

Dates: 16/04/2018 – 27/04/2018

Reconvened: 18/07/2018 – 19/07/2017

Medical Practitioner's name: Dr Navtej SATHI

GMC reference number: 4209195

Primary medical qualification: MB ChB 1995 University of Manchester

Type of case

New - Deficient professional performance

Outcome on impairment

Impaired

Summary of outcome

Conditions, 6 months.

Review hearing directed

Immediate order imposed

Tribunal:

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| Lay Tribunal Member (Chair) | Miss Nicola Murphy |
| Lay Tribunal Member: | Mr Peter Brown |
| Medical Tribunal Member: | Dr Bryn Davies |

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| Tribunal Clerk: | 16/04/2018 – 27/04/2018 Mr Stuart Peachey 18/07/2017 – 19/07/2018 Mrs Debra Heaton |
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Attendance and Representation:

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| Medical Practitioner: | Present and represented |
| Medical Practitioner's Representative: | Mr Ian Stern, QC, instructed by JMW Solicitors |
| Medical Practitioner's Representative: (19/07/2018 only) | Ms Sarah Evans of JMW Solicitors |
| GMC Representative: | Ms Catherine Cundy, Counsel, represented the GMC |

Record of Determinations – Medical Practitioners Tribunal

Attendance of Press / Public

The hearing was all heard in public.

Determination on Facts - 26/04/2018

Background

1. Dr Sathi attained his MBChB from the University of Manchester in 1995. He gained Membership of the Royal College of Physicians in 2001; completed a CCT in Medicine and Rheumatology qualification in 2010, and began working as a Locum Consultant in Medicine and Rheumatology at Wrightington, Wigan and Leigh NHS Trust ('the Trust'). At the time of the events which gave rise to a subsequent Performance Assessment, Dr Sathi was employed as a Consultant Acute Physician and Rheumatologist from January 2012 until 2014 at the Trust. Dr Sathi was referred to the General Medical Council ('GMC') on 17 October 2014 by the Trust.
2. The allegation that has led to Dr Sathi's hearing can be summarised as concerns relating to his deficient professional performance. The referral to the GMC was further to a local investigation which arose from Dr Sathi's Rheumatology practice in the area of diagnosis of an inflammatory condition and subsequent use of disease modifying drugs, where the Trust had identified a range of issues in his practice.
3. The Allegations made by the Trust were not subsequently pursued by the GMC. Nevertheless, Dr Sathi was directed by the Registrar, under Rule 4 of the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules') to undertake a Performance Assessment ('the Assessment'). The chronology of the Assessment was as follows:
 - A Peer Review was conducted between 3 and 6 April 2017; and
 - A Test of Competence was conducted on 18 and 19 April 2017.
4. At the time of the Performance Assessment, Dr Sathi was working as a Locum Consultant in Acute and General Medicine with a subspecialty of Rheumatology at Forth Valley Royal Infirmary ('Forth Valley'). Dr Sathi had been in this Locum post at Forth Valley for approximately three years until 6 September 2017 when his fixed term contract expired. Dr Sathi is not currently practicing medicine.

The Allegation and the Doctor's Response

5. The Allegation made against Dr Sathi is as follows:

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1. During April 2017 you underwent a General Medical Council assessment of the standard of your professional performance.
Admitted and found proved
2. Your professional performance was unacceptable in the following areas:
 - a. Assessment; **To be determined**
 - b. Clinical Management; **To be determined**
 - c. Record Keeping; **To be determined**
 - d. Working with Colleagues. **To be determined**

The Admitted Facts

6. At the outset of these proceedings, through his counsel, Mr Stern QC, Dr Sathi admitted Paragraph 1 of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the Rules. In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced Paragraph 1 of the Allegation as admitted and found proved.

The Facts to be Determined

7. In light of Dr Sathi's response to the Allegation made against him, the Tribunal is required to determine whether Dr Sathi's professional performance was unacceptable in the areas of Assessment, Clinical Management, Record Keeping and Working with Colleagues. The Tribunal is required to determine whether or not the disputed Allegations are found proved.

Factual Witness Evidence

8. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Dr A, Performance Assessment Team Leader, in person;
- Dr B, Performance Assessment Medical Assessor, in person;
- Dr C, Performance Assessment Medical Assessor, in person; and
- Mrs D, Performance Assessment Lay Assessor, in person.

9. The Tribunal also received witness statements from the following witnesses who were not called to give oral evidence:

- Dr E, ST3 in Cardiology (at the time of the events), dated 12 February 2018;

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- Dr F, Rheumatology Consultant at Forth Valley, dated 15 February 2018;
- Dr G, Consultant Physician/ Cardiologist and Associate Medical Director at Forth Valley, dated 16 February 2018;
- Dr H, ST4 Specialist Training Registrar in Cardiology at the Royal Alexandra Hospital NHS Greater Glasgow & Clyde Trust, dated 18 February 2018;
- Dr I, Consultant Physician at Forth Valley, dated 20 March 2018; and
- Dr J, Consultant Respiratory Physician at Forth Valley, dated 22 March 2018;
- Dr K, Consultant Physician, dated 27 March 2018.

10. Dr Sathi provided his own witness statement, dated 19 February 2018. He also gave oral evidence at this hearing and Dr Sathi provided his Curriculum Vitae.

Documentary Evidence

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

- Performance Assessment Report including appendices, signed and dated 24 May 2017;
- Transcripts of Third Party Interviews, dated 4 and 5 April 2017;
- List of Performance Assessment Report errors and corrections, produced by Dr A ('the errors');
- 37 Professional Development and Training certificates completed by Dr Sathi, variously dated between 23 June 2017 and 13 March 2018;
- Handbook for performance assessors, May 2016 edition and page 13 of the May 2017 edition;
- Medical Records in relation to specific cases.

In interpreting the Performance Assessment report ('the Report'), the Tribunal took account of the alterations of the Report identified by the errors and read the Report and errors as one document.

The Tribunal noted that the relevant Handbook for performance assessors for this hearing is the May 2016 edition.

The Tribunal's Approach

12. 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 Sathi 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.

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13. The Tribunal has given careful consideration to the oral and documentary evidence adduced in this case. It has also taken account of the submissions made by Ms Cundy, Counsel, on behalf of the GMC, and Mr Stern, QC, on behalf of Dr Sathi. Whilst the Tribunal has borne in mind these submissions, the decision is one for this Tribunal exercising its own judgement.

The Tribunal's Analysis of the Evidence and Findings

The Performance Assessment Report

14. The process of the Assessment comprised of:

1. A Peer Review which included:
 - First Interview and Site Tour;
 - Medical Record Review;
 - Third Party Interviews;
 - Observation of Practice;
 - Case Based Discussion; and
 - Second and Third Interviews.

2. Tests of Competence ('TOC') with:
 - Knowledge Test; and
 - Objective Structured Clinical Examination ('OSCE');

First Review

15. The Performance Assessment Team ('the Assessment Team') conducted a First Interview with Dr Sathi. A formal site tour was not conducted as the Team had been working in Forth Valley Hospital and observed the working environment.

Medical Record Review

16. A selection of notes was obtained from Dr Sathi's Acute Assessment Unit patients and from his Rheumatology Clinics.

17. The Team reviewed 45 sets of notes, 15 of which were Rheumatology records and 30 were from the Acute Assessment Unit.

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Third Party Interviews

18. Dr Sathi was entitled to nominate two people to be interviewed by the Assessment Team. He nominated two Forth Valley colleagues, Dr F, Consultant Rheumatologist, and Dr G, Associate Medical Director.

19. The Assessment Team nominated seven individuals to interview; an Occupational Therapist, Specialist Clinical Pharmacist, Nurse Practitioner, Consultant Radiologist, Acute Physician, Advanced Nurse Practitioner and SCN Acute Assessment Unit. The above individuals were chosen by the Assessment Team because their current posts gave them direct knowledge of Dr Sathi's practice.

Observation of Practice

20. Dr Sathi was observed by the Assessment Team undertaking a ward round on the Acute Assessment Unit at Forth Valley.

Case Based Discussion

21. Dr Sathi was given twelve sets of notes to be used in the Case Based Discussion on the evening of the 4 April 2017, to enable him to read over them prior to the discussion. The discussion took place on 5 April 2017 with the Assessment Team.

Knowledge Test

22. Dr Sathi undertook a 2 hour test of 120 single best answer questions. The questions were chosen by RDME [sic] and were either taken from the GMC item bank or sourced from the appropriate college. The test was invigilated by the Performance Assessment Officer.

OSCE

23. As Dr Sathi was a Locum Consultant in Acute Medicine and practised in Rheumatology at the time of the Performance Assessment, the Assessment Team gave him the opportunity to demonstrate his skills and knowledge in both areas.

24. The OSCE scenarios were chosen by the Team Leader, in consultation with the Assessment Team and RCME [sic], to reflect a range of cases in both Medicine and Rheumatology, including a compulsory Basic Life Support station. The OSCE scenarios for Dr Sathi were:

- Teaching a junior colleague arterial blood gas analysis;
- Give telephone advice about a patient with a head injury;
- Giant cell arteritis complication – R;

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- Examining low back pain – R;
- Conflict over resus status;
- Write up emergency treatment for hyperkalaemia;
- Respiratory system examination and management;
- Fluid balance;
- Teaching knee examination to a medical student – R;
- Blood results and urinalysis explanation – R;
- Knee aspiration – R;
- 10 point mini mental test;
- Chest pain risk factors health promotion;
- Management of paracetamol overdose;
- Sudden unexpected death; and
- Adult basic life support.

The OSCE included 5 stations from the GMC's database on Rheumatology – these are marked 'R' in the list above.

25. Dr Sathi was observed by the Assessment Team.

Second and Third Interviews

26. Dr Sathi was aware that he was entitled to have a supporter present during these interviews. Dr Sathi opted to have Mr L as his supporter.

Outcome of the Performance Assessment

27. Dr Sathi's overall performance was assessed under eight categories and with reference to the professional standards described in GMP (2013 edition). The Assessment Team comprised of:

- Dr A – Team Leader;
- Professor M - Medical Assessor;
- Dr B - Medical Assessor;
- Dr C - Medical Assessor;
- Mrs D – Lay Assessor; and
- Mr N – Performance Assessment Officer.

28. During the Assessment, the Tribunal noted that the Assessors contemporaneously and independently recorded their comments on their observations. Each of them was required to make a judgement for each comment which was either 'acceptable'(A) or 'unacceptable'(U), both with reference to performance standards described in GMP. Their entries were then transcribed into the Performance Assessment database ('the Database') in appendix 5 of the Report.

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29. The evidence in the Database was then incorporated into a draft report and each piece of evidence appeared as an individual judgement grouped into those which were 'acceptable' or 'unacceptable' under each domain. Following a report review meeting, the Assessment Team produced a formal report on the standard of the practitioner's professional performance, which expressed an opinion as to whether the practitioner is fit to practise, either generally, or on a limited basis and any recommendations as to the management of the case.

30. The Tribunal noted that the Assessment Report ('the Report') was unanimously agreed by the Assessment Team.

31. It further noted that the Report provided an overall judgement of Dr Sathi's performance in each of the eight categories according to the following scale:

- **Unacceptable** indicates that there is evidence of repeated or persistent failure to comply with the professional standards appropriate to the work being done by the doctor, particularly where this places patients or members of the public in jeopardy (i.e. deficient professional performance). This grade should be entered either *if you have evidence that the criteria for an acceptable level of performance are regularly NOT being met OR if negative criteria are being met.*
- **Acceptable** means that the evidence demonstrates that the doctor's performance is consistently above the standard described above. This grade should only be entered if you are satisfied that *all or almost all of the criteria are satisfied in all or almost all of the examples that you have seen or heard reported.*
- **Cause for concern** means that there is evidence that the doctor's performance may not be acceptable but there is not sufficient evidence to suggest deficient professional performance. The grade should be entered if you have evidence of some instances of unacceptable performance but which, in the view of the assessing team, do not amount overall to unacceptable performance. The reasons for using this grade, rather than 'unacceptable', for this aspect of performance should be described.

32. The Assessment Team's overall assessment for each of the eight categories, under the domain of GMP were as follows:

Domain 1: Knowledge, Skills and Performance

Maintaining Professional Performance: **Acceptable**

Assessment: **Unacceptable**

Clinical Management: **Unacceptable**

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Operative/Technical Skills: *No judgement was made*
Record Keeping: **Unacceptable**

Domain 2: Safety and Quality
Safety and Quality: *No judgement was made*

Domain 3: Communication, Partnership and Teamwork and
Domain 4: Maintaining Trust
Relationships with Patients: **Acceptable**
Working with Colleagues: **Unacceptable**

Witness Evidence

33. The Tribunal considered the oral evidence of the individual assessors (Dr A, Dr B, Dr C and Mrs D) on how they conducted the assessment and prepared the Performance Assessment. Professor M was out of the country for personal reasons and was not called to give evidence.

GMC Performance Assessors

34. The Tribunal found the evidence given by the four GMC Performance Assessors to be credible, fair, objective, and balanced. It was of the view that they recognised and kept within the limits in which it would be appropriate for them to provide Peer Review comments. Further, the Tribunal noted that they acknowledged situations where it had subsequently appeared that their conclusions and interpretations may have been ill founded. They were measured in their response to questioning.

Dr Sathi

35. The Tribunal found Dr Sathi to be a credible and honest witness. However, it noted that on numerous occasions, rather than answering questions put to him, he would answer in his own direction.

36. The Tribunal took note of the concerns raised by Dr Sathi in relation to the assessment. During his evidence, Dr Sathi articulated concerns in relation to a number of cases that were highlighted in the Report. The Tribunal accepted his evidence in some regards for example:

- In relation to OSCE 11, that it had not been a fairly conducted OSCE station as it had not been conducted in accordance with the normal procedures;
- In Case 58, having had view of the medical record, the Tribunal accepted Dr Sathi had in fact acknowledged the Pharmacy advice;

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- The Tribunal accepted Dr Sathi's evidence in relation to Case 25 that he had personally not discharged the patient prior to her readmission.

Findings

Conflict of Interest

37. Mr Stern, QC, on behalf of Dr Sathi submitted that there was a conflict of interest in that Dr B should not have been a part of the Performance Assessment due to her prior social and professional involvement with Dr Sathi, and her social and professional contact with Dr O, who had an earlier involvement with performance concerns in relation to Dr Sathi.

38. The Tribunal noted the guidance in the *'Handbook for performance assessors'* (May 2016 edition) in relation to a conflict of interest, which states:

'A conflict of interest is one that might influence, or could be perceived to influence, your independence or impartiality in assessing the doctor.'

A conflict of interest may arise in several ways. For example, if you know:

- *the doctor under assessment;*
- *the complainant or referrer;*
- *any senior decision makers involved in the case (eg through education or training, working relationships, membership of committees, attendance at meetings or conferences, or socially).'*

39. Robust questions concerning conflict of interest were put to Dr B, by Mr Stern, during her evidence. It was suggested that she should have recused herself from participating in the Performance Assessment on the basis of:

- A shared 3 hour car journey with Dr Sathi, approximately 13 years previously;
- Occasional contact with Dr Sathi at professional gatherings and regional meetings;
- A chance meeting with Dr Sathi and his spouse, whilst she was at the cinema with her husband, approximately 2 or 3 years ago;
- Social and professional association with Dr O who had an involvement in the initial investigation at the Trust.

40. The Tribunal noted email correspondence between Dr B and the GMC in relation to the potential conflict of interest, dated 19 January 2017 – 20 January 2017 which arose from Dr Sathi alerting the GMC about a potential conflict of interest.

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41. The Tribunal noted Dr B's evidence that:

- She had previously not recollected the car journey 13 years earlier until being reminded of it by Mr Stern;
- There had not been any particular or significant contact between her or Dr Sathi at meetings;
- She had not recollected the chance meeting at the cinema which was described as lasting for a few minutes;
- Her social contact with Dr O (last seen around December 2016) had no implications for the performance assessment report.

The Tribunal's Decision

42. The Tribunal, having regard to the above evidence, considered whether there was a reasonable danger of bias on the part of Dr B.

43. The Tribunal took note of the case law referred to by Mr Stern *In re Medicaments and Related Classes of Goods (No 2) [2001] 1 W.L.R 700*. It also took note of the guidelines and the correspondence between Dr B and the GMC in relation to conflict of interest and bias. The Tribunal accepted Dr B's evidence. It was satisfied that she did not have a conflict of interest in this case. The Tribunal was further satisfied that there was no real danger of bias on the part of Dr B in the sense that she might be influenced by bias to give evidence either in favour of or against Dr Sathi.

Case Reviews

44. As outlined earlier in this determination, the Tribunal noted that there were 15 Rheumatology cases reviewed by the Assessment Team.

45. In her oral evidence, Dr B stated that the case load was a '*basic*' case load for the area of Rheumatology, and as such she would expect this kind of case load to be managed to a high standard by a Consultant Rheumatologist.

46. In a number of Rheumatology cases (Case 27, Case 30 and Case 39) the Tribunal noted that Dr Sathi arranged reviews rather than starting indicated treatment. The Tribunal accepted the evidence adduced to the effect that this delay in clinical management could have caused or risked detrimental outcomes for patients.

47. In relation to the OSCE TOCs, the Tribunal noted, that in more than half of the OSCEs undertaken, Dr Sathi's scores were below the 25th percentile. The Tribunal had regard to the Assessment Team's opinion that:

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'An Objective Structured Clinical Examination (OSCE) allows a doctor to show how they practice, in OSCE Stations 2, 3, 6, 9, 10, 11, 14, 15 and 16 Dr Sathi performed below the 25th centile. Stations 3, 4, 9, 10 and 11 were Rheumatology stations with a small number of validators, nevertheless these relate to relatively common aspects of a rheumatologist's practice such as the aspiration and examination of a knee.'

Paragraph 2 of the Allegation

48. The Tribunal had regard to Good Medical Practice ('GMP')(2013 edition), in relation to Assessment, Clinical Management, Record Keeping and Working with Colleagues.

49. The Tribunal considered the Report and the individual cases within it in detail. It took into account the witness evidence of all witnesses upon both the Report as a whole and upon the individual cases covered within it. The Tribunal undertook a robust analysis on the evidence it had received and where it was not satisfied that the individual assessments of 'unacceptable' performance were proved on the balance of probabilities it found that those individual assessments to be not proved.

50. In reaching its decision, the Tribunal accepted that its determination of whether Dr Sathi's professional performance was 'unacceptable'(on a category basis) or not was not a mathematical exercise of adding up the individual number of acceptable and unacceptable items but was very much more an analysis of all the evidence taken as a whole. It did however note that there were a high number of individual judgements of 'unacceptable' performance made by the Assessment Team during their review of a sample of Dr Sathi's practice. Whilst acknowledging that different clinicians conducting a peer review would almost inevitably identify some differences of approach, and taking account of those cases reasonably disputed in evidence, some of which are outlined below, the Tribunal formed the view that the number of judgements of 'unacceptable' in this review was disproportionately high and could not all be attributed to professional differences of opinion. The Tribunal has referred to some cases below that it regards as more serious.

51. In reaching its determination, in relation to the Allegations in Paragraph 2, the Tribunal had regard to the definition of 'unacceptable' for categories of performance which is set out in Paragraph 31 above.

52. In reaching its determination, the Tribunal had particular regard to those cases identified in the Report or in the oral evidence of the Assessors as being examples of potential serious errors which could compromise patient safety.

53. The Tribunal has considered each paragraph of the Allegation separately, and has made the following findings:

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Paragraphs 2(a)(b) and (c) of the Allegation

54. In relation to the categories of Assessment, Clinical Management and Record Keeping, the Tribunal noted and accepted the conclusions of the Report as follows:

Assessment

*'The [Assessment] team have considered the evidence in this category and find that Dr Sathi did not always gather the appropriate information upon which to base his clinical decision making. The [Assessment] team find Dr Sathi's performance in Assessment to be **unacceptable**.'*

Clinical Management

*'The [Assessment] team have considered the evidence and find Dr Sathi's performance under the category of management to be **unacceptable**.'*

Record Keeping

*'The [Assessment] team has considered the evidence in this category and find Dr Sathi's record keeping to be **unacceptable**.'*

Assessment

55. In relation to the area of Assessment, the Tribunal noted the disproportionate number of '*unacceptable*' clinical issues highlighted in the 45 cases selected. The Tribunal noted the Assessment Team's finding that '*Examination was incomplete or absent in many cases including cases 11, 15, 22, 25, 31, 39, 43, 51, 55, 58 and 61.*' It noted that there was a failure by Dr Sathi to carry out any examination in 6 of the cases (Cases 11, 15, 22, 43, 51 and 58). In the Tribunal's view, there was clear evidence of Dr Sathi repeatedly and persistently failing to comply with the professional standards appropriate to the work that he was undertaking with the effect that patient safety was potentially put at risk.

Clinical Management

56. In relation to the area of Clinical Management, the Tribunal noted that the Report included a disproportionate number of judgements classed as '*unacceptable*'. It had particular regard to those cases identified as being examples of potentially serious errors which could compromise patient safety, and reviewed these in detail. Having heard Dr Sathi's evidence, the Tribunal found that a number of the individual judgements of unacceptable were not proven, for example in relation to Case 25, it accepted Dr Sathi's evidence that he had not discharged this patient, and in relation to case 42, it accepted that Dr Sathi had recommended that this patient's GP gave consideration to Allopurinol, as opposed to advising the GP to actually prescribe it.

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Notwithstanding this, the Tribunal's overall view was that there is clear evidence of Dr Sathi not attaining the level of performance commensurate with his specialism and grade. The effect of this is that in a number of cases patients may have been placed at risk of adverse clinical outcomes.

57. The Tribunal noted Dr Sathi's admission in relation to Case 41 that he *'was aware that the patient should have been further investigated as an inpatient and anaemia can contribute to heart failure'*.

Record Keeping

58. In relation to the area of Record Keeping, the Tribunal noted the evidence that it had heard and received in this regard. It noted Dr Sathi's own admissions during his second interview with the Assessment Team that his record keeping was incomplete in seven of the cases reviewed and that his record keeping could be improved. The Tribunal concluded that there was clear evidence of Dr Sathi repeatedly and persistently failing to comply with professional standards in this regard in a manner which could risk patient safety.

Overall conclusion in relation to Paragraphs 2(a)(b) and (c) of the Allegation

59. The Tribunal accepted the Report's conclusion and found that, on the balance of probabilities, Dr Sathi's professional performance was unacceptable in the areas of Assessment, Clinical Management and Record Keeping.

60. The Tribunal therefore found Paragraphs 2(a)(b) and (c) of the Allegation, proved.

Paragraph 2(d) of the Allegation

61. The Tribunal notes the Report's conclusion that *'Dr Sathi does not work collaboratively with his colleagues, in particular with his junior staff, some nurse practitioners and pharmacists'*.

62. The Tribunal considered the particular professional standards that are set out in the relevant version of GMP which came into effect on the 22 April 2013 which are:

35 *'You must work collaboratively with colleagues, respecting their skills and contributions.'*

36 *'You must treat colleagues fairly and with respect.'*

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37 *'You must be aware of how your behaviour may influence others within and outside the team.'*

63. The Tribunal had regard to the evidence taken as a whole to form its independent view of whether, on the balance of probability, there was evidence of a repeated or persistent failure on part of the Dr Sathi to comply with the professional standards expected of him in this regard.

64. The Tribunal looked at the cases referred to in detail in section 4.8 of the Report and the evidence underpinning them. It noted that many of the cases referred to were primarily of a clinical nature and that only peripheral aspects related to *'Working with Colleagues'*.

65. The Tribunal noted that there was evidence within the Third Party Interviews that a small number of FY1's had reported that they had felt rushed and unsupported by Dr Sathi. It noted that when this was fed back to Dr Sathi he had inappropriately responded by requesting not to work with them, but the Tribunal also noted the evidence that Dr Sathi gave in relation to this. It was to the effect that he regretted his response immediately, and that he did in fact continue to work with FY1 doctors thereafter. It was of the view that this was an isolated, discrete example, outweighed by extensive evidence from professional colleagues who worked with Dr Sathi over an extended period of time.

66. Although the Tribunal notes the other references in Dr G's Third Party Interview that relate to FY1 doctors, these are in a clinical context and the view of the Tribunal was that they were felt to be less relevant to this paragraph of the Allegation. Other issues raised in the Report which the Tribunal considered to be relevant to this paragraph relate to Nurses feeling unsupported which led to a change to rostering schedules, and to Dr Sathi not making full use of nursing colleagues' skills and advice.

67. The Tribunal noted the extensive evidence in the Third Party Interviews and in the statements provided by Dr Sathi's former colleagues, the overwhelming weight of which is strongly supportive of Dr Sathi's ability to work with his colleagues.

68. The Tribunal formed the view that the Third Party Interview's extracts under the heading of *'unacceptable performance'* did not fairly reflect the overall tenor or focus of the descriptions and accounts given of Dr Sathi by his former colleagues related to Paragraph 2(d) of the Allegation.

69. The Tribunal had regard to the Third Party Interview Transcripts, many of which were supportive of Dr Sathi, some of which are:

Ms P, Nurse Practitioner, stated:

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'...Dr Sathi was quite keen to take a teaching role in the ward and tried to implement a Wednesday MDT meeting because we don't have consultants in A31 that are there every day, it's quite an unsupported, floaty ward, and so he tried to take on a little bit of responsibility for ensuring that the junior doctors actually got some teaching on the ward. Unfortunately it has never really taken off but that's more to do with change of doctors and then annual leaves and things, but he did try to implement that...'

[...]

'I've never had a problem with Dr Sathi. He seems like a nice person and he's always been polite... I have never had a problem communicating with Dr Sathi.'

Dr F, Consultant Rheumatologist, stated:

'[...]no, I would have no hesitation in working with him as a colleague.'

Dr G, Associate Medical Director, stated:

'...He was absolutely fine with that and there was no problem. When I fed back about the FY1s having concerns the outcome of that conversation was as I have described earlier, that he didn't want, he wanted to minimise his interaction with the FY1s.'

[...]

'I suppose the only thing I would reflect back is when I spoke to the juniors they all said he was very approachable and he came back and tried to help sort these things out...'

Ms Q, Occupational Therapist, stated:

'...he is very approachable to us and he is quite willing to involve our therapy team if he feels it necessary...'

Dr I, Consultant Radiologist, stated:

'...I would not say that his communication with me is a particular issue.'

Ms R, Senior Charge Nurse AAU, stated:

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'...Yes, he is friendly and approachable...

[...]

'We see him on the ward with his junior doctor or nurse practitioner. They go round the ward round and I haven't seen or heard anything untoward, anything different from any other team going round...'

[...]

'I would say so, yes, works within the nursing remit...'

70. In addition, Dr Sathi produced a series of supportive statements from four of his former colleagues the Tribunal has taken into account.

71. The Tribunal noted that there is insufficient evidence before it to meet the test of unacceptable, as outlined at Paragraph 31 in this determination.

72. Keeping in balance the positive comments across the range of Dr Sathi's professional colleagues, the Tribunal did not find on the balance of probabilities that Dr Sathi's professional performance was unacceptable in the area of Working with Colleagues, and therefore found that Paragraph 2(d) of the Allegation is not proved.

The Tribunal's Overall Determination on the Facts

73. The Tribunal has determined the facts as follows:

1. During April 2017 he underwent a General Medical Council assessment of the standard of your professional performance. **Admitted and found proved**
2. His professional performance was unacceptable in the following areas:
 - a. Assessment; **Found proved**
 - b. Clinical Management; **Found proved**
 - c. Record Keeping; **Found proved**
 - d. Working with Colleagues. **Not proved**

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Determination on Impairment - 27/04/2018

1. Having given its determination on the Facts in this case, in accordance with Rule 17(2)(k) of the Rules, the Tribunal has considered whether, on the basis of the facts which it has found proved, Dr Sathi's fitness to practise is impaired by reason of deficient professional performance.

The Evidence

2. The Tribunal had regard to all of the evidence both oral and documentary adduced during the course of these proceedings, together with the submissions of Ms Cundy on behalf of the GMC and Mr Ian Stern, QC, on behalf of Dr Sathi.

Submissions

Submissions on behalf of the GMC

3. Ms Cundy submitted that Dr Sathi's fitness to practice is impaired by reason of his deficient professional performance and poses a potential risk to patient safety on the grounds of the Facts found proved, by the Tribunal.

4. Ms Cundy directed the Tribunal's attention to:

- Dame Janet Smith in her Fifth Shipman Report; and
- Calhaem [2007] EWHC 2606 (Admin).

5. Ms Cundy submitted that the advantage of a Performance Assessment is that it looks at all various aspects of Dr Sathi's clinical work through Medical Record Review, observations by the Assessment Team of him working with his colleagues and the undertaking of knowledge and skills Tests of Competence. She submitted that the Performance Assessment was conducted to examine Dr Sathi's performance set against the standard of GMP.

6. Ms Cundy submitted that the Tribunal found deficient professional performance in Assessment and Clinical Management, in that he persistently failed to comply with professional standards appropriate to his work. Further, Ms Cundy submitted those factors had been identified as putting patient safety at risk.

7. In relation to Record Keeping, Ms Cundy directed the Tribunal's attention to Paragraph 19 and 21 of GMP. She submitted that on this issue, Dr Sathi gave evidence that he had taken steps to improve his handwriting and address the concerns of the Assessment Team that important information was sometimes missing from the medical records. Ms Cundy submitted in the Tribunal's determination on the Facts, it had found clear evidence of repeated and consistent failures to comply with the standards of record keeping in GMP.

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8. Ms Cundy submitted that the evidence suggested that Dr Sathi remained working at Forth Valley for approximately four and a half months following the conclusion of the Performance Assessment. She submitted the Assessment Team were concerned that Dr Sathi was spreading himself too thinly in respect of his work in Acute Medicine and Rheumatology.

9. Ms Cundy directed the Tribunal's attention to the various elements of Continuous Professional Development ('CPD') training that Dr Sathi has undertaken following the receipt of the Report. She submitted that Dr Sathi took on that work to refresh his knowledge rather than on the basis that he had accepted the identified deficiencies.

10. Ms Cundy submitted that in the absence of an acknowledgement or acceptance by Dr Sathi of his deficient performance, beyond a minor admission, the Tribunal could not be satisfied that his deficiencies have been remedied at this time or that they were unlikely to be repeated.

11. Ms Cundy submitted that the Tribunal was under a duty to fulfil the requirements of the statutory overarching objective to protect and promote the health and safety of the public and that bearing in mind the identified risks as outlined in the Tribunal's determination on the Facts, it cannot be satisfied on the limited information before it that Dr Sathi has undertaken the steps required.

Submissions on behalf of Dr Sathi

12. Mr Stern submitted that Dr Sathi's fitness to practice is not currently impaired by reason of deficient professional performance.

13. Mr Stern submitted that Dr Sathi has an unblemished history and he reminded the Tribunal that the records that were considered during the Performance Assessment related to 2016 and January 2017. He submitted that following the Performance Assessment, Dr Sathi continued to work for five months without Forth Valley imposing any additional restrictions to those GMC restrictions already in place or it seeking to terminate his contract. He submitted that Dr Sathi continued working as a Consultant. He submitted that Dr Sathi continued working at Forth Valley until September 2017 when his contract of employment came to an end. He further submitted that Dr Sathi has not worked since this time due to personal circumstances relating to a family member.

14. Mr Stern submitted that looking at the evidence at the time he was working at Forth Valley, his colleagues did not consider that Dr Sathi's performance was deficient nor did they consider that his fitness to practise was impaired or that he posed any risk to patient safety. Mr Stern submitted that there is a vast amount of evidence to support this. He referred specifically to the views of Dr E, Dr H, Dr I, Dr

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J and Dr K. Further, he submitted that this evidence in relation to Dr Sathi's fitness to practise is unchallenged.

15. Mr Stern directed the Tribunal's attention to Dr Sathi's account that he was under a lot of pressure at the time and had been facing allegations which were subsequently not pursued. He then underwent the Performance Assessment.

16. Mr Stern submitted that the manner in which Dr Sathi responded to the draft Performance Assessment was significant. He submitted that within weeks Dr Sathi embarked upon '*a string of further education*' and referred the Tribunal in detail to the certificates demonstrating the range of relevant CPD that Dr Sathi has undertaken. He further submitted that Dr Sathi was not doing this CPD two weeks before the hearing. Further, Mr Stern submitted Dr Sathi responded of his own volition in relation to the criticisms made about his professional performance and reminded the Tribunal of the oral evidence given by Dr Sathi to the effect that '*it is good practice to do so even if you do not accept the criticisms*'.

17. Mr Stern submitted that all of the witnesses during the course of these proceedings do not accept that Dr Sathi poses any risk to patient safety. Mr Stern submitted that it was the view of Dr C, that had he been determining these matters of on his own, he would not have concluded that they were unacceptable, thus follows that he could not find any problems with patient safety.

18. Mr Stern submitted that the Tribunal knows that Dr Sathi has taken qualifications. It knows that Forth Valley allowed him to take Rheumatology clinics and that it had a very limited snapshot in relation to a very limited number of patients only. He submitted that the Tribunal have seen from Dr Sathi's CV that he is knowledgeable so when it assesses the position in relation to Dr Sathi, there was a '*woeful*' lack of evidence that Dr Sathi is currently impaired today.

The Relevant Legal Principles

19. The Tribunal reminded itself that at this stage of proceedings that there is no formal burden or standard of proof and the decision on impairment is a matter for the Tribunal's judgment alone.

20. The Tribunal has been mindful of the overarching objective of the GMC set out in section 1 of the Medical Act 1983 (as amended) to:

- a. Protect, promote and maintain the health, safety and well-being of the public,
- b. Promote and maintain public confidence in the medical profession, and

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- c. Promote and maintain proper professional standards and conduct for members of the profession.

21. The Tribunal has considered the nature and extent to which Dr Sathi departed from the standards expected of a medical practitioner in the circumstances set out in GMP and associated guidance.

22. Whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance set down by Dame Janet Smith in the Fifth Shipman Report and the more recent approach in *CHRE v NMC and Paula Grant* both of which recognise that as part of the process in determining whether a doctor is fit to practise today it must take account of past actions or failures to act. In particular, the relevant considerations as to whether Dr Sathi's Fitness to Practise is impaired are:

- 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 or is liable in the future to bring the medical profession into disrepute; and/or*
- c *Has in the past breached or is liable to breach in the future one of the fundamental tenets of the medical profession; and/or*
- d *Whether his integrity can be relied upon in the future.'*

23. The Tribunal must determine whether Dr Sathi's fitness to practise is currently impaired, taking into account his conduct at the time of the performance assessment and any relevant factors such as whether the matters are remediable, have been remedied, any development of insight and the likelihood of repetition.

The Tribunal's Determination

24. In considering the question of impairment, the Tribunal has taken account of all the evidence, both oral and documentary, and the submissions of Ms Cundy, on behalf of the GMC, and Mr Stern, on behalf of Dr Sathi.

Deficient Professional Performance

25. The Tribunal first considered whether Dr Sathi's actions amounted to deficient professional performance. It had regard to its findings as set out in its determination of the Facts. It also had regard to the 2013 edition of the GMP. The paragraphs which the Tribunal considered to be relevant to this case in GMP are:

15(a)(b) *'You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:*

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a. adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient

b. promptly provide or arrange suitable advice, investigations or treatment where necessary'

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.*

21(a – e) *'Clinical records should include:*

a. relevant clinical findings

b. the decisions made and actions agreed, and who is making the decisions and agreeing the actions

c. the information given to patients

d. any drugs prescribed or other investigation or treatment

e. who is making the record and when.'

Assessment, Clinical Management and Record Keeping

26. The Tribunal was satisfied that the information before it represented a fair sample of Dr Sathi's professional work at the time of the Performance Assessment.

27. The appropriate standard is that which is reasonably applicable to those who competently fulfil the role to which they are appointed and the work carried out in that role. Dr Sathi has specialist qualifications and was employed as a Consultant in the fields of Acute Medicine and Rheumatology. The Tribunal therefore judged Dr Sathi's performance by the standards applicable to a Consultant in those fields. Further, the Tribunal had regard to Paragraph 45 of its determination on the Facts in relation to the expected competency as outlined by Dr B, which states:

'45. In her oral evidence, Dr B stated that the case load was a 'basic' case load for the area of Rheumatology, and as such she would expect this kind of case load to be managed to a high standard by a Consultant Rheumatologist.'

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28. The Tribunal has previously found Paragraph 2(a), (b) and (c) of the Allegation proved as described in Paragraphs 55, 56, 58 of its determination on the Facts.

29. The Tribunal noted the GMC definition of seriously deficient performance which was approved by the court in the case of *Sadler v GMC [2003] UK PC 59 [2003] 1 WLR 2259*. Seriously deficient professional performance is described as being that which repeatedly or persistently fails to meet the professional standards appropriate to the work carried out by a doctor especially where it might put patients at risk.

30. The Tribunal has determined that, as a result of Dr Sathi's Assessment, Clinical Management and poor Record Keeping, there was the potential for patient safety issues as set out in Paragraphs 55, 56 and 58 of its determination on the Facts.

31. With regard to Mr Stern's submissions that '*all of the witnesses do not accept that he poses a risk to patient safety*', the Tribunal wishes to clarify that there is clear evidence from Dr A and Dr B that the Performance Assessment had revealed unsafe practice in terms of Assessment, Clinical Management and Record Keeping. The Tribunal noted Mr Stern's submission at Paragraph 17 in relation to Dr C's evidence. The Tribunal noted notwithstanding those submissions, Dr C fully endorsed the conclusions of the Report upon Dr Sathi's practice.

32. The Tribunal considered that there was sufficient evidence adduced, as articulated in its determination on the Facts, that demonstrate Dr Sathi's practice repeatedly or persistently fell short of the standards expected. In the judgment of the Tribunal, the matters found proved amounted to serious deficiencies.

33. Taking into account all of the above, the Tribunal was satisfied that Dr Sathi's professional performance was deficient at the time of the performance assessment.

Impairment

34. The Tribunal went on to consider whether Dr Sathi's fitness to practise is impaired by reason of the serious deficient professional performance it has found. In making its decision, the Tribunal bore in mind that the purpose of fitness to practise proceedings is not to punish a doctor for past wrongdoing but to maintain proper standards in the profession and to protect the public. The Tribunal must look forward not back but, in order to determine whether a doctor is fit to practise without restriction today, it must take into account the way in which a doctor has acted, or failed to act, in the past.

35. The issue of impairment is one for the Tribunal to determine exercising its own judgment. The Tribunal has taken into account the public interest which

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includes the need to protect patients and the public, to maintain public confidence in the profession, and to declare and uphold proper standards of conduct and behaviour.

36. In determining whether a finding of current impairment of fitness to practise is necessary, the Tribunal first of all looked for evidence of insight and remediation and the likelihood of repetition balanced against the overarching statutory objective. The Tribunal considered that insight is important in order for a doctor to recognise areas of their practice that require improvement and to take appropriate and relevant steps to address them thus reducing the likelihood of repetition.

37. The Tribunal wishes to stress that its concerns relate to patient safety and public confidence. It has no concerns in relation to those matters referred to in Paragraph 22 at b, c and d.

38. The Tribunal noted that Dr Sathi has not practiced medicine since September 2017, as outlined earlier in this determination. The Tribunal took into consideration the positive testimonial evidence from Dr Sathi's former colleagues that attested to his competent clinical practice, by contrast to the finding of the Report. It noted that some of these were subsequent to the Performance Assessment. It further took note between email correspondence Dr S and Ms T, dated 13 February 2018, to the effect that Dr Sathi appeared to have responded to feedback regarding brevity of reviews and *'that this was no longer raised as a problem'*. Further, it acknowledged that Dr Sathi had taken steps to remediate his professional performance, undertaking and completing a wealth of relevant CPD courses, which he began approximately two weeks after receipt of the Report and completed a month before this hearing. The Tribunal considered that all these matters indicated that Dr Sathi had insight in relation to some aspects of his deficient professional performance. Dr Sathi also demonstrated some insight by the reflective comments and acknowledgement of room for improvement during the Performance Assessment.

39. The Tribunal is also aware that it is not alleged by the GMC that any patients, were, in fact, harmed by Dr Sathi's practice.

40. However, the Tribunal would have been assisted by reflective evidence that demonstrated that he has fully accepted his own deficiencies and how he has applied the CPD into his medical practice.

41. It would also have been assisted by some independent, objective, current evidence in a structured form in relation to Dr Sathi's current clinical, assessment and recording skills in addition to the, admittedly supportive testimonial evidence supplied by colleagues. Although the Tribunal is mindful the difficulties that Dr Sathi would have in this regard, as he is not currently practicing, it has to set this consideration against the overarching objectives.

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42. The Tribunal notes, on the basis of Dr F's evidence, Dr Sathi's Rheumatology Clinics ceased in March 2017, and the Tribunal has no evidence of his current level of performance in this area.

43. Taking in account the nature of the deficiencies identified in the Report, in relation to Dr Sathi's Assessment, Clinical Management and Record Keeping, the Tribunal was of the view that his failings are capable of remediation. Such professional deficiencies are capable of being corrected through training, supervision and guidance.

44. Notwithstanding the positive testimonials both in the Report and subsequently, and partial insight demonstrated, the Tribunal determined that patient safety and public confidence in the profession would be undermined if a finding of impairment was not made.

45. Accordingly, the Tribunal has found that Dr Sathi's fitness to practise is currently impaired by reason of his deficient professional performance.

Determination on an adjournment – 28 April 2018

1. This case was listed until 27 April 2018. Due to there being insufficient time to conclude the hearing, it has determined to adjourn this hearing part-heard, under Rule 29(2).

2. The Tribunal determined that it will sit for three days on 18 July 2018 until 20 July 2018, in order to complete the hearing. Parties are asked to attend on 18 July 2018 from 09:00hrs.

4. The hearing is now adjourned.

Determination on Sanction - 19/07/2018

1. Having determined that Dr Sathi's fitness to practise is impaired by reason of his deficient professional performance, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

2. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

3. The Tribunal received further evidence on behalf of Dr Sathi including:

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- A witness statement dated 12 July 2018 made by Dr U, Consultant and Respiratory Physician at Sherwood Forest Hospitals NHS Foundation Trust, and Dr Sathi's clinical supervisor
- Certificates of completion of BMJ learning modules
- Case based discussion records, and
- Dr Sathi's reflective statement.

Submissions

4. On behalf of the GMC, Ms Cundy submitted that the Tribunal should impose an order of conditions for a period that it considers to be appropriate and proportionate. She acknowledged that the Tribunal's assessment of Dr Sathi's insight is a relevant matter, particularly, given that in the Tribunal's determination on impairment, announced in May 2018, it had found that Dr Sathi had partial insight and that it would be assisted by evidence of reflection.

5. Ms Cundy submitted that a decision to take no action would be inappropriate and potentially unsafe, and that there are no exceptional circumstances in this case to justify no action being taken. Ms Cundy reminded the Tribunal of its findings on the facts and she submitted that, to take no action, the Tribunal would have to conclude that Dr Sathi had wholly remediated, that there was no likelihood of similar concerns arising and that he was safe to return to unrestricted practice as a consultant in his chosen specialisms. She acknowledged that the evidence received at this stage of the hearing was encouraging, but that the Tribunal could not be satisfied that Dr Sathi is fit to return to wholly unsupervised practice.

6. Ms Cundy referred to the Sanctions Guidance (2018) (the SG), with particular reference to the relevant sections of paragraphs 81 and 82 which set out circumstances where conditions might be appropriate and workable, as follows:

'81 Conditions might be most appropriate in cases:...

b involving issues around the doctor's performance

c where there is evidence of shortcomings in a specific area or areas of the doctor's practice...

82 Conditions are likely to be workable where:

a the doctor has insight

b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings

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c the tribunal is satisfied the doctor will comply with them

d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised’.

7. Ms Cundy submitted that, as the Tribunal has been made aware, Dr Sathi is presently practising subject to conditions, so these are plainly workable. She submitted that the Tribunal should be guided by the recommendations made by the performance assessors that Dr Sathi should be closely supervised and should work as a middle grade doctor (including as a locum) in a training grade in a single speciality of his choice. They had also recommended that Dr Sathi should develop his Personal Development Plan (PDP) with his educational supervisor and should identify and undertake additional training in the areas of clinical decision making, clinical management, human factors and leadership, and should also have the support of an appropriately trained mentor. She had no submissions regarding the period that conditions should be imposed, save that it should be proportionate and appropriate and sufficient to ensure patient safety.

8. On behalf of Dr Sathi, Mr Stern referred to the Tribunal’s determination on impairment which, he submitted, had suggested that Dr Sathi’s shortcomings could be addressed by training and guidance. He accepted on Dr Sathi’s behalf that the Tribunal had to take some action and he submitted that an order of conditions was appropriate.

9. Mr Stern pointed out that not all the matters raised in the assessment report had been found proved. He also told the Tribunal that none of the doctors who worked with Dr Sathi on a daily basis both before and after the performance assessment had found any difficulty in the areas which had been found wanting by the assessment team. He therefore submitted that Dr Sathi’s performance during the GMC assessment process was out of character and not his usual practice. He also drew the attention of the Tribunal to the positive comments in the statement of Dr U, who is Dr Sathi’s supervisor in his most recent post, which he began on 25 June 2018.

10. Mr Stern referred to the Continuing Professional Development (CPD) activities undertaken by Dr Sathi and to the case based discussions which he has engaged in with professional colleagues, which demonstrate that he is working to the standard of a consultant, despite working in a less senior position. Mr Stern submitted that Dr Sathi has clear insight into the shortcomings which have been highlighted. He said that the opinions of his colleagues about Dr Sathi’s competence are central to the issues of patient safety and public confidence, and there is also a public interest in ensuring that good doctors are allowed to practise.

11. Mr Stern submitted that supervision, rather than close supervision, would be sufficient to protect patient safety. He suggested that an order of conditions could be imposed for a period of six months, bearing in mind the length of Dr Sathi’s present locum contract. He submitted that it would be a disproportionate level of sanction to Dr

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Sathi and unfair on the public if he were not allowed to provide care at the level of which he is capable.

The Tribunal's Determination on Sanction

12. The decision as to the appropriate sanction, if any, is a matter for this Tribunal exercising its own judgement. The Tribunal recognises that the purpose of a sanction is not to be punitive, although it may have a punitive effect.

13. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Sathi's interests with the public interest. It reminded itself that it should only impose the minimum sanction necessary to achieve the overarching objective. In deciding which sanction, if any, to impose the Tribunal considered each of the sanctions available, starting with the least restrictive.

14. The Tribunal has already given detailed determinations on the facts and at the impairment stage and it has taken those matters into account during its deliberations on sanction. It has also taken account of the SG.

Preliminary remarks

15. The Tribunal first took account of the aggravating and mitigating factors in this case. The Tribunal considered that there were no aggravating features. It took the view that it was a mitigating factor that there was no evidence before the tribunal that any actual harm was caused to patients as a result of Dr Sathi's shortcomings. Furthermore, Dr Sathi has responded positively to the specific issues which were raised in the performance assessment. He has made a concerted and focused attempt to remediate, supplying evidence of changes in his practice. He has also undertaken relevant courses and teaching modules.

16. The Tribunal noted the evidence that Dr Sathi has been working in a new post as a locum middle grade doctor in general medicine for about three weeks and the witness statement from Dr U, his clinical supervisor, is favourable in each of the areas where deficiencies were found by the performance assessment team. The Tribunal also bore in mind the positive reports of Dr Sathi's work from professional colleagues at his former Trust in respect of periods before and after the performance assessment was carried out.

17. Although the Tribunal acknowledged these positive accounts regarding Dr Sathi's performance, it also bore in mind that these accounts were not formal assessments. In this respect, the Tribunal noted that the performance assessment team found serious deficiencies in Dr Sathi's performance, which the Tribunal has found proved. Furthermore, Dr Sathi has not yet resumed work in the area of rheumatology, and his work is presently restricted to acute general medicine. The

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Tribunal cannot therefore be confident that, as yet, the concerns regarding public safety are fully addressed, particularly in the area of rheumatology.

No action

18. The Tribunal first considered whether to conclude Dr Sathi's case by taking no action with regard to his registration. In this respect, it noted that in accordance with paragraph 68 of the SG, where a doctor's fitness to practise is impaired, it is usually necessary to take action to protect the public, unless there are exceptional circumstances to justify a Tribunal taking no action.

19. The Tribunal has found that the serious deficiencies in Dr Sathi's professional performance had the potential to create risks to patient safety and to undermine public confidence in the profession, as outlined in its determination on impairment. Given these factors, and in the absence of any exceptional circumstances, the Tribunal concluded that it would be wholly inappropriate to take no action. It also did not consider that such a course would sufficiently meet the requirement of the statutory overarching objective in this case.

Conditions

20. The Tribunal next considered whether it would be appropriate to impose a period of conditions on Dr Sathi's registration. It has borne in mind that any conditions must be appropriate, proportionate, workable and measurable.

21. The Tribunal noted the section in the SG dealing with conditions, and in particular, paragraphs 81 and 82 set out above.

22. In deciding whether conditions are appropriate, the Tribunal has borne in mind the GMC assessment team's opinion and recommendations, in particular at paragraph 2.6 of the Assessment Report:

- *'He practise under close supervision*
- *He should work as a middle grade doctor in a training grade in a single speciality of his choice; he may work as a locum in that grade*
- *He should, with an educational supervisor,*
 - *Develop a Personal development Plan based upon the deficiencies identified in this report*
 - *Identify and undertake additional training in the following areas*
 - *Clinical decision making*
 - *Clinical management*
 - *Human factors*
 - *Leadership*
- *He should have the support of an appropriately trained mentor'*

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23. The Tribunal acknowledges that it has not found all the deficiencies highlighted by the performance assessment team to be proved. It also noted that, notwithstanding the serious deficiencies highlighted in his practice, Dr Sathi has undertaken a considerable amount of remediation activity and the early signs in his present locum post are that he is making good progress in that regard, although Dr Sathi has not yet resumed his clinical work in rheumatology. The Tribunal acknowledges that his insight into his shortcomings has continued to develop and that he now appreciates his deficiencies and their potential impact on patient safety. In these circumstances, the Tribunal is satisfied that a period of retraining and supervision would be the most appropriate way to address Dr Sathi's performance deficiencies. The Tribunal is also satisfied that he would comply with the conditions and has the potential to respond positively to further remediation.

24. The Tribunal has therefore determined that it is possible to formulate appropriate, proportionate, workable and measurable conditions that would allow Dr Sathi to return to work whilst also protecting patients and the public interest. The Tribunal is satisfied that the concerns regarding patient safety can be properly addressed by the imposition of a condition requiring supervision and not close supervision as recommended by the assessment team. The Tribunal has formed this view in the light of the progress towards remediation made by Dr Sathi since the performance assessment was carried out, the testimonial evidence received, the report from Dr Sathi's current clinical supervisor and the evidence of recent case based discussions with Dr Sathi's professional colleagues. For the same reasons, the Tribunal is not satisfied that a limitation of Dr Sathi's practice to a single speciality would be appropriate or proportionate. The Tribunal is satisfied that the appointment of a mentor would be appropriate and proportionate.

25. The Tribunal also took the view that the limitation upon the positions which Dr Sathi may take up will provide an appropriate safeguard. As he will only be able to work in non-consultant posts, his work will continue to be supervised by a consultant, which will further address any risk to patient safety. The Tribunal also considers that any additional training which might be appropriate will be adequately addressed in consultation with Dr Sathi's clinical supervisor, and does not require the formal appointment of an educational supervisor.

26. Whilst the Tribunal notes Dr Sathi's engagement with furthering his knowledge in rheumatology, he has not yet had recent opportunities to refresh and develop his clinical practice in rheumatology. Given the express performance assessor concerns regarding Dr Sathi's decision making and follow up with rheumatology patients, the Tribunal wishes to draw particular attention to the supervisory requirements, during the condition period, for any rheumatology work undertaken by Dr Sathi.

27. The Tribunal has determined to impose the following conditions for a period of six months. It considered that this period should provide sufficient time for Dr

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Sathi to continue to address the deficiencies identified in his clinical practice and to make further progress in his remediation, so that he can demonstrate to a reviewing tribunal that he is safe to practise unrestricted, in those areas where shortcomings have been found. The conditions are as follows:

- 1 He must notify the GMC within seven calendar days of the date these conditions become effective:
 - a of the details of his current post, including his job title, job location and responsible officer (or their nominated deputy) information
 - b of the contact details of his employer and/or contracting body, including his direct line manager
 - c of any organisation where he has practising privileges and/or admitting rights
 - f of the contact details of any locum agency he is registered with.
- 2 He must notify the GMC:
 - a of any post he accepts, before starting it
 - b if any formal disciplinary proceedings against him are started by his employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - c if he applies for a post outside the UK.
- 3 He must allow the GMC to exchange information with any person involved in monitoring his compliance with his conditions.
- 4
 - a He must have a workplace reporter approved by his responsible officer (or their nominated deputy) and must inform the GMC of these arrangements.
 - b He must not start/restart work until his responsible officer (or their nominated deputy) has approved his workplace reporter and this approval has been forwarded to the GMC.
- 5 He must get the approval of the GMC before starting work in a non-NHS post or setting.
- 6 He must only work in a non-consultant role.

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- 7 He must only work in acute general medicine and rheumatology.
- 8
 - a He must be supervised in all of his posts by a clinical supervisor, as defined in the *Glossary for undertakings and conditions*. His clinical supervisor must be approved by his responsible officer (or their nominated deputy) and he must inform the GMC of these arrangements.
 - b He must not start/restart work until his responsible officer (or their nominated deputy) has approved his clinical supervisor and this approval has been forwarded to the GMC.
- 9 He must have a mentor who is approved by his responsible officer (or their nominated deputy).
- 10 Nothing in these conditions shall prevent the provision of emergency assistance in a life-threatening situation, in any medical capacity, where no alternative assistance is immediately available.
- 11 He must inform the following persons of the conditions listed at 1 to 10:
 - a his employer and/or contracting body
 - b his responsible officer (or their nominated deputy)
 - c his immediate line manager at his place of work, at least 24 hours before starting work (for current and new posts including locum posts)
 - d any prospective employer and/or contracting body, at the time of application
 - e The responsible officer of any organisation where he has, or has applied for, practising privileges and/or admitting rights, at the time of application
 - f any locum agency or out-of-hours service he is registered with

28. The Tribunal determined to direct a review of Dr Sathi's case. A review hearing will convene shortly before the end of the period of conditional registration, unless an early review is sought. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Sathi to demonstrate how he has continued in his remediation and the development of his insight into the deficiencies in his clinical practice that have been

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highlighted, and that he is fit to practise. It therefore may assist the reviewing Tribunal if Dr Sathi provides:

- a report from his clinical supervisor(s), including specific reference to Dr Sathi's professional performance in respect of acute general medicine and rheumatology, including the breadth, extent and complexity of his practice in these areas
- a report from his workplace reporter(s)
- a copy of his PDP
- a copy of his annual appraisal(s)
- testimonials, and
- any other evidence he considers will assist a reviewing Tribunal.

Determination on Immediate Order - 19/07/2018

1. Having determined that conditions should be imposed on Dr Sathi's registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Ms Cundy submitted that an immediate order is necessary, appropriate and proportionate in the circumstances of this case and that it would not be appropriate for Dr Sathi to return to unrestricted practice, during the appeal period. She told the Tribunal that Dr Sathi is already subject to interim conditions, which are more onerous than those which are to be imposed, so an immediate order would also be in Dr Sathi's interests.

3. On behalf of Dr Sathi, Ms Evans submitted that there was no objection to an immediate order of conditions.

The Tribunal's Determination

4. In making its determination the Tribunal has exercised its own judgement and has taken account of the principle of proportionality. It has taken account of the section of the SG (2018) which deals with immediate orders. This includes paragraph 173 which states that an immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety, or where immediate action is required to protect public confidence in the medical profession.

5. The Tribunal recognises that the interim order of conditions presently imposed on Dr Sathi's registration will be revoked at the conclusion of this hearing so it does not accept the submission that the imposition of immediate conditions would be in Dr Sathi's own interests, in the absence of any concerns about his

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health. However, the Tribunal has already decided that it is necessary to impose conditions on Dr Sathi's registration to support him in his remediation, as well as to protect the public interest. Given that position, the Tribunal considers that immediate conditions are required for the protection of the public and that public confidence in the profession would be undermined if he were permitted to practise without restriction, until the substantive order of conditions takes effect.

6. In all the circumstances, an immediate order of conditions is necessary in the same terms as the conditions directed by the Tribunal in its determination on sanction.

7. This means that Dr Sathi's registration will be made subject to conditions from today. The substantive direction, as already announced, will take effect 28 days from when written notice of this determination has been served upon Dr Sathi unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

8. The interim order currently imposed on Dr Sathi's registration will be revoked when the immediate order takes effect.

Confirmed

Date 19 July 2018

Miss Nicola Murphy, Chair