Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Date: 26/09/2019
Medical Practitioner’s name: Dr Amir MIR

GMC reference number: 5083560
Primary medical qualification: MB BS 1984 University of Peshawar

Type of case
Outcome on impairment
Review - Deficient professional performance Impaired

Summary of outcome
Conditions, 18 months
Review hearing directed

Tribunal:

<table>
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<tr>
<th>Legally Qualified Chair</th>
<th>Mrs Jayne Wheat</th>
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<tbody>
<tr>
<td>Lay Tribunal Member:</td>
<td>Mr Peter Scofield</td>
</tr>
<tr>
<td>Medical Tribunal Member:</td>
<td>Dr Priyanka Saigal</td>
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</tbody>
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Tribunal Clerk: Ms Keely Crabtree

Attendance and Representation:

<table>
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<th>Medical Practitioner:</th>
<th>Present and represented</th>
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<tr>
<td>Medical Practitioner’s Representative:</td>
<td>Mr Christopher Gillespie, Counsel, instructed by RadcliffesLeBrasseur</td>
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<td>GMC Representative:</td>
<td>Ms Elisabeth Acker, 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 partly in public and partly in private.
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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 - 26/09/2019

Hearing in Private

1. The Tribunal agreed, in accordance with Rule 41XXX of the General Medical
   Council (GMC) (Fitness to Practise) Rules 2004, as amended (‘the Rules’), that parts
   of this hearing should be heard in private where the matters under consideration are
   confidential, namely where they involve XXX. As such, this determination will be read
   in private but a redacted version will be published following the conclusion of this
   hearing, with those matters relating to XXX removed.

Impairment

2. The Tribunal has to decide in accordance with Rule 22(1)(f) of the ‘the Rules’
   whether Dr Mir’s fitness to practise is impaired by reason of deficient professional
   performance.

Background

3. Dr Mir’s case was first considered by a Medical Practitioners Tribunal (MPT) on
   3 to 17 May 2017 (‘the 2017 Tribunal’). The hearing related to concerns regarding
   Dr Mir’s conduct, deficient professional performance XXX.

4. The initial concerns were raised when a statement was submitted to NHS England
   by the Practice Manager at the Cornwallis Surgery (‘the Surgery’) where Dr Mir was
   working as a General Practitioner (GP). Concerns were raised regarding Dr Mir’s fitness
to practise and a local investigation commenced before he was subsequently referred to
the GMC in October 2014.

5. The facts found proved at the 2017 Tribunal hearing included that, on 27
   November 2014, Dr Mir completed a Work Details Form in which he failed to provide
confirmation of sessional work undertaken for integrated care during the previous six
months. Further, that on 18 December 2014 while working at the Surgery Dr Mir had
acted in an inappropriate manner towards an individual in the presence of a patient
during a meeting. Further, that on 26 February 2015, that Dr Mir emailed the Associate
Medical Director for an Out of Hours Service in relation to an interim orders Tribunal
hearing that day, when he failed to advise that conditions had been imposed on his
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registration. Further, that on 12 June 2015 Dr Mir completed a work details form in which he stated that he had not worked for 'IC24' in the prior six months. The 2017 Tribunal found that Dr Mir’s actions had been misleading in some respects but not dishonest.

6. In relation to deficient professional performance, the 2017 Tribunal found that, having undergone a GMC Performance Assessment in July 2015, Dr Mir’s performance was unacceptable in the domains of ‘Assessment’, ‘Clinical Management’, ‘Relationships with Patients’ and ‘Working with Colleagues’, and a cause for concern in the domain of ‘Record Keeping’.

7. XXX.

8. The 2017 Tribunal determined that Dr Mir’s fitness to practise was impaired by reason of his deficient professional performance XXX. It did not find that Dr Mir’s fitness to practise was impaired by reason of misconduct.

9. The 2017 Tribunal determined to impose conditions on Dr Mir’s registration for a period of 24 months and directed a review hearing. The 2017 Tribunal determined that the period of 24 months would allow Dr Mir sufficient time to find a suitable supervised position in which he could address his deficient performance whilst also preparing for any new Performance Assessment.

Review on the Papers - 3 May 2019

10. Dr Mir’s case was reviewed on the papers by a Legally Qualified Chair (LQC) on 3 May 2019.

11. In relation to deficient professional performance, the LQC had regard to educational supervision reports that there were no concerns and Dr Mir was making satisfactory progress. However, the outcome of a new GMC Performance Assessment was still awaited.

12. XXX.

13. The LQC determined that Dr Mir’s fitness to practise remained impaired by reason of deficient professional performance XXX.

14. The LQC determined to impose conditions on Dr Mir’s registration for a period of four months. The LQC considered that the conditions in respect of Dr Mir’s performance would be proportionate and sufficient to protect patients, maintain public confidence in the profession and declare and uphold proper standards of conduct and behaviour.
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15. The LQC considered that XXX. He directed that varied conditions relating to Dr Mir’s performance would permit him an opportunity to complete the Performance Assessment process in advance of a further review before a full Tribunal.

16. The Legally Qualified Chair had no power to order a review hearing and therefore the Assistant Registrar directed today’s review.

Documentary Evidence

17. The Tribunal has taken into account all the evidence received.

18. In an email dated 23 June 2019, Dr Mir informed the GMC that he had finished with the Performance Assessment on 10 June 2019 and was planning to return to work, for two sessions per week, from 1 July 2019. He confirmed that he understood that he would need to restart his clinical supervision meetings with Dr Z and that the GMC would be expecting monthly reports.

19. The Tribunal had regard to an email from Dr Mir to his employers and the GMC dated 21 July 2019 in which he confirmed that he had cancelled his work shifts from 26 July 2019 due to a family bereavement and personal family circumstances that he would need to deal with.

20. The Tribunal took account of the number of Continuing Professional Development (CPD) course certificates provided by Dr Mir to the GMC. It noted that two of these certificates, namely the Telephone Consultation Skills course dated the 18 July 2019 and his attendance at the East Kent Respiratory Network Annual Conference on 15 June 2019, were undertaken during or shortly after the Performance Assessment was completed.

21. The Tribunal also had regard to the Performance Assessment report dated 27 July 2019, which had been completed following assessment by the Assessment Team (‘The Team’) conducted in May and June 2019. The Team found Dr Mir’s performance to be acceptable in the domain of ‘Working with Colleagues’ but unacceptable in the domains of ‘Maintaining Professional Performance’, ‘Assessment’, ‘Clinical Management’, ‘Record keeping’ and ‘Relationships with Patients’. Dr Mir had scored 60.83% in the Knowledge Test, which was below the Standard Set Score.

22. The Team noted that, at the time of the assessments, Dr Mir had not worked in clinical practice since December 2018 and that he had worked two days per week for a year prior to that, having not worked in clinical practice from August 2015 to January 2018. The overall conclusion of the Performance Assessment Team was that Dr Mir’s performance had been found to be deficient and that he was fit to practise on a limited basis.
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23. The Team recommended that Dr Mir should continue to work under supervision for a further 12 months, under close supervision initially, and work with his Clinical and Educational Supervisor to address the unacceptable areas found in the report. They made a recommendation that Dr Mir be supervised by a different Clinical Supervisor and that a detailed, structured educational programme with regular timetabled meetings with his Clinical Supervisor be included, and records kept of these meetings a part of Dr Mir’s Personal Development Plan (PDP). The Team made reference to Dr Mir updating his PDP and that he should demonstrate the improvement in his knowledge base at the end of the period of supervision by way of re-sitting the Knowledge Test or some other objective assessment of knowledge.

GMC Submissions

24. In summary, on behalf of the GMC, Ms Acker submitted that Dr Mir’s fitness to practise remains impaired by reason of deficient professional performance. Ms Acker submitted that in light of Dr Mir’s recent Performance Assessment he is not currently fit to practise without restrictions. Ms Acker referred the Tribunal to the various sections of the Performance Assessment and to the conclusions of The Team.

Submissions on Dr Mir’s behalf

25. Mr Gillespie submitted that Dr Mir does not seek to challenge the Performance Assessment report dated 27 July 2019 and accepts its findings having had time to reflect on the Assessment in its entirety. Mr Gillespie stated that he had no further submissions to make to the Tribunal regarding its decision upon impairment.

The Relevant Legal Principles

26. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal’s judgement alone. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practice.

27. This Tribunal must determine whether Dr Mir’s fitness to practise is impaired today, taking into account Dr Mir’s performance at the time of the events and any relevant factors since then, such as whether the matters are remediable, have been remedied and if there is a likelihood of repetition.

The Tribunal’s Determination on Impairment

Deficient Professional Performance

28. The Tribunal noted that both parties accept that Dr Mir’s fitness to practise is currently impaired by reason of deficient professional performance.
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29. The Tribunal had regard to the findings of The Team, including that Dr Mir remains fit to practise with restrictions. It took account of the domains which were found to be unacceptable in the report and the recommendations expressed by The Team.

30. The Tribunal noted that Dr Mir ceased work in December 2018. He intended to restart his twice weekly sessions from the 1 July 2019. It was not clear if this happened, but certainly Dr Mir appears not to have worked since the 26 July 2019 as per his email of that date. The Tribunal was mindful of the conclusions of The Team in its Performance Assessment report. It considered the documentation provided regarding remediation, but noted that almost all of this information predated the recent Performance Assessment, save for the CPD certificates already highlighted. In light of this and the short period of time that has passed since the outcome of the Performance Assessment, it concluded that limited remediation had taken place.

31. The Tribunal has had regard to 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.

32. The Tribunal considered that in light of the significant deficiencies highlighted in the Performance Assessment, all three limbs of the overarching objective were engaged. With regards to the third limb, the Tribunal concluded that the promotion and maintenance of proper professional standards incorporated the clinical competence of medical practitioners. Having had regard to all the circumstances above, the Tribunal has determined that Dr Mir’s fitness to practise remains impaired by reason of deficient professional performance.

Determination on Sanction - 26/09/2019

1. Having determined that Dr Mir’s fitness to practise is impaired by reason of deficient professional performance, the Tribunal now has to decide in accordance with Rule 22(h) of the Rules what action, if any, it should take with regard to Dr Mir’s registration.

The Evidence

2. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing where relevant to reaching a decision on what action, if any, it should take with regard to Dr Mir’s registration.
GMC Submissions

3. Ms Acker submitted that conditions are appropriate in this case given the deficient performance concerns. She highlighted that conditions are particularly appropriate in order to address such issues. Ms Acker referred to a number of paragraphs within the Sanctions Guidance (6 February 2018) (‘the SG’).

4. Ms Acker submitted that Dr Mir does have insight into his performance, albeit that progress was still required. She stated that Dr Mir has turned up to this hearing, had a positive attitude to date and has complied with conditions imposed previously.

5. Ms Acker referred to the domains identified in the Performance Assessment report and submitted that the Tribunal should have regard to the recommendations of the Assessment Team. She asked the Tribunal to vary the conditions imposed on Dr Mir’s registration to accommodate the recommendations made within the report.

Submissions on Dr Mir’s behalf

6. Mr Gillespie stated that the Tribunal has had regard to the structured and detailed Performance Assessment report and referred to the findings of the Assessment Team that Dr Mir is fit to practise with restrictions. He submitted that it was for the Tribunal to determine how the conclusions of that report affect Dr Mir’s position. Mr Gillespie submitted that the concerns can properly be managed by a period of conditional registration to ensure that the public interest issues are met.

7. Mr Gillespie submitted that Dr Mir has shown commitment to his career, has taken these proceedings seriously and has worked extremely hard to remedy his actions. He submitted that Dr Mir has full insight into the issues in the report and is committed to rectifying deficiencies. Mr Gillespie stated that Dr Mir is aware of the need for close supervision.

The Tribunal’s Determination on Sanction

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.

9. In reaching its decision, the Tribunal has taken account of the SG and of the overarching objective. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Mir’s interests with the public interest. 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 the sanction may have a punitive effect.

No action
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10. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Mir’s case, the Tribunal first considered whether to conclude the case by taking no action.

11. Paragraph 163 of the SG states that:

‘163. It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.’

12. Therefore the Tribunal determined it would be neither sufficient, proportionate nor in the public interest to conclude this case by taking no action.

Conditions

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

14. The Tribunal considered the SG, in particular paragraphs 81(b), 82(a) to (d), 83, and 84(a) to (c).

15. The Tribunal considered that Dr Mir had demonstrated considerable insight into his deficient professional performance. He had reflected upon, and fully accepted, the Performance Assessment findings. He had already sought out alternative practices where he could be closely supervised in line with the Performance Assessment recommendations.

16. The Tribunal was impressed with Dr Mir’s acknowledgement that a new supervisor would be of assistance to him in his learning and development.

17. The Tribunal heard that Dr Mir has nearly completed a Masters qualification and agreed with Mr Gillespie’s submission that this demonstrated commitment, both to learning and to furthering his career.

18. The Tribunal had regard to the documentation provided by Dr Mir entitled ‘Remediation Bundle’. This was information provided to the Performance Assessors which, in the Tribunal’s opinion, demonstrated a willingness to address his deficiencies. The information was detailed and contained comprehensive reflective pieces.

19. The Tribunal concluded that the Performance Assessment had identified clear areas of Dr Mir’s practice that could be improved and that Dr Mir has the potential to positively respond to remediation and retraining. Further, the Tribunal concluded that Dr Mir would comply with any conditions directed. Therefore, the Tribunal
determined that a further period of conditional registration was appropriate, measurable, workable and proportionate.

20. The Tribunal concluded that it is appropriate, necessary and proportionate to impose conditions on Dr Mir’s registration for a period of 18 months.

21. In determining the length of the direction, the Tribunal sought to ensure that Dr Mir would have sufficient time to obtain suitable employment, progress his Personal Development Plan, and undertake a further Performance Assessment if so required. It therefore determined that a period of 18 months of conditional registration would be appropriate and proportionate.

22. The Tribunal noted that the new order of conditions will be varied to reflect the recommendations of the Performance Assessors, to include close supervision by a supervisor who has not previously undertaken this role. In all the circumstances, the Tribunal determined that this order of conditions would meet the overarching objective and ensure appropriate safeguards are in place.

23. The following conditions relate to Dr Mir’s employment and will be published:

1. He must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:

   a. the details of his current post, including:

      i. his job title
      ii. his job location
      iii. his responsible officer (or their nominated deputy)

   b. the contact details of his employer and any contracting body, including his direct line manager

   c. any organisation where he has practising privileges and/or admitting rights

   d. any training programmes he is in

   e. of the organisation on whose medical performers list he is included

   f. of the contact details of any locum agency or out of hours service he is registered with.

2. He must personally ensure the GMC is notified:

   a. of any post he accepts, before starting it
b. that all relevant people have been notified of his conditions, in accordance with condition 15.

c. 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

d. if any of his posts, practising privileges or admitting rights have been suspended or terminated by his employer before the agreed date within seven calendar days of being notified of the termination

e. 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 appointed by his responsible officer (or their nominated deputy).

b. He must not work until:

   i. his responsible officer (or their nominated deputy) has appointed his workplace reporter
   ii. he has personally ensured that the GMC has been notified of the name and contact details of his workplace reporter.

5. a. He must design a personal development plan (PDP), with specific aims to address the deficiencies in the following areas of his practice:

   i. Maintaining Professional Performance
   ii. Assessment
   iii. Clinical Management
   iv. Record keeping
   v. Relationship with patients

b. His PDP must be approved by his responsible officer (or their nominated deputy).

c. He must give the GMC a copy of his approved PDP within three months of these substantive conditions becoming effective.

d. He must give the GMC a copy of his approved PDP on request.
e. He must meet with his responsible officer (or their nominated deputy), as required, to discuss his achievements against the aims of his PDP.

6. a. He must have an educational supervisor appointed by his responsible officer (or their nominated deputy)

b. He must not work until:

   i. His responsible officer (or their nominated deputy) has appointed his educational supervisor
   ii. He has personally ensured that the GMC has been notified of the name and contact details of his educational supervisor.

7. He must only work as a GP.

8. He must only work in a group practice setting where there is a minimum of two GP partners or employed GPs (excluding himself). The GPs must be partners or permanently employed GPs who are on the GP register (this excludes locum staff).

9. He must get the approval of the GMC before working in a non-NHS post or setting.

10. a. He must get the approval of his responsible officer (or their nominated deputy), before working as:

    i. a locum / in a fixed term contract
    ii. out-of-hours
    iii. on-call.

b. He must not work until:

   i. His responsible officer (or their nominated deputy) has confirmed approval
   ii. He has personally ensured that the GMC has been notified of the approval of his responsible officer (or their nominated deputy).

11. He must not work in any locum post or fixed term contract of less than three months duration.

12. a. He must be closely supervised in all of his posts by a clinical supervisor, as defined in the Glossary for undertakings and conditions. His clinical supervisor must be appointed by his responsible officer (or their nominated deputy) and must not previously have acted in that capacity in respect of Dr Mir.
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b. He must not work until:
   
i. His responsible officer (or their nominated deputy) has appointed his clinical supervisor and approved his supervision arrangements
   
ii. He has personally ensured that the GMC has been notified of the name and contact details of his clinical supervisor and his supervision arrangements.

13. He must personally ensure his Performance Assessment report dated 27 July 2019 is shared with:

   a. his responsible officer (or their nominated deputy)
   
   b. the responsible officer of the following organisations:
       
i. his place(s) of work, and any prospective place of work (at the time of application)
   
   ii. all his contracting bodies, and any prospective contracting body (prior to entering a contract)

   iii. any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)

   iv. any locum agency or out of ours service he is registered with

   v. If any organisation listed at (i – iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify the correct person, he must contact the GMC for advice before working for that organisation.

   c. the responsible officer for the medical performers list on which he is included or seeking inclusion (at the time of application)

   d. his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts)

   e. his workplace reporter and educational supervisor and clinical supervisor.

14. He must undertake an assessment of his performance, if requested by the GMC.

15. He must personally ensure the following persons are notified of the conditions listed at 1 to 14:
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a. his responsible officer (or their nominated deputy)

b. the responsible officer of the following organisations

i. His place(s) of work, and any prospective place of work (at the time of application)

ii. all his contracting bodies and any prospective contracting body (prior to entering a contract)

iii. any organisation where he has, or has applied for, practising privileges and/or admitting rights (at the time of application)

iv. any locum agency or out of hours service he is registered with.

v. If any of the organisations listed at (i to iv) does not have a responsible officer, he must notify the person with responsibility for overall clinical governance within that organisation. If he is unable to identify this person, he must contact the GMC for advice before working for that organisation.

c. the responsible officer for the medical performers list on which he is included or seeking inclusion (at the time of application)

d. his immediate line manager and senior clinician (where there is one) at his place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

Review hearing directed

24. The Tribunal determined to direct a review of Dr Mir’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 Mir to demonstrate how he has remediated and developed further insight, and why he should return to unrestricted practise.

25. The Tribunal has directed a further period of conditional registration for a period of 18 months. The MPTS will send Dr Mir a letter informing Dr Mir of his right of appeal and when the direction and the new sanction will come into effect. The current order of conditions will remain in place during the appeal period.

26. That concludes this case.

Confirmed
Date 26 September 2019
Mrs Jayne Wheat, Chair