Record of Determinations –
Medical Practitioners Tribunal

PUBLIC RECORD

**Dates:** 18/01/2019 & 1 March 2019

**Medical Practitioner’s name:** Dr Amitabh KUMAR

**GMC reference number:** 7053276

**Primary medical qualification:** MBBS 1996 Lucknow University - King George’s Medical College

**Type of case**

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<th>Review - Misconduct</th>
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**Summary of outcome**

Suspension, 6 months, review directed

**Tribunal:**

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<td>Mr Kenneth Hamer</td>
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<td>Lay Tribunal Member:</td>
<td>Mr Sean Ell</td>
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<td>Medical Tribunal Member:</td>
<td>Dr Niranjani Atherton</td>
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<th>Role</th>
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<tr>
<td>Tribunal Clerk</td>
<td>Miss Jan Smith</td>
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**Attendance and Representation:**

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<td>Medical Practitioner’s Representative:</td>
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<td>GMC Representative:</td>
<td>Mr Kevin Slack, 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.

Determination on Impairment - 18/01/2019

1. The Tribunal has been provided with the background to Dr Kumar’s case, which was first considered by a Fitness to Practise Panel in July 2015 (the 2015 Panel). The Tribunal does not intend to rehearse the full background of Dr Kumar’s case, but has had regard to the determinations of the previous Panel and Tribunals and it has taken those matters into account fully when reviewing Dr Kumar’s case today.

2015 Panel

2. The matters which gave rise to the findings of the 2015 Panel are set out below.

- On 18 April 2014, whilst travelling on public transport, namely the top deck of a bus, Dr Kumar touched the neck and hair of a 15 year old girl and used his foot to rub her leg. This girl was unknown to him;
- He was arrested and detained by police on the same date. The next day he was interviewed and released on bail;
- On 14 July 2014 he was charged with an offence, contrary to section 3 of the Sexual Offences Act 2003;
- Having indicated a guilty plea on 25 July 2014, he was subsequently convicted on 15 August 2014 at Bradford and Keighley Magistrates’ Court of a sexual assault and sentenced to a community order for 60 days. He was also ordered to pay compensation and placed on the Sexual Offenders Register for five years from 25 July 2014; and
- He did not notify the GMC of his charge or conviction.

3. The 2015 Panel determined that it had no doubt that the offences for which Dr Kumar was convicted were serious. This was a sexual assault on a 15 year old girl, unknown to you, on a bus in a public place. It considered that the facts of the conviction breached a fundamental tenet of the profession. The 2015 Panel determined that Dr Kumar’s fitness to practise was impaired by reason of his conviction and by reason of his misconduct.

4. The 2015 Panel determined to suspend Dr Kumar’s registration for a period of 12 months and made a number of suggestions as to what evidence he should produce at the review hearing.
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2016 Tribunal

5. Dr Kumar’s case was first reviewed in July 2016. The 2016 Tribunal found that he had not produced sufficient objective evidence to demonstrate that he had adequately addressed the 2015 Panel’s recommendations. As a result, the 2016 Tribunal was not satisfied that Dr Kumar had fully appreciated the gravity of the offence and considered that he had continued to demonstrate a lack of insight. Neither was it satisfied that Dr Kumar would not repeat the behaviour which brought him before the 2015 Panel. Furthermore, the Tribunal was of the view that patients would be placed at risk by his resumption of practice or by the imposition of conditional registration.

6. In those circumstances, the 2016 Tribunal determined that Dr Kumar’s fitness to practise remained impaired by reason of his conviction and misconduct. It determined to suspend Dr Kumar’s registration for a period of 12 months to allow him time to reflect and gain further insight into the seriousness of his conviction and misconduct, and to remediate the concerns raised.

2017 Tribunal

7. Dr Kumar’s case was reviewed again in July 2017 and that Tribunal concluded that Dr Kumar had made some attempts to address the 2016 Tribunal’s recommendations. It was satisfied that, taking into account the documentary and oral evidence provided, he would not repeat his behaviour which first brought him before the Tribunal. Accordingly, the Tribunal determined that Dr Kumar’s fitness to practise was no longer impaired by reason of his conviction.

8. In relation to whether Dr Kumar had maintained his skills and knowledge, the Tribunal found the lack of evidence in this area was of concern. The Tribunal could not be satisfied that patients would not be placed at risk should Dr Kumar resume clinical practice unrestricted. It concluded that Dr Kumar’s fitness to practise remained impaired by reason of his misconduct, in particular his failure to adequately address the 2016 Tribunal’s recommendation to keep his knowledge and skills up to date. The Tribunal determined to impose a further period of suspension for a period of 9 months.

2018 Tribunal

9. A Tribunal reviewed Dr Kumar’s case in May 2018. At that hearing, the Tribunal was provided with extensive material to demonstrate the efforts that Dr Kumar had taken to comply with the recommendations of the 2017 Tribunal. However, the 2018 Tribunal recognised that, whilst Dr Kumar had been out of clinical practice since 2011, he had only been able to identify possible clinical attachments, which were subject to checks, a short time before the commencement of the hearing.
10. The 2018 Tribunal considered that it was vital that Dr Kumar gains sufficient experience in a clinical setting before he was fit to return to practice. Dr Kumar conceded that he needed further work in a clinical setting to build his confidence and to increase his medical knowledge and skills. The 2018 Tribunal considered that patients may be at risk if Dr Kumar was allowed to return to unrestricted practice or to practise with restrictions.

11. The 2018 Tribunal noted the decision of the 2017 Tribunal that Dr Kumar’s fitness to practise was not impaired by reason of his conviction. That Tribunal said that it took a different view in the light of Dr Kumar remaining on the Sex Offenders Register until 25 July 2019. The 2018 Tribunal’s determination implied that Dr Kumar’s fitness to practise remained impaired by reason of his conviction.

12. The 2018 Tribunal stated that it therefore concluded that the need to protect and maintain public confidence in the profession and professional standards of conduct for the members of the profession, would be undermined if a finding of impairment was not made in Dr Kumar’s case.

13. The 2018 Tribunal concluded that a finding of impairment was required to protect patients and the wider public interest. It determined that Dr Kumar’s fitness to practise remained impaired on public protection grounds, although it did not specifically determine that it was impaired by reason of his misconduct alone or by his conviction as well as his misconduct.

14. The 2018 Tribunal then went on to consider what sanction, if any, would be appropriate “after making a finding of impaired fitness to practise because of misconduct”. It acknowledged that Dr Kumar had made progress to remediate his conduct by undertaking Continuing Professional Development (CPD) activities and online study, although there was a paucity of evidence to demonstrate that he had maintained his clinical skills and knowledge in a clinical setting. The Tribunal was of the view that Dr Kumar must undertake clinical attachments in order to develop his skills in a clinical setting. It concluded that a further period of suspension would allow Dr Kumar the time to seek and complete clinical attachments as well as continuing with his ongoing CPD activities and online studies. The 2018 Tribunal determined to suspend Dr Kumar’s registration for a period of 8 months.

15. The 2018 Tribunal determined that Dr Kumar’s case should be reviewed. A Tribunal would review his case at a hearing to be held shortly before the end of the period of suspension and consider whether it is necessary to take any further action on his registration. It considered that the Tribunal reviewing Dr Kumar’s case may be assisted by the following:

- Evidence of clinical attachments sought and completed;
- Testimonials from colleagues to demonstrate satisfactory progress in clinical attachments;
Today's Review Hearing

16. The Tribunal has considered, under Rule 22(f) of the General Medical Council Fitness to Practise Rules ('the Rules'), whether Dr Kumar’s fitness to practise is impaired by reason of misconduct. It considered the submissions made by Mr Kevin Slack, Counsel, on behalf of the GMC, and those made by Dr Kumar. It has also taken account of the documentary evidence provided to it.

Documentary Evidence

17. The Tribunal has taken account of the following documents which Dr Kumar has provided for this Tribunal’s consideration. These include, but are not limited to:

- Various CPD certificates
- Evidence of self study
- XXX
- Email correspondence relating to a clinical attachment at Bradford Teaching Hospital
- Email correspondence regarding a proposed clinical attachment at Avon and Wiltshire Mental Health Partnership NHS Trust
- Email correspondence between Dr Kumar and the North West Boroughs Healthcare NHS Foundation Trust

18. Dr Kumar referred to the CPD activity and self study he had undertaken but referred, in particular, to the correspondence with the North West Boroughs Healthcare NHS Foundation Trust. He told the Tribunal that this was confirmation that he was to attend XXX with this Trust on Friday 25 January and that, providing no problems arose during the meeting, he was optimistic that he would be considered for a clinical attachment.

GMC Submissions

19. Mr Slack, on behalf of the GMC, submitted that Dr Kumar’s fitness to practise remains impaired both by reason of his conviction and his misconduct. He submitted that Dr Kumar remains on the Sex Offenders Register until July 2019 and referred the Tribunal to paragraph 154 of the Sanctions Guidance (SG) which states that “no doctor who is registered as a sex offender should hold unrestricted registration”. Mr Slack reminded the Tribunal that, whilst Dr Kumar had undertaken a reasonable amount of CPD activity and self study, he had not undertaken any clinical attachments as requested by previous Tribunals. Mr Slack told the Tribunal that Dr Kumar had last practised medicine in 2010 and that he had been in a clinical attachment in January 2011.
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20. Mr Slack submitted that if, contrary to his primary case, that Dr Kumar’s fitness to practise remains impaired both because of his conviction and his misconduct, then Dr Kumar’s fitness to practise remains impaired by reason of his misconduct. He submitted that, although the misconduct was based on the fact that Dr Kumar had failed to notify the GMC of his conviction, he continues to be included on the Sex Offenders Register. Furthermore, Mr Slack submitted that Dr Kumar has now become de-skilled because his medical knowledge and skills are out of date.

Dr Kumar’s Submissions

21. Dr Kumar submitted that he accepts that his fitness to practise remains impaired as he continues to be included on the Sex Offenders Register. He told the Tribunal that he believes that the circumstances of his conviction and his subsequent suspension from the Medical Register are barriers to him being offered a clinical attachment. He said he was aware that he needed to update his medical knowledge and experience but, despite his best efforts, he had not been able to obtain any clinical attachment at all.

22. Dr Kumar believed that the imposition of conditions on his registration would allow him to demonstrate to health authorities that he was in a position undertake a clinical attachment. He gave an undertaking that he would not seek paid employment during this period of conditional registration and that he would use the time solely to undertake clinical attachments and improve his medical knowledge. Dr Kumar contended that, until he could obtain suitable clinical attachments, he would never be able to fulfil the requirements of his professional regulator.

The Relevant Legal Principles

23. The Tribunal reminded itself that at a review hearing, the persuasive burden falls upon the doctor to show how his conduct has been remediated, in order to demonstrate that he is no longer impaired. The decision as to whether Dr Kumar’s fitness to practise remains impaired is a matter for this Tribunal alone, exercising its own judgment.

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

25. Throughout its deliberations, the Tribunal has borne in mind the statutory overarching objective, which includes to:

   a. protect and promote the health, safety and wellbeing of the public
   b. promote and maintain public confidence in the medical profession
The Tribunal’s Decision

26. The Tribunal has taken into account the determinations of the previous Tribunals and Panel. In particular it noted that the 2018 Tribunal did not share the view of the 2017 Tribunal that Dr Kumar’s fitness to practise was no longer impaired by reason of his conviction. This Tribunal has born in mind paragraphs 21 – 25 of the determination on impairment of the 2017 Tribunal which states:

“21. The Tribunal has noted that you have not reoffended. Notwithstanding that, it has borne in mind that you remain on the Sex Offenders Register. The Council of the GMC has made it clear that no doctor registered as a sex offender should have unrestricted registration. However, the Tribunal has been presented with evidence XXX that you XXX are not prevented from working with children and adults.

22. As noted above, the 2016 Tribunal set out the matters that a future Tribunal would wish to be assisted by. The Tribunal is aware that it must be satisfied that a doctor would be safe to return to unrestricted practice at a review hearing. In the Tribunal’s opinion you have submitted some useful evidence from which it is clear that you have not shifted from your position, namely that you genuinely cannot recall the incident which led to your conviction. You have been consistent in this from the outset and maintained this position to date. In the Tribunal’s view you have engaged in some work and taken steps in remediation. Your reflective statement gave a detailed insight into your thoughts and given that it was written without the benefit of legal advice it is clear that you have given a raw account of all of the thoughts about this matter. Although elements of your written statement were concerning, in your oral evidence you were frank and open in a way that enabled the Tribunal to take your evidence at face value. It found you to be genuine and honest. Your approach and attitude was that if the incident did take place, then it is inexcusable and indefensible. You did not seek to diminish the seriousness of the incident or the gravity of the offence for which you were convicted. Although you have questioned the fact of the conviction, you have not disputed the significance of it. You displayed deep remorse and in the circumstances where you genuinely cannot recall what you did, the Tribunal considers your level of remorse to have been deep and heartfelt.

23. As to the other evidence produced, the Tribunal considers that it demonstrates that you have attempted to address the 2016 Tribunal’s recommendations. It fully understands the reasons why you have been unable to produce XXX. It is this Tribunal’s view XXX is not necessary given there is no evidence of your being an ongoing risk. The report from the probation service
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is that you are a low risk on a here and now basis XXX. Therefore, this Tribunal will not be placing such a requirement on you. The Tribunal was in the main considering your insight and it has concluded that you have demonstrated exceptional insight. It is satisfied that you have now fully appreciated the gravity of the offence. The Tribunal considers that you have demonstrated insight into the matters which have brought you before it. In these circumstances, it is satisfied that you would not repeat the behaviour which brought you before it. Accordingly, the Tribunal finds that you are no longer impaired by reason of your conviction.

24. However, in relation to whether you have maintained your skills and knowledge, the Tribunal has been presented with some evidence, but considers it to be insufficient. You have acknowledged that you require further remediation in this area and have told the Tribunal what you propose to do in order to make progress. You wish to secure further clinical observations and also wish to increase your knowledge in particular in the field of psychiatry. Given your concession, and the lack of evidence of remediation in the area of your knowledge and skills, the Tribunal could not be satisfied that patients would not be placed at risk by resumption of practice or by the imposition of conditional registration.

25. The Tribunal has concluded that the need to maintain public confidence in the profession and to promote and maintain proper professional standards and conduct for members of the profession, would be undermined if a finding of impairment were not made in your case. In all the circumstances, the Tribunal has determined that your fitness to practise is currently impaired by reason of your misconduct, being your failure to adequately address the 2016 Tribunals recommendation to keep your knowledge and skills up to date.”

27. This Tribunal noted from paragraph 23 above that the 2017 Tribunal found that Dr Kumar’s fitness to practise was no longer impaired by reason of his conviction and that the finding of impairment was by reason solely of misconduct. The only reason given for the 2018 Tribunal’s decision that Dr Kumar’s fitness to practise may still be impaired by reason of his conviction was because he remained on the Sex Offenders Register. There was no further evidence before the 2018 Tribunal than was before the 2017 Tribunal. This Tribunal considers that, Dr Kumar, having been told in July 2017 that his fitness to practise was no longer impaired by reason of his conviction, it would be unfair, in the absence of fresh evidence, to go behind the determination of the 2017 Tribunal. Furthermore, this Tribunal notes that in its determination the 2017 Tribunal was aware that Dr Kumar remained on the Sex Offenders Register.

28. Accordingly, this Tribunal accepts that the 2017 Tribunal made a finding of no impairment in relation to Dr Kumar’s conviction and, therefore, the only ground on which it could find current impairment was by reason of misconduct.
29. Whilst this Tribunal recognises that the original misconduct was a failure to inform the GMC that Dr Kumar had been charged and convicted of a criminal offence, it is well established that a practitioner should not be permitted to resume practice if his fitness to practise is impaired; see Taylor v General Medical Council [1990] 2AC 539; Obukofe v General Medical Council [2014] EWHC 408 (Admin); and Khan v General Pharmaceutical Council [2016] UKSC 64. The Tribunal has taken into account the CPD activities and online study that Dr Kumar has undertaken in an effort to bring his medical knowledge and skills up to date. However it has noted that Dr Kumar has been unable to secure a clinical attachment since his previous hearing in May 2018. The Tribunal accepts that it may be difficult to obtain such posts whilst he is included on the Sex Offenders Register. Nevertheless, there is a marked lack of any real evidence to demonstrate that Dr Kumar has been able to maintain his medical knowledge and skills. Indeed, he has been out of medical practice for more than 8 years and, inevitably, will have become de-skilled.

30. The Tribunal also taken into account that Dr Kumar remains on the Sex Offenders Register and will continue to do so for another six months until 25 July 2019.

31. In all these circumstances, the Tribunal has determined that Dr Kumar’s fitness to practise remains impaired by reason of misconduct.

Determination on Sanction - 18/01/2019

1. Having determined that Dr Kumar’s fitness to practise remains impaired by reason of his misconduct the Tribunal now has to decide, in accordance with Rule 22(g) of the Rules, as to the appropriate sanction, if any, to impose.

2. In so doing, the Tribunal has given careful consideration to all the evidence adduced, together with Mr Slack’s submissions on behalf of the GMC and those made by Dr Kumar.

GMC Submissions

3. Mr Slack referred the Tribunal to relevant paragraphs of the Sanctions Guidance (‘SG’) (February 2018) and in particular the paragraphs which relate to review hearings and doctors on the Sex Offenders Register.

4. Mr Slack submitted that nothing has changed since the previous review hearing. Indeed, the passage of time may have increased Dr Kumar’s de-skilling. It was his contention that it was not the suspension of Dr Kumar’s registration which prevented him from obtaining clinical attachments but the fact of being included on the Sex Offenders Register. Mr Slack reminded the Tribunal that whether Dr Kumar
is under conditions or continues to be suspended, he will remain on the Sex Offenders Register until July 2019.

5. Mr Slack submitted that to take no action in Dr Kumar’s case would not be appropriate given that Dr Kumar remains on the Sex Offenders Register. In relation to conditions Mr Slack submitted that these would be inappropriate as a previous Tribunal has stated that it is vital that Dr Kumar undertake a period of clinical work prior to returning to unrestricted medical practice.

6. Accordingly, Mr Slack submitted that the appropriate sanction is one of suspension, to ensure patient safety and to give Dr Kumar a further opportunity to obtain clinical attachments. He conceded that it will be difficult for Dr Kumar to do so because his inclusion on the Sex Offenders Register is impeding his ability to obtain such attachments. Mr Slack also submitted that a period of suspension should include sufficient time for Dr Kumar to organise further clinical attachments.

7. Mr Slack raised a further concern that, in his oral evidence, Dr Kumar had not made it clear how he intended to facilitate his return to clinical practice. He provided a document to all parties, issued by the British Medical Association (BMA), in relation to becoming a mentee. Mr Slack acknowledged that Dr Kumar will have difficulties in making substantial progress whilst he remains on the Sex Offenders Register but submitted that being under the guidance of a mentor will afford him the necessary support and assistance to enable him to move towards his goal of returning to medical practice. In conclusion Mr Slack submitted that the GMC’s position has not changed and that, at the current time, a further period of suspension remains the appropriate sanction.

Dr Kumar’s Submissions

8. Dr Kumar informed the Tribunal that he attended a meeting on 25 January 2019 with the North West Boroughs Healthcare NHS Foundations Trust with a view to obtaining a clinical attachment. He said that the Trust had refused on the grounds that he remained on the Sex Offenders Register. However, the Trust had made it clear to Dr Kumar that he could reapply after 25 July 2019 once he was no longer included on the Sex Offenders Register.

9. In his submissions Dr Kumar told the Tribunal that a further period of suspension will only add to his de-skilling. He said that he wants to remain positive about his intention to obtain clinical attachments to assist him in a return to clinical practice but accepts that this will be difficult to achieve until after 25 July 2019 when he is taken off the Register. Dr Kumar told the Tribunal that his preference was to work in psychiatry or as a General Practitioner as he had previously worked as a general duty medical officer equivalent to a UK GP with a paramilitary organisation in India before coming to the UK.
10. Dr Kumar told the Tribunal that he had watched videos of simulated surgical procedures and had attempted to practise those procedures at home. He said he read medical journals, eg the British Medical Journal, and had resumed online study. He also said that he was regularly attending BMA meetings and watching BMA webinars with which he further reflected on his knowledge. However, he accepted that his continued inclusion on the Sex Offenders Register was an impediment to his ability to make further progress towards returning to practice.

11. Dr Kumar invited the Tribunal to consider the imposition of conditions on his registration. He acknowledged that practical conditions would be difficult to formulate in view of his continued inclusion on the Sex Offenders Register. Dr Kumar told the Tribunal that he was willing to give an undertaking not to seek employment but merely to attempt to find placements where he could observe clinical and non-clinical work.

**The Tribunal’s Approach**

12. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement.

13. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

14. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Kumar’s interests with the public interest. It has taken account of the overarching objective, which includes the protection of the public, the maintenance of public confidence in the profession, and the promoting and maintaining of proper professional standards and conduct for members of the profession.

15. The Tribunal has already given a detailed determination on impairment and has taken those matters into account during its deliberations on sanction.

**No Action**

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

17. The Tribunal has borne in mind that Dr Kumar remains on the Sex Offenders Register until 25 July of this year, and that the GMC guidance makes it clear that no doctor registered as a sex offender should have unrestricted registration. The Tribunal has determined that, in view of this and of its findings on impairment, taking no action would be neither appropriate nor sufficient to protect patients and
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maintain public confidence in the medical profession. It found that there were no exceptional circumstances to justify taking no action in Dr Kumar’s case.

**Conditions**

18. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Kumar’s registration. It has borne in mind that any conditions imposed must be appropriate, proportionate, workable and measureable. The Tribunal noted that Dr Kumar has not been in clinical practice since 2010; indeed he has not practised medicine in the UK at all. However, he successfully passed the Professional Linguistics Assessment Board exam in 2012.

19. The Tribunal has given very careful consideration to Dr Kumar’s submissions that conditions would now be appropriate. It has borne in mind that Dr Kumar has been suspended from the Medical Register for a considerable period of time and that he has not been able to demonstrate that his medical knowledge and skills are sufficient to allow him to return to clinical practice. The Tribunal is of the opinion that no practical or workable conditions could be formulated whilst Dr Kumar remains included on the Sex Offenders Register.

20. In these circumstances, the Tribunal has determined that a period of conditional registration would be inappropriate at the present time and insufficient to uphold the overarching objective, which includes to:

   a. protect and promote the health, safety and wellbeing of the public

   b. promote and maintain public confidence in the medical profession

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

**Suspension**

21. The Tribunal has therefore determined that, at the current time, the only appropriate sanction is a further period of suspension. A further period of suspension will also enable Dr Kumar to explore other avenues in order to progress his return to clinical practice before and after the removal of his name from the Sex Offenders Register on 25 July 2019, such as seeking a mentor through the local Deanery and approaching the National GP Induction and Refresher Scheme.

22. It became apparent to the Tribunal during the course of this hearing that Dr Kumar was not aware that he could contact the Deanery for help and support. The Tribunal is of the view that, during this period of suspension, Dr Kumar should make enquiries at the Deanery in relation to seeking a mentor and to start the process of a safe return to practice after July 2019.
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23. In considering the appropriate period of suspension, the Tribunal has taken into account that Dr Kumar will no longer be included in the Sex Offenders Register after 25 July 2019. The Tribunal considers that Dr Kumar should use the period prior to that date to seek the appropriate support, assistance and guidance he requires to embark on a safe return to practice.

24. The Tribunal has therefore determined to suspend Dr Kumar’s registration for a period of 6 months. This should provide sufficient time for Dr Kumar to demonstrate the steps he has taken to maintain his medical knowledge and skills, eg to continue to read medical journals, watch simulated surgery videos and explore the opportunities in clinical and non-clinical work and/or observations. Dr Kumar will also have time to prepare a more focussed plan of his future career development, after his name has been removed from the Sex Offenders Register, including identifying suitable opportunities for clinical or non-clinical placements.

25. Shortly before the end of the period of suspension, Dr Kumar’s case will be reviewed by a Medical Practitioners Tribunal. A letter will be sent to him about the arrangements for the review hearing. At the next hearing, in which the persuasive burden will be upon Dr Kumar, the reviewing Tribunal will be greatly assisted by the provision of the following:

- Engagement with the Deanery
- Seeking a mentor
- Supporting documentation from the Deanery and/or his mentor as to his progress
- Continued evidence of steps taken to maintain his medical knowledge
- A more focussed plan of his future development, eg in the form of a Personal Development Plan
- Documentary evidence of any attempts he has made to seek clinical or non-clinical work placements
- Reports and/or feedback from any work placements (clinical or non-clinical)

26. The effect of this direction is that, unless Dr Kumar exercises his right of appeal, his registration will become subject to a further period of suspension 28 days from the date when written notice of this decision is deemed to have been served upon him. If he does lodge an appeal the current order of suspension will remain in place pending the outcome of that appeal. A note explaining his right of appeal will be sent to him.

27. That concludes this case.
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Confirmed

Date: 01 March 2019

Mr Kenneth Hamer, Chair
ANNEX A – Adjudgment and extension of current order – 18/01/2019

1. Due to the lateness of the hour, the Tribunal is unable to conclude the case within the allotted time. It has therefore determined to adjourn today’s hearing part-heard, under Rule 29 of the GMC (Fitness to Practise) Rules 2004, which states:

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

2. The Tribunal has already made a finding of current impairment of fitness to practise by reason of misconduct and now has to decide on the appropriate sanction to impose, if any. The Tribunal has taken into account that Dr Kumar has arranged a meeting with North West Boroughs Healthcare NHS Foundation Trust on Friday 25 January 2019, which may result in him obtaining a clinical attachment. In these circumstances, the Tribunal has determined to adjourn this hearing, part-heard. It will reconvene for one day only on a day to be agreed, within the near future.

3. The current order of suspension on Dr Kumar’s registration is due to expire on 26 January 2019. The Tribunal has determined to exercise its power under Section 35D(5)(a) of the Medical Act 1983, as amended, to extend the current order of suspension for a period of 2 months, until 26 March 2019.

4. The hearing is now adjourned part-heard.