Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 29/08/2019
Medical Practitioner’s name: Dr Abdullah KHAN

GMC reference number: 6054531
Primary medical qualification: MB BS 2002 University of London

Type of case
Outcome on impairment
Review - Misconduct
Not Impaired

Summary of outcome
Suspension to expire

Tribunal:

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<tr>
<th>Role</th>
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<tbody>
<tr>
<td>Legally Qualified Chair</td>
<td>Mr Robert Ward</td>
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<tr>
<td>Lay Tribunal Member:</td>
<td>Mrs Rachel O’Connell</td>
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<tr>
<td>Medical Tribunal Member:</td>
<td>Mrs Anjali Ahluwalia</td>
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<td>Tribunal Clerk:</td>
<td>Mr Matt O’Reilly</td>
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Attendance and Representation:

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<tr>
<td>Medical Practitioner:</td>
<td>Present and represented</td>
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<tr>
<td>Medical Practitioner’s Representative:</td>
<td>Mr Andrew Hockton, Counsel, instructed by the MDU</td>
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<tr>
<td>GMC Representative:</td>
<td>Mr Adam Watkins, Counsel</td>
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Attendance of Press / Public
In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.
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Overarching Objective

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

Determination on Impairment - 29/08/2019

1. The Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (‘the Rules’) whether Dr Khan’s fitness to practise is impaired by reason of misconduct.

Background

2. Dr Khan qualified in 2002 and prior to the events which are the subject of the hearing he worked as a trainee GP at Houghton Close Surgery (the Practice) and subsequently as a full time GP Partner at the Practice (2006 to 2016). In addition to his role as GP Partner at the Practice, in 2015 Dr Khan took on the role of Lead GP (safeguarding) for the Bedfordshire area where he was contracted to work for four sessions a week. In January 2015 Dr Khan also worked for two separate out of hours (‘OOH’) service providers; Care UK (Luton & Suffolk), and Hertfordshire Urgent Care (‘HUC’).

3. The facts found proved at Dr Khan’s hearing, which took place in June and August 2018 (the 2018 Tribunal), can be summarised as concerns relating to Dr Khan working a substantial number of hours for Care UK (Luton & Suffolk) and HUC during January, February and March 2015 whilst undertaking his role as GP partner at the Practice. It was also found proved that Dr Khan had no 24-hour period free from work during January, February and March 2015 and he had less than 8.5 hours to rest between shifts. Furthermore, that the hours worked for Care UK (Luton & Suffolk) and HUC overlapped and Dr Khan received payment from both OOH service providers.

4. The 2018 Tribunal found proved that whilst in his role as GP Partner, from about 2011, Dr Khan was frequently unavailable including the days on which he was the Duty Doctor. It was also found that Dr Khan had acted dishonestly, namely by stating at a Practice business meeting he attended, on or about 11 May 2015, that he had stopped doing the OOH work, or words to that effect. He was also found to have been dishonest by failing to inform the Partners, at any time prior to and including 29 October 2015, that Care UK had subjected him to disciplinary proceedings and that he had been dismissed on the grounds of gross misconduct. Dr Khan was found to have acted dishonestly by advising his solicitors that he had been informed during a Surgery meeting at the Practice by Dr F and Dr G that, ‘the GMC investigation would “go away” if he [Dr Khan] resigned with immediate effect’, or words to that effect.
5. In addition, it was found that Dr Khan treated Patient X, who was a relative of his, in prescribing medication and equipment to administer medication, requesting blood tests and administering a vaccination. Dr Khan also failed to provide good clinical care to two diabetic patients by prescribing an unlicensed drug.

6. In relation to the OOH work, the 2018 Tribunal determined that Dr Khan did not take prompt action in recognising the dangers he posed to patient safety in working in the manner he did. Furthermore, the 2018 Tribunal determined that any doctor working in this way would inevitably pose a risk to public safety and undermine the overarching objective. In the circumstances, the 2018 Tribunal determined that the matters relating to Dr Khan’s OOH work amounted to serious misconduct.

7. The 2018 Tribunal considered that Dr Khan’s unavailability meant that he was not readily accessible to patients and colleagues seeking advice and support. That Tribunal heard evidence that Dr Khan’s behaviour caused stress, frustration and inconvenience to his colleagues and Practice staff. The 2018 Tribunal considered his behaviour to be unprofessional and irresponsible. It considered that, as a standalone matter, Dr Khan’s frequent unavailability would not constitute serious misconduct. However, in the overall context of this case where there was dishonesty, concealment and a breach of GMP, the 2018 Tribunal determined that Dr Khan’s actions did amount to serious misconduct.

8. The 2018 Tribunal considered Dr Khan’s dishonesty to be serious and unethical, particularly misinforming his solicitor. It considered this action as an escalation of his dishonest behaviour and that Dr Khan’s dishonesty undermined the overarching objective and amounted to serious misconduct.

9. In relation to Patient A, the 2018 Tribunal noted that Dr Khan admitted that he should not have prescribed Liraglutide, and then found that he failed to recognise that the loss of appetite and weight loss posed a serious risk to patient safety. It determined that his actions were aggravated by the fact that he ignored the specialist’s advice. That Tribunal determined that Dr Khan did not recognise and work within the limits of his competence and therefore failed to provide good clinical care and that his actions in this regard amounted to serious misconduct.

10. In relation to Patient B, the 2018 Tribunal determined that Dr Khan’s failure to obtain informed consent, particularly when prescribing an unlicensed drug, was a failure of good clinical care, posed a risk to patient safety and therefore amounted to serious misconduct. Furthermore, that Dr Khan’s prescribing of two unlicensed drugs, Liraglutide and Dapagliflozin, was outside his area of competence. It determined that Dr Khan failed to provide good clinical care and posed a risk to Patient B, therefore breaching GMP and amounting to serious misconduct.
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11. In relation to Patient X, the 2018 Tribunal determined that Dr Khan did not need to treat his relative and it was not an emergency situation. Therefore, having regard to the above the Tribunal concluded this amounted to serious misconduct.

12. In relation to impairment, the 2018 Tribunal determined that Dr Khan’s actions regarding the OOH work and Practice issues were so serious that despite his remediation, the conditions and undertakings he had been under and his limited insight his fitness to practise was impaired by reason of his misconduct. It also determined that Dr Khan’s conduct was persistently dishonest and was at the higher end of dishonest behaviour. It bore in mind that Dr Khan had shown little insight or remorse for his dishonest actions. Whilst the 2018 Tribunal acknowledged that Dr Khan had of his own volition undertaken a bespoke ethics course, in that Tribunal’s view, it was not sufficient to reduce the seriousness of the dishonesty. Furthermore, the 2018 Tribunal could not be satisfied that there was no risk of repetition.

13. The 2018 Tribunal considered that Dr Khan’s prescribing of unlicensed drugs to Patient A and Patient B in a GP setting was very serious. In addition, Dr Khan ignored specialist advice regarding Patient A to stop prescribing Liraglutide. That Tribunal was concerned that Dr Khan seemed to maintain his stance that the drug was effective and therefore he did not have full insight into the potential serious consequences of what he was doing. Further, he appeared to focus on the benefits to Patient A in achieving diabetic control rather than the risks to the patient. Overall in relation to Patients A and B the 2018 Tribunal was not convinced that Dr Khan had developed full insight into his actions. Therefore, could not be certain that there was not a risk of repetition.

14. The 2018 Tribunal went on to consider the issues relating to Patient X, a relative of Dr Khan and found it to be serious misconduct because Dr Khan has breached GMP. Furthermore, the action was persistent. However, having regard to all the remediation undertaken, the Tribunal accepted Dr Khan’s evidence that he would not treat a relative again.

15. The 2018 Tribunal therefore found Dr Khan’s fitness to practise impaired in relation to the misconduct regarding the OOH / Practice issues, dishonesty, and clinical and prescribing issues relating to Patients A and B.

16. The 2018 Tribunal determined that, given the seriousness of its findings, the imposition of a 12 month suspension was the appropriate and proportionate sanction.

17. The 2018 Tribunal also determined that the Tribunal reviewing Dr Khan’s case may be assisted by the following:
   - An acceptance and acknowledgement of his persistent and dishonest behaviour as found by this Tribunal;
   - A reflective piece, diary or log;
   - Evidence of any relevant CPD;
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- Testimonials;
- Personal Development Plan more thoroughly reflecting the concerns of this Tribunal;
- Any other evidence that may assist the Tribunal.

The Evidence

18. The Tribunal has taken into account all the documentary evidence received, including but not limited to:

- The MPTS Record of Determinations, dated 31 August 2018;
- Dr Khan’s Reflective Statement, dated July 2019;
- Presentation on ‘Evaluating the Impact of Dishonesty’ slides;
- Minutes of Practice Meeting (dated 15 July 2019) at which Dr Khan presented ‘Evaluating the Impact of Dishonesty’;
- Practice Policies Developed/Updated by Dr Khan;
- Kingsbury Court Surgery CQC Report June 2019;
- Educational and Pastoral Development Plans;
- Professional Development Plan;
- Minutes confirming attendance at Clinical and Clinical Governance & Administration meetings;
- CPD Certificates;
- Logs of meetings with Dr D;
- Logs of meetings with Dr C;
- Testimonials.

Submissions

19. In summary, Mr Watkins, Counsel, on behalf of the GMC, submitted that the GMC is neutral as to whether Dr Khan’s fitness to practise is currently impaired. He referred this Tribunal to the 2018 Tribunal’s findings and concerns. He submitted it was a matter for this Tribunal to determine whether the previous concerns had been sufficiently addressed.

20. In summary, Mr Hockton, Counsel, on behalf of Dr Khan, referred the Tribunal to the remediation evidence presented to the 2018 Tribunal and remediation evidence since the conclusion of the 2018 hearing. He submitted that this evidence demonstrates considerable steps taken by Dr Khan. He referred the Tribunal to Dr Khan’s Reflective Statement in which he accepts and acknowledges the findings of the 2018 Tribunal and expresses deep regret and remorse. Mr Hockton referred the Tribunal to the testimonials from colleagues, both previous to and since the 2018 MPT hearing, which were extremely positive.

21. Mr Hockton submitted that at the time of the 2018 Tribunal, Dr Khan had been working as a General Practitioner at Kingsbury Court Surgery (‘the Practice’) without complaint for over two years. He submitted that the observations and
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comments of the 2018 Tribunal were primarily based on the adverse finding of dishonesty which is why a period of 12 months suspension was imposed.

22. Mr Hockton submitted that since 2018 Dr Khan has continued to work at the Practice as Practice Manager in a non-clinical role with the support of his colleagues. He referred the Tribunal to the presentation slides on ‘Evaluating the Impact of Dishonesty’, which Mr Hockton submitted that Dr Khan highlighted and discussed his own dishonesty with his colleagues at the Practice.

23. Mr Hockton submitted that Dr Khan has brought in policies in relation to safeguarding and the impact of whistleblowing. He submitted that Dr Khan has targeted the concerns of the 2018 Tribunal in his Educational and Pastoral Development Plans, and in his Professional Development Plan.

24. Mr Hockton submitted in Dr Khan’s non-clinical role as Practice Manager he has responsibility for the Practice finances and that the CQC inspections outcome has improved significantly in some domains, leading to a positive benefit in delivering better patient care. Mr Hockton referred the Tribunal to the extensive CPD that Dr Khan has undertaken.

25. Mr Hockton submitted that Dr Khan hopes that the outcome of this hearing will allow him to recommence work as a part time General Practitioner and for his suspension to be lifted to enable him to do 4 sessions a week and 4 sessions of non-clinical work at the Practice, supported by a senior practitioner.

26. Mr Hockton submitted that Dr Khan had demonstrated extensive insight, remediation and remorse into his conduct and taken steps to address the concerns of the 2018 Tribunal. He submitted that there is strong public interest in accepting that Dr Khan had served his sanction and adopted a model approach in addressing those concerns raised. He submitted that there are no clinical concerns and invited the Tribunal to find that Dr Khan’s fitness to practise was no longer impaired.

The Relevant Legal Principles

27. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal’s judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practice.

28. This Tribunal must determine whether Dr Khan’s fitness to practise is impaired today, taking into account Dr Khan’s conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.
The Tribunal’s Determination on Impairment

29. The Tribunal notes that the 2018 Tribunal imposed a period of suspension to mark the seriousness of Dr Khan’s misconduct and to meet the overarching objective.

30. This Tribunal has considered the written and oral evidence presented today which demonstrates the steps taken by Dr Khan to understand and address his previous misconduct. It considered that the concerns raised by the Tribunal in 2018 were over a three month period and were all part of the same misconduct and dishonesty in relation to Dr Khan’s OOH work, his unavailability at his previous Practice, and his dishonesty in instructing solicitors based on a lie.

31. The Tribunal considers that Dr Khan has fully engaged with the remediation process and has been proactive in addressing the matters raised by the 2018 Tribunal. The Tribunal considered Dr Khan’s reflective statement in which he accepts and acknowledges the findings made against him. He offered his sincerest apologies and expressed his regret and remorse regarding his unprofessional behaviour and unacceptable actions and conduct. Dr Khan also acknowledged that he had breached Good Medical Practice; the overarching objective of the GMC and had failed to uphold the professional standards expected of a doctor.

32. Dr Khan set out in his reflections and in the remediation he has undertaken how he has addressed the concerns of the 2018 Tribunal. These included looking at the widespread impact of dishonesty and the widespread impact of unprofessional behaviour and conduct on the public and the profession. It considered the extensive CPD he had undertaken to address these matters.

33. The Tribunal also noted that during Dr Khan’s presentation to his colleagues at the Practice, that he had been transparent in discussing his misconduct and dishonesty.

34. The Tribunal considered the extremely positive testimonials of his colleagues past and present. It had particular regard to one from Dr C, dated 4 August 2019, in which she stated:

“I understand that he has made a presentation to all the clinical staff of all professional specialties, in the surgery he is hoping to rejoin, of the matters that took him before the GMC and how patients he cared for and professionals who worked with him were affected and what he has done to remedy his shortcomings. This was conducted in an open and facilitative manner so that all the clinical professionals could learn from his case.”

35. The Tribunal considered this testimonial significant because it showed Dr Khan’s insight into his previous dishonesty, demonstrating that he has taken on
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board the concerns raised by the 2018 Tribunal. It also considered that this, and the other testimonials, demonstrate how valued Dr Khan is at the Practice. The Tribunal considered it significant that Dr Khan had been employed at the Practice from 2016 and that his colleagues, in the full knowledge of his misconduct and dishonesty and resulting suspension at the 2018 hearing, both supported him and employed him as a non-clinical Practice Manager since his suspension.

36. The Tribunal noted that there is significant evidence of CPD; Dr Khan’s attendance at Practice clinical meetings, evidence of his undertaking and updating Practice policies and his work in relation to safeguarding patients. It also considered Dr Khan’s Educational and Pastoral Development Plans, and his Professional Development Plan specifically targeting the concerns raised by the 2018 Tribunal.

37. The Tribunal went on to consider whether Dr Khan had kept his knowledge and skills up to date. It noted the evidence that he had been observing GPs at the Practice, attending clinical meetings and undertaking online learning and had undertaken an ethics course.

38. The Tribunal considers that Dr Khan has fully reflected on his dishonesty and demonstrated full insight. In addition, Dr Khan has kept his clinical knowledge and skills up to date and has continued to maintain his CPD. The Tribunal determined that Dr Khan has addressed the concerns of the 2018 Tribunal satisfactorily.

39. The Tribunal were satisfied that the concerns in relation to the prescribing of unlicensed drugs had been remediated by his acceptance that he had acted outside of his competence and demonstrating how he would act differently, and more appropriately, if faced with a similar situation in the future. The Tribunal found that there was no risk of repetition.

40. The Tribunal was also satisfied that Dr Khan has accepted the findings made against him. He has undertaken reflection and fully appreciates the gravity of his misconduct and the impact of such conduct on patients, public confidence in the profession and the profession as a whole. Furthermore, the Tribunal considers that Dr Khan has demonstrated insight and remorse. In the circumstances, the Tribunal considers that Dr Khan is unlikely to repeat any of the misconduct found.

41. The Tribunal determined that the public interest in this case with regards Dr Khan’s dishonesty had been met with the sanction of 12 months suspension and that public confidence in the profession would not be undermined if a doctor who had demonstrated such extensive efforts of remediation were allowed to return to clinical practice.

42. The Tribunal finds that Dr Khan’s fitness to practise is no longer impaired.
The Tribunal determined to allow the 12 month suspension imposed by the 2018 Tribunal to be completed by Dr Khan. This reflects the seriousness of his misconduct, which was the principal reasoning for the 2018 Tribunal for imposing that sanction.

Confirmed
Date 29 August 2019

Mr Robert Ward, Chair