

Date: 20/02/2019

Medical Practitioner's name: Mr Farooq QURESHI

GMC reference number: 4499163

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

Type of case

Review - Misconduct

Outcome on impairment

Impaired

Summary of outcome

Erasure

Tribunal:

Legally Qualified Chair	Mr Nathan Moxon
Lay Tribunal Member:	Mr Andrew Gell
Medical Tribunal Member:	Dr Helen Denley

Tribunal Clerk:	Ms Chloe Ainsworth
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Attendance and Representation:

Medical Practitioner:	Not present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Mr Neil Usher, Counsel

Attendance of Press / Public

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

Record of Determinations – Medical Practitioners Tribunal

Determination on Impairment - 20/02/2019

Background

1. Mr Qureshi's case was first considered by a Medical Practitioners Tribunal ('MPT') in a hearing which took place in February 2017 ('the 2017 Tribunal'). The Tribunal made findings regarding the treatment of two patients, Patient A and Patient B.
2. In relation to Patient A, the 2017 Tribunal found that on 11 April 2014, Mr Qureshi failed to perform to an adequate standard when assisting with a laparoscopic cholecystectomy, in that he failed to ensure that there was a complete occlusion of Patient A's cystic duct and failed to control the bleeding from Patient A's liver.
3. In relation to Patient B, the 2017 Tribunal found that on 26 February 2014, Mr Qureshi performed a bilateral inguinal hernia repair ('the surgery'). It found that Mr Qureshi failed to obtain adequate informed consent from Patient B, in that he did not discuss venous thromboembolism, the high risk of adhesions as a result of Patient B's previous abdominal surgery, the high risk of bowel injury during dissection of adhesions and the possible need to convert to open surgery. Further, the 2017 Tribunal found that Mr Qureshi performed the surgery laparoscopically when it was inappropriate to do so, given Patient B's midline scar from previous lower abdominal bowel surgery. It found that Mr Qureshi used blunt and sharp dissection for the division of adhesions instead of only using sharp dissection; that he incorrectly noted that he used blunt dissection and diathermy for the division of adhesions when he had in fact used blunt and sharp dissection and that he failed to convert to open surgery when it was appropriate to have done upon encountering difficulty entering the abdominal cavity and finding extensive intra-abdominal adhesions. The 2017 Tribunal also found that Mr Qureshi failed to respond appropriately to concerns raised by colleagues.
4. The 2017 Tribunal found that there was a clear and identifiable risk to Patient A and Patient B, that there was a number of substantial departures from the standards set out in Good Medical Practice (2013) ('GMP') and that, as such, Mr Qureshi's actions amounted to misconduct. In considering whether Mr Qureshi's fitness to practise was impaired, the 2017 Tribunal found that there was limited evidence of insight, remediation or learning and reflection on the issues raised. The 2017 Tribunal therefore determined that Mr Qureshi's fitness to practise was impaired by reason of his misconduct. In order to address the deficiencies in his practice, the 2017 Tribunal imposed an order of conditions for 18 months.

Record of Determinations – Medical Practitioners Tribunal

The 2018 Tribunal

5. In February 2018 Mr Qureshi's case was reviewed by a second Tribunal ('the 2018 Tribunal'). The 2018 Tribunal found that it had received no new evidence from Mr Qureshi to demonstrate that he had acknowledged the seriousness of the 2017 Tribunal's findings or that he had reflected upon them. Further, it found that he had not engaged with the conditions that were placed on his registration by the 2017 Tribunal. As such, the 2018 Tribunal concluded that Mr Qureshi continued to demonstrate a lack of insight into his misconduct and the regulatory process and therefore his fitness to practise remained impaired. In the light of Mr Qureshi's persistent lack of engagement with the regulatory process, the 2018 Tribunal determined to impose a suspension for the period of 12 months on Mr Qureshi's registration to give him a further opportunity to engage with the GMC and the regulatory process. It considered whether erasure would be an appropriate sanction, but took the view that this would be disproportionate given that Mr Qureshi's impairment is not incompatible with continued registration, particularly if he were to begin to engage with the GMC and the regulatory process.

Review hearing directed

6. The 2018 Tribunal directed a review hearing. It recommended that Mr Qureshi provide the following:

- A copy of his Personal Development Plan ('PDP'), with a comprehensive reflective log;
- Evidence of Continuing Professional Development ('CPD'), including reflections on the training undertaken;
- A report from his educational supervisor and workplace reporter;
- Any relevant references or testimonials;
- Evidence from a mentor, if applicable;
- Feedback and/or 360° appraisal from patients and colleagues, if available;
- Any other information which Mr Qureshi considers might assist the Tribunal reviewing his case.

Today's Review Hearing

7. This Tribunal has today reviewed Mr Qureshi's case and has considered, in accordance with Rule 22(f) of the Rules, whether his fitness to practise is impaired. In so doing it has considered the submissions made by Mr Usher, Counsel, on behalf of the GMC.

Record of Determinations – Medical Practitioners Tribunal

The Outcome of Applications Made during the Impairment Stage

8. The Tribunal determined that all reasonable efforts had been made to serve Mr Qureshi with the notice of hearing and determined to proceed in his absence. The full decision is included at Annex A.

The Evidence

9. The Tribunal took account of all of the documentary evidence produced since the 2018 Tribunal. This included but was not limited to:

- Email from MPTS Listings Team with attached notification letter and Case Management Directions, both dated 9 April 2018;
- Letter to Mr Qureshi from the GMC, dated 26 October 2018;
- Email from Ms C, dated 18 February 2019.

Submissions

10. On behalf of the GMC, Mr Usher submitted that since his two previous hearings, the GMC has received no evidence to suggest that Mr Qureshi has addressed the concerns regarding his practice. Mr Usher submitted that there has been a *'total failure to engage'* and that Mr Qureshi has not provided any evidence to suggest he continues to be a competent doctor, that he has kept his professional skills up-to-date or that he is willing to comply or engage with his regulator. Mr Usher submitted that Mr Qureshi's fitness to practise must therefore remain impaired by reason of his misconduct.

The Relevant Legal Principles

11. The Tribunal's decision as to whether Mr Qureshi's fitness to practise is impaired is a matter for the Tribunal's judgement alone. In a review case the persuasive burden falls upon the doctor to demonstrate that his fitness to practise is no longer impaired.

12. The Tribunal must determine whether Dr Qureshi's fitness to practise is impaired today. In so doing, it has taken into account his conduct at the time of the Allegation, together with any relevant factors since then, such as whether the matters are remediable, have been remediated and are highly unlikely to be repeated.

13. The Tribunal has borne in mind the statutory overarching objective.

Record of Determinations – Medical Practitioners Tribunal

The Tribunal's Determination on Impairment

14. The Tribunal accepted the Legally Qualified Chair's advice.
15. The Tribunal noted that it had no evidence before it to demonstrate that Mr Qureshi has developed upon the limited remediation and insight identified by the 2017 Tribunal.

16. The Tribunal had regard to the determination of the 2018 Tribunal:

'...the Tribunal had regard to the conditions imposed by the initial Tribunal which it considered were workable. The Tribunal noted the absence of any communication indicating any difficulties in compliance with conditions. The Tribunal was of the view that a motivated, willing and engaged doctor should have seized the opportunity given by the initial Tribunal and demonstrated his willingness to maintain his registration.

...

As outlined in this Tribunal's determination on Impairment, it has not been provided with any evidence that demonstrates that Mr Qureshi has made any attempts at remediation nor demonstrated insight.'

17. The Tribunal determined that, 12 months on, no progress has been made despite clear guidance from 2018 Tribunal.
18. The Tribunal had sight of an email dated 18 February 2019, from Ms C, which states that Mr Qureshi has been out of the country since 2016. The Tribunal determined that being out of the country did not prevent him from engaging with his regulator or following the recommendations of the two previous tribunals. The Tribunal accepted Mr Usher's submissions that there has been a *'total failure to engage'* save for the email sent by Ms C.
19. In the light of Mr Qureshi's persistent lack of engagement and taking into account of the public interest in this case, the Tribunal determined that Mr Qureshi's fitness to practise remains impaired by reason of his misconduct.

Record of Determinations – Medical Practitioners Tribunal

Determination on Sanction - 20/02/2019

1. Having determined that Mr Qureshi's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(g) 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.

Submissions

3. On behalf of the GMC, Mr Usher referred the Tribunal to the Sanctions Guidance 2018 ('SG') and submitted that there were three options open to the Tribunal:

168 Where a doctor's registration is suspended, the tribunal may direct that:

a the current period of suspension is extended (up to 12 months)

b the doctor's name is erased from the medical register (except in cases that relate solely to the doctor's health and/or knowledge of English)

c impose a period of conditions (up to three years).

4. Mr Usher submitted that the Tribunal should consider the aggravating factors of this case. He submitted that Mr Qureshi has failed to comply with the original conditions, that he has not produced any of the supporting evidence suggested by the previous tribunals and that there has been a lack of engagement with the GMC and regulatory process. Further, he submitted there is an absence of evidence to demonstrate insight.

5. In mitigation, Mr Usher submitted that the expert opinion at the 2017 Tribunal indicated that Mr Qureshi's conduct was remediable and that he had demonstrated limited evidence of insight, however, he submitted that this was going back some years now.

6. Mr Usher submitted that conditions could not be formulated to protect the public interest and maintain public confidence in the profession, specifically because of the lack of engagement with the GMC or regulatory process. Turning to suspension, Mr Usher submitted that there is no evidence to suggest Mr Qureshi has demonstrated attempts

Record of Determinations – Medical Practitioners Tribunal

at remediation or has acquired any meaningful insight. Further, he submitted that the Tribunal has no evidence as to Mr Qureshi's current professional circumstances. As such, Mr Usher submitted that a further period of suspension would not be an appropriate sanction. He submitted that, given the passage of time and absence of evidence of insight, the appropriate and proportionate sanction is that of erasure.

The Tribunal's Determination on Sanction

7. The Tribunal accepted the Legally Qualified Chair.
8. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.
9. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Mr Qureshi's interests with the public interest. The public interest includes, amongst other things, the protection of patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour.
10. The Tribunal has already given a detailed determination on impairment and it has taken those matters into account during its deliberations on sanction.

Aggravating factors

11. The Tribunal considered the aggravating factors identified by the 2018 Tribunal remain pertinent and noted that in the 12 months following the previous hearing, Mr Qureshi has failed to engage with proceedings and failed to demonstrate any insight.

Mitigating factors

12. The Tribunal balanced those aggravating factors with the mitigating factors in this case:

- Mr Qureshi's initial conduct was remediable
- At the 2017 Tribunal, it was found that Mr Qureshi had limited insight

Record of Determinations – Medical Practitioners Tribunal

13. However, the Tribunal gave the mitigating factors less weight due to the passage of time and lack of engagement since the 2017 Tribunal.

The Tribunal’s Decision

Conditions

14. The Tribunal considered whether it would be sufficient to impose conditions on Mr Qureshi’s registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable, and measurable.

15. The Tribunal noted that Mr Qureshi has not cooperated with conditions in the past and that the 2018 Tribunal had considered conditions unworkable. As such it concluded that a period of conditional registration would not be appropriate or proportionate in this case.

Suspension

16. The Tribunal next considered whether a period of suspension would sufficiently address the concerns regarding Mr Qureshi’s misconduct.

17. The Tribunal noted that the 2018 Tribunal imposed a 12 month suspension on Mr Qureshi’s registration. It noted that Mr Qureshi has not engaged with the GMC during this period and that it has no evidence of whether he has kept his medical skills up-to-date. Further, it determined that since the 2017 Tribunal there has been no evidence of developing insight or remediation.

18. The Tribunal determined that it had no evidence before it to suggest that imposing a further period of suspension on Mr Qureshi’s registration would result in any different outcome.

Erasure

19. The Tribunal had regard to the SG:

'109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

...

Record of Determinations – Medical Practitioners Tribunal

j Persistent lack of insight into the seriousness of their actions or the consequences.'

20. The Tribunal determined that Mr Qureshi has reached the stage where he has demonstrated a persistent lack of insight and a persistent failure to engage with his regulator, which would undermine the public confidence in the medical profession. It determined that his failure to sufficiently remediate his misconduct means that he poses a risk to patient safety. As such, the Tribunal determined that his behaviour is now fundamentally incompatible with continued registration.

21. The Tribunal concluded that erasure is the only means of protecting patients, maintaining public confidence in the profession and declaring and upholding proper standards of conduct. The Tribunal therefore directs that Mr Qureshi's name be erased from the Medical Register.

22. Unless Mr Qureshi exercises his right of appeal, his name will be erased from the Medical Register 28 days from the date on which written notice of this decision is deemed to have been served upon him. A note explaining his right of appeal will be sent to him. The previous suspension remains in operation until this sanction takes effect.

23. That concludes this case.

Confirmed

Date 20 February 2019

Mr Nathan Moxon, Chair

Record of Determinations – Medical Practitioners Tribunal

ANNEX A – 20/02/2019

Service and Proceeding in Absence

1. Mr Qureshi is neither present nor represented at this hearing. The Tribunal therefore first considered whether notice of this hearing had been properly served on him in accordance with Rules 15 and 40 of the GMC Fitness to Practise Rules 2004, as amended ('the Rules'). If the Tribunal was to find that notice of this hearing had been properly served, then it would next consider whether it would be appropriate to proceed with this hearing in Mr Qureshi's absence pursuant to Rule 31 of the Rules.

Documentary Evidence

2. The Tribunal was provided with a service bundle of papers which included:
- Screenshot of Mr Qureshi's registered address from Siebel;
 - Rule 34(9) letter and hearing bundle, sent to Mr Qureshi's registered address, dated 9 January 2019;
 - Tracking documents for Rule 34(9) letter and hearing bundle;
 - Notice of Hearing sent via letter to Mr Qureshi's registered address, dated 14 January 2019;
 - Tracking documents for Notice of Hearing.

Service

3. Mr Usher, on behalf of the GMC, submitted that all reasonable efforts had been made to serve Mr Qureshi with notice of this hearing

The Tribunal's decision

4. The Tribunal accepted the Legally Qualified Chair's advice.

5. The Tribunal had sight of the Rule 34(9), which was sent to Mr Qureshi's registered address on 9 January 2019. It noted that the letter contains the details of today's hearing including the date and that this had been signed for on 10 January 2019 at 10:17. Further, the Tribunal noted that the notice of hearing had been sent to Mr Qureshi's registered address on 14 January 2019 and that this had been delivered and signed for on 15 January 2019 at 09:54.

6. Having considered the evidence before it and Mr Usher's submissions, the Tribunal was satisfied that the Notice of Hearing had been served on Mr Qureshi in accordance with Rules 15 and 40.

Record of Determinations – Medical Practitioners Tribunal

Proceeding in Mr Qureshi's absence

7. Mr Usher submitted that the Tribunal should now consider whether to proceed in the absence of Mr Qureshi under Rule 31 of the Rules.

8. Mr Usher submitted that Mr Qureshi did not attend the original hearing or the last review and it was submitted that at that hearing it was found to be fair to proceed in his absence. He submitted that there has not been any direct correspondence with Mr Qureshi since February 2017.

9. Mr Usher submitted that two days ago on 18 February 2019, the GMC received an email from someone purporting to be XXX stating that XXX has been out of the country since 2016. He submitted that this could be viewed as an indirect application for adjournment, but stated that the Tribunal's position should remain the same as the previous Tribunal's. He submitted that two years on from the original hearing, there is still nothing by way of any engagement from Mr Qureshi, that this email is extremely late and did not offer a date for resuming if an adjournment was allowed. He submitted there has been nothing from Mr Qureshi himself since the date of the original hearing.

10. Mr Usher submitted that there has been next to no engagement with regulatory process and no contact with GMC for two years. He submitted that Mr Qureshi has deliberately absented himself and granting an adjournment is highly unlikely to resolve this. Further, he submitted there is obvious public interest in proceeding notwithstanding the absence of Mr Qureshi.

The Tribunal's decision

11. The Tribunal considered whether it would be appropriate to exercise its discretion to proceed with this hearing in Mr Qureshi's absence pursuant to Rule 31 of the Rules.

12. The Tribunal accepted the advice of the Legally Qualified Chair.

13. The Tribunal was conscious that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest.

14. In deciding whether to proceed with this hearing in Mr Qureshi's absence, the Tribunal carefully considered all the information before it, which included Mr Usher's submissions.

15. The Tribunal carefully considered the history of this case. It noted that Mr Qureshi has not engaged since February 2017 and that he was told the date of the current hearing in April 2018. Further, he has not complied with any of the requests

Record of Determinations – Medical Practitioners Tribunal

of the previous tribunals. It noted that even if Mr Qureshi could not attend, he has had ample opportunity to provide documents for the Tribunal.

16. The Tribunal took account of the email sent on 18 February 2019. It noted that it had no confirmation the email was sent from Ms C or that she was acting on behalf of him. In any event, it determined that there was no information suggesting the length of adjournment required. As such, the Tribunal determined that there is no indication that granting an adjournment would result in Mr Qureshi's future attendance. The Tribunal is satisfied that Mr Qureshi has voluntarily absented himself from these proceedings.

17. The Tribunal determined that the public interest in proceeding with this case outweighs Mr Qureshi's interests as he has voluntarily absented himself from the hearing and failed to otherwise meaningfully engage with these proceedings.

18. Accordingly the Tribunal determined to proceed in Mr Qureshi's absence.