficient insight into his actions, and demonstrated remediation.

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19. Mr Doran submitted that much of Dr Verri's reflective statement is of a self-serving nature, more concerned with the effect on the doctor rather than the patient. Mr Doran further submitted that the Tribunal may find elements of Dr Verri's responses in his oral evidence to have been practised and not free flowing.

20. Mr Doran submitted that the changes Dr Verri has made to his practice have been to provide cover and protection to Dr Verri himself, rather than out of mindfulness of the welfare and treatment of patients.

21. Mr Koffman submitted that Dr Verri has reflected and understood the need to change his approach. Mr Koffman stated that Dr Verri has practised for over 30 years and performed hundreds of operations a year. He stated that apart from the matters being dealt with by this Tribunal, Dr Verri has received no other complaints, here or in Italy.

22. Mr Koffman submitted that Dr Verri has been suspended for a year and that he has reflected throughout the period, albeit not to the extent sufficient for the July 2017 Tribunal. Mr Koffman stated that Dr Verri has shown insight into his mistakes and a desire to put them right. He submitted that it was an inappropriate inference to say that Dr Verri's desire to change his practice has been for his own benefit and not for patients, and submitted that there was nothing in the evidence to suggest that this is the case.

Non-compliance

23. The Tribunal in light of Dr Verri's evidence and use of an interpreter was concerned that his knowledge of the English language was not of the level required of medical practitioners in the UK. It directed Dr Verri to undertake an assessment to demonstrate his knowledge of the English language and adjourned to allow the assessment to take place.

24. The Tribunal reconvened, with Mr Williams representing the GMC. However, the Tribunal noted that Dr Verri undertook the 'general training test', not the academic version. The Tribunal noted that the GMC sent a letter to Dr Verri on 8 March 2018 instructing him to undertake an IELTS test, but did not indicate which specific test he should undertake. A further letter dated 22 May 2018 did instruct him to take the academic version, however Dr Verri had already undertaken the general version by the time this letter arrived.

25. The Tribunal noted the results of the IELTS test which reported that Dr Verri's overall level was 5.0, which is considerably lower than the 7.5 required by the GMC when the academic version is taken by a doctor.

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26. The Tribunal has borne in mind the submissions from both parties who agreed that it would not be in the public interest or in Dr Verri's interest to consider the issue of non-compliance as Dr Verri did undertake the IELTS test, albeit the incorrect one. Both accepted that the GMC letter of 8 March 2018 did not clearly specify the level of IELTS test required. Mr Williams further submitted that given Dr Verri's low score on the general test, it would be reasonable to assume that he would fail the extended one also. Mr Koffman conceded that Dr Verri's knowledge of the English language was not of the standard required to practise medicine in the UK.

27. Following advice from the Legally Qualified Chair, the Tribunal concluded that it was not proportionate to become a Non-Compliance Tribunal, nor refer the issue to the GMC given the contents of its letter to Dr Verri dated 8 March 2018. It declined to make any order in relation to the non-compliance issue, and considered it in the interests of justice to proceed with the evidence available to consider the issue of impairment.

The Tribunal's Decision

28. Whilst the Tribunal has borne in mind the submissions made, the decision as to whether Dr Verri's fitness to practise is currently impaired is a matter for this Tribunal exercising its own judgment.

29. The Tribunal is aware of the 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
- to promote and maintain proper professional standards and conduct for the medical profession.

30. In a review case, the persuasive burden falls upon the doctor to demonstrate that his fitness to practise is no longer impaired. It is also for the doctor to show that he fully appreciates the gravity of what has happened and maintained the necessary skills and knowledge.

31. The Tribunal had regard to the concerns and findings of misconduct as detailed by the January 2017 Tribunal and the July 2017 Tribunal. The Tribunal also had regard to the evidence presented to this review Tribunal. It took account of all of the information before it including the submissions, on behalf of Dr Verri, along with the various documentation and oral evidence.

32. The Tribunal reminded itself of the facts which were found proved in the January 2017 Tribunal. It stated that:

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'Dr Verri's behaviour in relation to Patient A fell far short of the standards of conduct that the public and patients are entitled to expect from all registered medical practitioners. The Tribunal was satisfied such behaviour would be viewed by the public, patients and members of the profession as wholly unacceptable. It was in no doubt that such behaviour amounts to misconduct which was sufficiently serious to bring Dr Verri's fitness to practise into question'

33. The Tribunal considered Dr Verri's conduct towards Patient A as deplorable, including the allegations found proved which Dr Verri continues to deny. It noted that Dr Verri's conduct had been previously found to breach paragraphs 2, 46, 47 of GMP. It found that Dr Verri had committed serious misconduct.

34. The Tribunal then considered if Dr Verri's fitness to practise was impaired due to his serious misconduct and current skills and knowledge. The Tribunal noted Dr Verri provided various CPD certificates, testimonials and a reflective statement. However, the Tribunal viewed the CPD certificates as not directly relevant to the concerns raised and noted that Dr Verri's reflective statement was generalised and did not address what went wrong or how Patient A might have felt and was not specifically targeted to the concerns of the previous Tribunal. His oral evidence in the view of the Tribunal reflected this lack of full insight into the gravity of what had happened. The Tribunal was concerned regarding the apparent lack of development of Dr Verri's insight and acceptance of his misconduct. It noted Dr B's testimonial excluded the findings of the January 2017 Tribunal regarding Patient A which Dr Verri denied; this also concerned the Tribunal as it suggested that Dr B was not fully aware of the previous findings.

35. The Tribunal considered the current skills and knowledge of Dr Verri and noted that the evidence of his CPD was not detailed, specialist or substantial. Of more importance, it was evident that, as Mr Koffman concedes, Dr Verri's knowledge of the English language was not of standard required to practise medicine in the UK.

36. The Tribunal has a duty to maintain the reputation of the profession and to declare and uphold proper standards of conduct and behaviour. Doctors occupy a position of privilege and trust in society and are expected to treat patients fairly and respect their dignity. The Tribunal is in no doubt that public confidence in the medical profession would be undermined if it were not to make a finding of impairment in all the circumstances of this case. The Tribunal has therefore determined that Dr Verri's fitness to practise remains currently impaired by reason of misconduct and the recent information which suggests that he does not have the necessary knowledge of English.

Determination on Adjournment - 19/06/2018

Application for an adjournment

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1. Mr Koffman submitted that, as Dr Verri has submitted an application for voluntary erasure and his current practice is in Italy, with no intention of returning to the UK to practise, an adjournment would be a satisfactory way to deal with proceedings to allow his voluntary erasure application to be considered.
2. Mr Koffman submitted that Dr Verri is currently suspended until 27 July 2018 and a Tribunal could reconvene before his suspension expires. This would give the GMC two weeks to process Dr Verri's voluntary erasure application. Mr Koffman submitted that, if for any reason the current Tribunal would not be able to sit on a reconvened hearing, then any other Tribunal would be able to continue at sanction stage and an adjournment would therefore not prejudice proceedings.
3. Mr Williams submitted that the GMC opposed this application. He submitted that it is in the public interest to proceed at this time. He told the Tribunal that Dr Verri has had several months to consider applying for voluntary erasure but only submitted his application late last week. He further stated that Dr Verri's voluntary erasure application was incorrectly completed and he would have to re-submit the application. He stated that there is no guarantee that Dr Verri would be granted voluntary erasure and Dr Verri appears to have submitted this form as a "face saving" exercise, rather than having a sanction imposed on his registration. Mr Williams said that he understood it was highly unlikely that the voluntary erasure application would be accepted by the GMC in its current form.
4. Mr Williams submitted that it was proportionate and in the interests of justice to continue with the hearing at the sanction stage as it is unlikely, given the short timeframe, that this Tribunal would be able to reconvene before Dr Verri's current suspension expires.
5. The Tribunal has considered paragraph 29 of the GMC Fitness to Practise Rules 2004 which states:

Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.

6. The Tribunal considered that, having found Dr Verri's fitness to practise is impaired, it is in the interests of justice to continue with the hearing today. It reflected that the overarching objective required the Tribunal to protect the public. While Dr Verri's registration is currently suspended, his application for voluntary erasure was only submitted the last working day prior to this hearing and is incomplete. The Tribunal concluded that it was in the interests of justice and that of

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the public to continue, particularly as any application for voluntary erasure could be considered after the current proceedings conclude, unless an order of erasure is made at the sanction stage. It has borne in mind that any adjournment at this stage could potentially cause considerable delays in concluding this hearing, given that this Tribunal would not be able to reconvene in a timely fashion.

Determination on Sanction - 19/06/2018

Submissions

1. Mr Williams submitted that the appropriate sanction in this case would be a further period of suspension of Dr Verri's registration. He submitted this would uphold and maintain proper professional standards and uphold public confidence in the profession. He said that given the findings of impairment, the Tribunal making no order would be inappropriate and conditions would not address the seriousness and gravity of the findings and would not be workable.
2. Mr Williams submitted that suspension, at the least, is the necessary and proportionate sanction. He said that a further period of suspension would give Dr Verri time to provide the appropriate level of reflection and insight into his misconduct and undertake the remediation expected by the previous Tribunal. He stated that it cannot be said that Dr Verri has not engaged with the process, but he had shown only partial reflection and remediation into the concerns raised. Mr Williams noted that Dr Verri's lack of sufficient knowledge of the English language also gave rise to potential patient safety concerns.
3. Mr Williams stated that the Tribunal may find that there are elements which suggest that suspension may not be a sufficient sanction. He stated that the Tribunal may consider that Dr Verri's actions may suggest a serious departure from GMP and may require erasure.
4. Mr Koffman submitted that the concerns raised could not be addressed by any sanction lower than suspension. He further stated that the nature of what took place did not justify erasure previously and does not now.
5. Mr Koffman stated that suspension is the appropriate order today. He submitted that if the Tribunal is minded to impose a further order of suspension, this would give Dr Verri the opportunity to ensure that the concerns could be explained in his own language. He further submitted that on each occasion Dr Verri has made efforts to improve and if suspension is imposed then he would make a redoubled effort to further improve.

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6. Mr Koffman stated that Dr Verri’s understanding of the English language has never directly been an issue, though he accepts that his knowledge of English is not of the required standard. This may have contributed to the treatment of his patients and Mr Koffman accepted that this concern needed to be addressed by the Tribunal.

7. Mr Koffman stated that Dr Verri is not intending to return to the UK to practise but is concerned regarding his reputation. He asked the Tribunal to recognise the efforts Dr Verri has made to address his insight and the concerns raised, even if they have not been sufficient.

The Tribunal’s Approach

8. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on Dr Verri’s registration is a matter for this Tribunal exercising its independent judgment. In reaching its decision, the Tribunal has taken account of the current Sanctions Guidance (‘the SG’).

9. The Tribunal has had regard to the overarching objective. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing the interest of Dr Verri with the public interest. The Tribunal has also borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the public interest, although it may have a punitive effect

The Tribunal’s Decision

Taking no action

10. The Tribunal first considered whether to conclude the case by taking no action with regard to Dr Verri’s registration. The Tribunal has already determined that Dr Verri’s fitness to practise is impaired and considered that in the absence of exceptional circumstances, it would be inappropriate to conclude this case by taking no action.

Conditions

11. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Verri’s registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.

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The Tribunal notes that Dr Verri has expressed remorse and has taken some steps to remediate his misconduct. However, the Tribunal is not satisfied that he has fully remediated his misconduct or demonstrated sufficient insight. Further, the Tribunal was not satisfied that Dr Verri had undertaken sufficient specific, targeted learning to address the specific issues identified.

12. The Tribunal also bore in mind the concerns relating to Dr Verri's knowledge of English and it considered in all the circumstances it would not be possible to formulate appropriate and workable conditions which would address the concerns raised. It therefore determined that conditions would not be a sufficient or proportionate sanction.

Further Period of Suspension

13. The Tribunal then went on to consider whether a further period of suspension would be an appropriate and proportionate sanction. It took account of paragraph 97 of the SG, which states:

"Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.

a. A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

...

e. No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

f. No evidence of repetition of similar behaviour since incident.

g. The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour."

14. It noted that Dr Verri has engaged with the process and has made some progress in his development of insight during the period of suspension. The Tribunal also noted that there is no evidence before it of any repetition of such conduct before or since the index events which took place between February 2012 and June

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2014. As such the Tribunal is satisfied that the degree of repetition of such conduct is low.

15. The Tribunal has concluded that a further period of suspension is sufficient to protect patients, and uphold public confidence in the profession. It concluded that a period of twelve months suspension will allow Dr Verri time to fully remediate and reflect on his conduct and gain meaningful insight into the concerns raised. It further determined that this period would allow him adequate time to address the English language concerns.

16. The Tribunal did consider the question of erasure of Dr Verri's name from the Medical Register. The Tribunal concluded, nonetheless, that it would be disproportionate to erase Dr Verri's name from the Medical Register, at this stage. It was mindful that Dr Verri has engaged with the process and there has been no evidence that he has failed to comply with the previous orders of suspension. Dr Verri has supplied to the Tribunal positive testimonials regarding his current practice in Italy and shown a willingness to remediate.

17. The effect of this direction is that, unless Dr Verri exercises his right of appeal, the new suspension will come into effect 28 days from when written notice of this decision is deemed to have been served upon him. The current order of suspension will remain in place until that time. A note explaining his right of appeal will be sent to him. If an appeal is lodged then the current suspension will remain in force until the appeal is concluded.

18. Shortly before the end of the period of suspension, this case will be reviewed by a Medical Practitioner Tribunal. The Tribunal considered that a future Tribunal reviewing this case would be assisted by detailed and extensive evidence concerning:

- evidence of the measures Dr Verri has taken during the period of suspension to ensure his continued professional development (CPD), including evidence that he has kept his medical skills and knowledge up to date;
- evidence of Dr Verri's reflection on his behaviour and any insight he has developed, for example in the form of a reflective diary or statement. The reviewing Tribunal may be particularly assisted by evidence of his participation in and reflection on courses on obtaining patient consent, record keeping and communication skills;

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- testimonial evidence from persons of good standing who are aware of these proceedings and all of the findings regarding Dr Verri's misconduct;
- details of any plans Dr Verri has for any eventual return to practice in the UK;
- a log of procedures carried out during the suspension period outside the UK;
- evidence that he has undertaken the academic version of the International English Language Test and achieved a score of 7.0 in each testing area and an overall score of 7.5 or undertaken the medicine profession version of an Occupational English Test and achieved an overall score of B;
- any other evidence that he considers will assist the tribunal in reviewing his case.

Confirmed

Date 19 June 2018

Mrs Claire Sharp, Chair