Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 04/03/2019 - 06/03/2019

Medical Practitioner’s name: Dr Balvinder MEHAT

GMC reference number: 2932198

Primary medical qualification: MB ChB 1984 University of Bristol

Type of case: New - Conviction / Caution

Outcome on impairment: Impaired

Summary of outcome: Suspension, 1 month.

Tribunal:

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<th>Legally Qualified Chair</th>
<th>Mr Geoffrey Payne</th>
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<td>Lay Tribunal Member:</td>
<td>Mr Mick Turner</td>
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<td>Medical Tribunal Member:</td>
<td>Dr Leigh-Anne Hill</td>
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| Tribunal Clerk: | Ms Angela Carney |

Attendance and Representation:

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<th>Present and represented</th>
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<td>Medical Practitioner’s Representative:</td>
<td>Mr Anthony Haycroft, Counsel/QC, instructed by RadcliffesLeBrasseur Solicitors</td>
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<td>GMC Representative:</td>
<td>Mr James Gelsthorpe, 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 FACTS & IMPAIRMENT – 06/03/2019

Background

1. Dr Mehat qualified in 1984. At the time of the events he was working as a GP
partner at the Bakersfield Medical Centre, where he has worked since 1989.

2. On 13 November 2015 Dr Mehat accepted a caution issued by Nottingham
City Council in relation to offences under the Housing Act 2004 and the Management
of Houses in Multiple Occupation (England) Regulations 2006. The offences related
to two properties owned by Dr Mehat: Address A and Address B. Dr Mehat also
received a caution on behalf of Mehat Properties Limited, a company of which he
was the director, for offences under the Management of Houses in Multiple

3. On 24 August 2015, Dr Mehat was interviewed by licensing officers from
Nottingham City Council in relation to these matters. He confirmed that Address A
was owned by Mehat Properties Limited and Address B was owned by him. Dr Mehat
is the sole Director of Mehat Properties Limited and a relative is the Company
Secretary. Dr Mehat and Mehat Properties Limited held licences for houses of
multiple occupancy (HMOs) for each property and managed both properties.
Dr Mehat and the Company Secretary were responsible for the general management
of the two properties; collecting rent and arranging for repairs for example.
Responsibility for arranging lettings and drafting tenancy agreements was contracted
out.

4. A license was issued by the Council in May 2013 which permitted a maximum
of five occupants in Address A. Following verbal advice from a Council Manager in
the summer of 2014, Dr Mehat undertook building works in the attic, installing
dormer windows which would satisfy the Council requirements and render the
property suitable to have six occupants. In May 2015 Address A had six bedrooms,
two each on the ground, first and second floors. There were six students occupying
the house.

5. In May 2015, Address B had seven bedrooms over three floors and was
occupied by seven people. Address B was extended by the installation of a dormer
window. The conditions on the licence included the requirement that the floor space
of each attic room should be eight square metres. When inspectors attended Address B they concluded that the sizes of the rooms did not meet that minimum requirement.

6. Dr Mehat accepted that he had not checked the space but he believed he had complied with the requirement to provide 8 square metres minimum floor space. Dr Mehat did not think that he had to notify the council to increase the maximum number of occupants as he had undertaken the work to increase the sizes of the rooms. Dr Mehat had notified the council of the works but received no response and did not pursue the matter any further.

7. Under the licensing agreement for Address A Dr Mehat did not comply with a condition requiring the installation of a sink in the first floor WC. He explained that, because there were two other toilets in the property, the tenants did not use the first-floor WC. Dr Mehat accepted he had not taken any steps to prevent the use of the WC. Following the inspection by the Council Dr Mehat installed a sink.

8. Dr Mehat was required to install mechanical extraction in the kitchen of Address A. An extraction device had been installed but had not been taken to the outside wall. Dr Mehat believed that he had complied with the condition.

9. In accepting cautions in relation to these properties Dr Mehat has admitted that he failed to comply with licence conditions in relation to both properties.

10. In relation to Address B he admitted eight failures. Dr Mehat failed to ensure that:

• his name and contact details were clearly displayed in a prominent position in the property
• The means of escape from fire was maintained in good order and repair
• firefighting equipment and fire alarms were maintained in good working order
• all common parts of the property were maintained in good and clean decorative repair
• the common parts of the property were kept reasonably clear from obstruction
• additional handrails/bannisters as were necessary for the safety of the occupants were provided
• common parts of the property were fitted with adequate light fittings
• the fixtures, fittings or appliances used within the property were maintained in good and safe repair and in clean working order
• the garden was kept tidy and safe

11. In relation to Address A the caution set out eight failures on the part of Mehat Properties Limited. Mehat Properties failed to ensure that:
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- its name and contact details were made available to each household in the property and were clearly displayed in a prominent position
- the means of escape from fire was kept free from obstruction and was maintained in good order and repair
- firefighting equipment and fire alarms were maintained in good working order
- all common parts of the property were maintained in good and clean decorative repair
- the common parts of the property were kept reasonably clear from obstruction.
- the fixtures, fittings or appliances used within the property were maintained in good and safe repair and in clean working order
- the garden was kept tidy and safe
- the internal structure of the living accommodation was maintained in good repair

The Outcome of Applications Made during the Facts Stage

12. The Tribunal, of its own volition, under Rules 17(6)(a) and (b) of the General Medical Council (Fitness to Practise Rules) 2004 as amended, determined to amend the Allegation in relation to the addresses that are listed on the cautions. Whilst the Tribunal was mindful that the addresses are in the public domain, it is not MPTS policy to publicise such information. Accordingly, the addresses which appear in Dr Mehat’s caution were referred to as Address A and Address B and appear at Schedule 1. Schedule 1 will not be publicised.

13. The Tribunal refused the GMC’s application, made pursuant to Rules 17(6)(a) and (b) of the Rules, to amend paragraph 1b of the Allegation. The Tribunal’s full decision on the application is included at Annex A.

14. The Tribunal refused Mr Haycroft’s application on behalf of Dr Mehat, under Rule 17(2)(g) of the Rules, to dismiss paragraph 1b of the Allegation. The Tribunal’s full decision on the application is included at Annex B.

The Allegation and the Doctor’s Response

15. The Allegation made against Dr Mehat is as follows:

1. On 13 November 2015, you received a caution from Nottingham City Council for the following offences under the name of:

   a. Balvinder Singh Mehat:
      
      i. knowingly permitting more persons to occupy the house than authorised by the licence at Address A under section 72(2) of the Housing Act 2004;
Admitted and Found Proved

ii. failure to comply with conditions on the issued licence at Address A under section 72(3)(b) of the Housing Act 2004;

Admitted and Found Proved

iii. failure to comply with conditions on the issued licence at Address B under section 72(3)(b) of the Housing Act 2004;

Admitted and Found Proved

iv. failure to comply with the regulations set out in section 234 of the Housing Act 2004;

Admitted and Found Proved

v. failure to comply with Regulation 3(b), 4(1)(b), 4(2), 7(1)(a)&(c), 7(2)(b), (e)&(f) and 7(4)(b) of the Management of Houses in Multiple Occupation (England) Regulations 2006 for Address B.

Admitted and Found Proved

b. Mehat Properties Limited:

i. failure to comply with Regulation 3(a)&(b), 4(1)(a)&(b), 4(2), 7(1)(a)&(c), 7(2)(f), 7(4)(b), 8(2)(a) of the Management of Houses in Multiple Occupation (England) Regulations 2006 for Address A.

Admitted and Found Proved

The Admitted Facts

16. At the outset of these proceedings, through his counsel, Mr Haycroft, Dr Mehat made an admission to paragraph 1a. Following the refusal of the application under Rule 17(2)(g) Dr Mehat admitted the matters in paragraph 1b.

Evidence

17. The Tribunal received the following documentary evidence on behalf of the GMC:

- Copy of a caution issued to Dr Mehat and bearing his signature
- Copy of a caution issued to Mehat Properties Limited and bearing his signature
- Email from Nottingham City Council to General Medical Council dated 7 March 2016
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- Record of Dr Mehat’s interview with Nottingham City Council, dated 24 August 2015
- Dr Mehat Rule 7 Response dated 5 November 2016

18. Dr Mehat provided his own witness statement dated 18 February 2019 and also gave oral evidence at the hearing. In addition, the Tribunal received documentary evidence:

- Dr Mehat’s self-referral letter to the GMC dated 1 December 2015
- Copy of the registry of title document issued by HM Land Registry
- Licence of House of Multiple Occupancy for Address A dated 28 March 2013
- Licence of House of Multiple Occupancy for Address B dated 7 November 2013
- Letter in relation to building works completed on 22 August 2014 at Address B
- Letter dated 27 August 2014 to Nottingham City Council in relation to Address A
- Licence of House of Multiple Occupancy for Address A dated 7 December 2018
- Licence of House of Multiple Occupancy for Address B dated 12 January 2018
- Email dated 31 January 2019 from XXX Estate Management indicating they are the managing agent for Address A
- Letter dated 31 January 2019 from XXX Estate Agent indicating they are the managing agent for Address B

Impairment

19. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Mehat's fitness to practise is impaired by reason of a conviction or caution for a criminal offence.

Submissions

20. On behalf of the GMC, Mr Gelsthorpe submitted that the focus in this case in relation to the over-arching objective is on limbs b and c, namely:

b. to promote and maintain public confidence in the medical profession
c. to promote and maintain proper professional standards and conduct for the members of the profession

21. Mr Gelsthorpe referred the Tribunal to paragraph 1 and 65 of the GMC’s guidance Good Medical Practice, as follows

'I. Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to
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date, establish and maintain good relationships with patients and colleagues; “are honest and trustworthy, and act with integrity and within the law.

65. You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession.”

22. Mr Gelsthorpe confirmed that although paragraph 65 comes under the heading of honesty, there was no suggestion of any dishonesty in this case. Mr Gelsthorpe reminded the Tribunal of the background to the case, in that Dr Mehat has admitted criminal offences, albeit at the lower end of the spectrum. He stated they are nonetheless characterised as criminal.

23. Mr Gelsthorpe informed the Tribunal of a GMC warning that Dr Mehat received in 2011. He stated the significant feature in this case, which could lead to a finding of impairment, is that Dr Mehat’s current offences were committed when the GMC warning was still live. Mr Gelsthorpe told the Tribunal that Dr Mehat’s conviction, which led to the GMC warning related to his earlier failure in the management of HMOs. Mr Gelsthorpe stated that Dr Mehat had been warned about his conduct in relation to HMOs and has now admitted further offences, resulting in two criminal cautions.

24. In relation to Address A, Mr Gelsthorpe stated that the Medical Act does not specify in whose name the caution must be. Mr Gelsthorpe reminded the Tribunal that Dr Mehat signed a declaration on behalf of Mehat Properties Limited in his capacity as a Director and in effect, he accepted liability for that company.

25. Mr Gelsthorpe submitted that taking all matters into account, in the commission of these offences and during the currency of a GMC warning, Dr Mehat’s fitness to practise is impaired. He added that the Tribunal is entitled to consider Dr Mehat’s earlier warning but the weight to be placed upon it is a matter for the Tribunal.

26. Mr Haycroft, on behalf of Dr Mehat stated that, unlike a conviction, a caution is not conclusive evidence of the offence being committed. He stated that the most important thing is the context and the facts surrounding the caution. He submitted that there are cautions which do not meet the personal misconduct test.

27. Mr Haycroft submitted that there is not current impairment on either public interest or public protection grounds. Mr Haycroft stated that there are a number of factors that are relevant to insight and risk of repetition. Mr Haycroft emphasised that these are non-clinical matters and no patient would ever be put at risk.

28. Mr Haycroft stated that the GMC’s evidence is limited to Dr Mehat’s interview with the licensing officers at the Nottingham City Council and the only two substantive issues that GMC counsel chose to highlight are the breaches in relation to the sink and the mechanical extraction.
29. Mr Haycroft reminded the Tribunal that Dr Mehat has provided a witness statement and the GMC accepted what the doctor has stated in that statement. Mr Haycroft stated that Dr Mehat has acknowledged his offences and co-operated with Nottingham City Council. Further, he stated that Dr Mehat’s surveyor, who is a professional person, has corroborated Dr Mehat’s account.

30. Mr Haycroft submitted that these matters are not fitness to practise issues. He said the offences are not fault based. Mr Haycroft referred the Tribunal to the Nottingham City Council’s guidance in relation to the breaches. He pointed out that new licences have been issued in respect of both properties.

31. Mr Haycroft accepted that there were technical breaches of the licencing regime but, in the light of the GMC’s current guidance on warnings, they do not give rise to impairment. He stated that Dr Mehat’s breaches were not Health and Safety issues; otherwise the matter would have resulted in criminal proceedings.

32. Mr Haycroft submitted that a member of the public, fully apprised of all the facts, would not consider a doctor’s fitness to practise to be impaired because of these breaches. Mr Haycroft reminded the Tribunal that they occurred and were remedied almost four years ago, prior to Dr Mehat’s interview with Nottingham City Council and prior to his caution. Mr Haycroft told the Tribunal that Dr Mehat now has professional estate agents to manage his properties, which in hindsight, he should have done from the outset.

33. In relation to the caution for Mehat Properties Limited, Mr Haycroft stated that there is no personal misconduct.

34. Mr Haycroft submitted that the following points demonstrate no current impairment and no risk of repetition.

   1. The GMC warning which related to a conviction that is nearly ten years old.
   2. The warning had almost elapsed when the breaches listed in the Allegation occurred.
   3. The GMC changed its policy on warnings recently, such that they now remain current for two years and therefore Dr Mehat’s warning would have expired had the present regime been in operation at the time of the facts that gave rise to the Allegation.

35. Mr Haycroft stated that Dr Mehat’s previous warning is potentially an aggravating feature, but does not of itself prove current impairment. However, given the initial features the warning would not be applicable today and is not significant.

36. Mr Haycroft submitted that Dr Mehat’s fitness to practise is not impaired by either caution.
The Relevant Legal Principles

37. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal’s judgement alone.

38. The Tribunal’s decision regarding whether Dr Mehat’s fitness to practise is impaired is a matter for it to determine exercising its own judgment. It has also borne in mind its responsibility to ensure the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

39. The Tribunal must determine whether Dr Mehat’s fitness to practise is impaired today, taking into account his 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

40. In considering the question of impairment, the Tribunal has taken account of all the evidence and the submissions made.

Conviction or Caution

41. The Tribunal noted that Dr Mehat was issued conditional licences for Address B which was held in his own name and Address A which was owned by Mehat Properties Limited. Dr Mehat was the sole Director of Mehat Properties Limited. The Tribunal was satisfied that Dr Mehat was equally responsible for the breaches relating to Address A which was his own property, as Address B the property of the company. It was plain from his witness statement and his oral evidence that he was personally involved to a significant extent in the management of both properties, at the relevant time.

42. Dr Mehat received a caution for failing to comply with conditions on the licences for both Address A and Address B. There is a further caution in the name of Mehat Properties Limited. Although that caution was in the name of a limited company it was received by Dr Mehat. Section 35C (2) C of the Medical Act 1983 provides that one of the matters capable of giving rise to impairment is a caution in the British Islands for a criminal offence. It does not require the caution to be in the name of a particular individual, thus leaving open the possibility, in an appropriate case, of a doctor being found to be impaired by reference to a caution administered in the name of a limited company that he or she controlled. In this case, there is no evidence to suggest that Dr Mehat was not in control of Mehat Properties Limited on a day to day basis, and an abundance of evidence to suggest that he was. The
caution in the name of Mehat Properties Limited is therefore a matter capable of reflecting adversely on him.

43. The Tribunal noted that those two cautions were received by Dr Mehat whilst a GMC warning was still live.

Impairment

44. The Tribunal having noted the two cautions went on to consider the question of current impairment.

45. The Tribunal found that the fact of the warning, whilst not giving rise to impairment in and of itself, was such that Dr Mehat would have been on notice of the need to ensure that all relevant matters and formalities in relation to the letting of addresses A and B were in good order. The very purpose of the warning was to indicate to Dr Mehat that a failure to attend to regulatory requirements in relation to properties that he, or the company of which he was a Director, were letting out to tenants was potentially a serious matter and one which should not occur.

46. The evidence is that within the currency of that warning Dr Mehat, both personally and through Mehat Properties Limited, failed to comply with various regulatory requirements in relation to both properties. For example in relation to Address A, the relevant licence required the installation of a sink in the first-floor WC and mechanical extraction to vent the kitchen externally. Those matters were to be completed within six months of the coming into force of the licence. However, neither condition was satisfied in the period from March 2013 to the date of an inspection in 2015, whereupon the position was rectified. There were also failures in relation to occupancy and floor space. In September 2014 the Council required the occupancy of both addresses to be reduced by one until the relevant floor space complied with their guidance. Dr Mehat knew the occupancy at both addresses remained unchanged and exceeded that permitted by the licence. Although he considered that he had complied with the requirements to increase the relevant floor space, Dr Mehat did not apply for a change in the licence to permit the occupancy level that existed at both addresses.

47. In the judgment of the Tribunal the evidence demonstrates a cavalier attitude on the part of Dr Mehat towards his regulatory obligations both personally and those in respect of the limited company, of which he was sole Director. The Tribunal accepts that Nottingham City Council has now issued licences for both properties at their previous occupancy level. It also accepts that some of the breaches can properly be described as technical; for example those relating to the display of notices. Nevertheless, the number of breaches, the lapse of time from 2013 to the inspection in 2015 during which a number of clearly set out conditions were breached, together with the fact that the breaches took place in the currency of a warning relating directly to the management of HMOs, are such as to give rise
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to real concern. The licencing regime for HMOs exists to protect tenants and breaches of such would inevitably trouble members of the public.

48. Members of the public would also be troubled by the fact that breaches that occurred in the circumstances set out above were committed by a doctor. In the judgement of the Tribunal Dr Mehat’s actions have breached paragraphs 1 and 65 of Good Medical practice in that he has failed to act within the law.

49. The Tribunal notes that Dr Mehat has apologised and has now appointed a management company to manage Address A and Address B. There is therefore some evidence of insight and remediation. However, it is the conclusion of the Tribunal that Dr Mehat, in receiving the cautions in this case has brought the medical profession into disrepute. The number of breaches, the period of time during which they occurred and the fact that they occurred during the currency of a warning are such that the Tribunal determined that there is a risk of repetition, notwithstanding the evidence of remediation.

50. For the reasons set out above the Tribunal has determined that Dr Mehat has brought the profession into disrepute and that his actions have undermined public confidence in the profession. The Tribunal was of the view that public confidence in the profession would be seriously undermined if a finding of current impairment were not made in this case. Similarly, the Tribunal determined a finding of impairment is necessary to promote and maintain proper standards of conduct for members of the medical profession. The Tribunal notes however that no issue of patient safety arises.

51. The Tribunal notes that one of the cautions was in the name of a limited company. Dr Mehat was the sole Director of that company. It is clear from the evidence that he was in day to day control of it. Although a limited company has a separate legal personality to its Directors, the Tribunal considered that it would be artificial to ignore the reality of the situation, namely that it was a vehicle controlled by Dr Mehat. The Tribunal, however, makes it clear that the caution in the name of Dr Mehat personally would justify a finding of current impairment in and of itself.

52. Accordingly the Tribunal determines that Dr Mehat’s fitness to practise is impaired by reason of each caution. It reaches that determination having considered all of the evidence in the case, the helpful submissions of Counsel, the provisions of the GMC guidance on convictions, cautions, determinations and other methods of police disposal, and the provisions of Good Medical Practice.
1. Having determined that Dr Mehat’s fitness to practise is impaired by reason of his receiving two cautions, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

Submissions

2. On behalf of the GMC, Mr Gelsthorpe submitted that the appropriate sanction is suspension. He stated that suspension is the only workable and proportionate sanction that would uphold public confidence in the profession. He referred the Tribunal to limbs b and c of the over-arching objective.

3. On behalf of Dr Mehat, Mr Haycroft submitted that this is an exceptional case and that there was substantial mitigation. Mr Haycroft stated that Dr Mehat had made full admissions and has co-operated throughout. In relation to the timing of Dr Mehat’s insight, Mr Haycroft acknowledged the Tribunal’s finding of Dr Mehat’s cavalier attitude, but submitted that there has been full remediation from 2015 onward. Mr Haycroft submitted that there was nothing further that Dr Mehat could have done to remediate; he engaged professional letting agents which he accepts he should have done from the outset.

4. Mr Haycroft submitted that suspension would be wholly inappropriate. These are non-clinical matters, and Dr Mehat works full time in a practice with over five thousand patients, together with one other doctor. Mr Haycroft stated that any suspension would have a negative effect on his patients.

5. Mr Haycroft pointed out that no patients were harmed or put at risk. Mr Haycroft stated that the Tribunal has marked Dr Mehat’s behaviour by its finding of impairment. He stated that conditions are obviously not needed and therefore it would be wrong to say that suspension is appropriate by default.

6. He submitted that the Tribunal could exceptionally make no order in this case on the basis that its finding on impairment is enough to satisfy the public interest. Mr Haycroft stated that if the Tribunal is minded to impose a sanction of conditions then a review may or may not be appropriate and if the Tribunal is minded to impose suspension it should be for a period of one month and a review would be unnecessary.

The Tribunal’s Approach

7. 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 Sanctions Guidance (February 2018) (the SG). It has borne in mind that the purpose of the sanctions is not to be punitive, but to
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protect patients and the wider public interest, although any sanction may have a punitive effect.

8. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Mehat’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.

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

10. The Tribunal accepted the submissions in relation to the SG, as agreed by both parties. The Tribunal also accepted that both submissions clearly identified the key aggravating and mitigating factors in this case.

Mitigating and Aggravating Factors

11. The Tribunal considered the following to be mitigating factors:

- The nature of Dr Mehat’s offending is at the lower end of the range of seriousness and in particular the fact that no tenant was ever put at risk of actual harm
- Dr Mehat apologised and expressed remorse
- Dr Mehat has demonstrated insight
- Dr Mehat has remediated in appointing letting agents to manage Address A and Address B
- The lapse of time since the offences
- Dr Mehat co-operated with Nottingham City Council
- Dr Mehat has engaged with the GMC’s investigation
- Dr Mehat made full admissions to the Allegation.

12. The Tribunal considered the following to be aggravating factors:

- A GMC warning was live at the time of the conduct that gave rise to the cautions
- There was more than one breach in relation to more than one property
- Dr Mehat was given notice by Nottingham City Council of the steps he needed to take to bring both properties up to the required standard but failed to take those steps for, in some cases, well over a year.
No Action

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

14. In the Tribunal’s judgement there are no exceptional circumstances that would justify taking no action against Dr Mehat’s registration. The Tribunal determined that in view of its findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action. It would not maintain public confidence in the profession in all the circumstances of this case.

Conditions

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

16. The Tribunal noted that Dr Mehat received the cautions when his GMC warning was still live. The Tribunal also found that Dr Mehat demonstrated a cavalier attitude towards his regulatory obligations both personally and those in respect of the limited company, of which he was sole Director. In the judgement of the Tribunal, a period of conditional registration would not adequately reflect Dr Mehat’s conduct in relation to his caution, nor, in a case involving a doctor who failed to act within the law whilst still under a GMC warning, could conditions be devised that are workable or would protect the public interest and maintain public confidence in the medical profession.

17. The Tribunal has, therefore, determined that it would not be sufficient to direct the imposition of conditions on Dr Mehat’s registration.

Suspension

18. The Tribunal then went on to consider whether suspending Dr Mehat’s registration would be appropriate and proportionate. The Tribunal has borne in mind that suspension has a punitive effect, although this is not its intention.

19. The Tribunal noted Dr Mehat’s oral and written evidence. Dr Mehat apologised and expressed remorse for the conduct which led to the cautions. He has demonstrated some insight and has taken steps to remediate by ensuring that the properties he and Mehat Properties Limited own are now managed by agents.

20. The Tribunal has already determined that there is a risk of a repetition of regulatory breaches on Dr Mehat’s part given that the cautions were received at a
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time when a GMC warning remained live. That risk has, however, been diminished by the steps Dr Mehat has taken to remediate.

21. However, notwithstanding Dr Mehat’s insight and remediation, the Tribunal noted that the Dr Mehat’s conduct in committing the offences which led to his caution, was a serious departure from GMP.

22. A period of suspension would serve to promote and maintain public confidence in the medical profession, and promote and maintain proper professional standards and conduct for the members of the profession.

23. The Tribunal was of the opinion that Dr Mehat’s misconduct, whilst serious, falls short of being fundamentally incompatible with continued registration.

24. The Tribunal considered the length of suspension. In doing so, it balanced on the one hand, the fact that Dr Mehat departed from a fundamental tenet of GMP by failing to act within the law, which impacted on public confidence in the profession, and on the other hand his mitigation, insight and remediation, and in particular the limited risk of repetition.

25. In the circumstances the Tribunal determined to suspend Dr Mehat’s registration for a period of one month. The Tribunal considered that such a suspension would send a clear signal to Dr Mehat, the profession and public about what is regarded as behaviour unbefitting a registered doctor, and would serve to promote and maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for the members of the profession. The Tribunal also considered that a one month suspension would allow Dr Mehat to further reflect on the conduct which led to his cautions and would not have such a detrimental impact on Dr Mehat’s patients in depriving them of his services so as to be disproportionate.

26. Having been satisfied that there is evidence of remediation on Dr Mehat’s part, the Tribunal considered that in the particular circumstances of this case a review would not be necessary.

Erasure

27. The Tribunal considered that the receipt by Dr Mehat of two cautions, although serious, was not fundamentally incompatible with continued registration and therefore erasure was not appropriate in this case.
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DETERMINATION ON IMMEDIATE ORDER – 06/03/2019

1. Having determined that Dr Mehat’s registration be suspended for a period of one month the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether his registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Gelsthorpe submitted that the GMC has no application for immediate suspension and Dr Mehat is not currently under any interim order therefore there is no interim order to revoke.

3. On behalf of Dr Mehat, Mr Haycroft submitted that given there are no patient safety issued an immediate order is not necessary.

The Tribunal’s Determination

4. The Tribunal has determined that, given that there are no patient safety concerns and that there are no issues in relation to Dr Mehat’s clinical practice, it is not necessary to make an order suspending his registration immediately.

5. This means that Dr Mehat’s registration will be suspended 28 days from today, unless he lodges an appeal. If Dr Mehat does lodge an appeal he will remain free to practise unrestricted until the outcome of any appeal is known.

6. That concluded this case.

Confirmed

Date 06 March 2019

Mr Geoffrey Payne, Chair
Application to amend the Allegation

GMC submissions

1. Mr Gelsthorpe made an application under Rule 17(6)(a) and (b) to amend paragraph 1b to a new paragraph 2. Paragraph 1b currently states:

   '1b. Mehat Properties Limited:

      i. failure to comply with Regulation 3(a)&(b), 4(1)(a)&(b), 4(2), 7(1)(a)&(c), 7(2)(f), 7(4)(b), 8(2)(a) of the

      ii. Management of Houses in Multiple Occupation (England) Regulations 2006 for Address A.'

2. The proposed amendment to paragraph 2 is as follows:

   '2. On 13 November 2015, you accepted a caution from Nottingham City Council in your capacity as Director of Mehat Properties Limited for failure to comply with Regulation 3(a)&(b), 4(1)(a)&(b), 4(2), 7(1)(a)&(c), 7(2)(f), 7(4)(b), 8(2)(a) of the Management of Houses in Multiple Occupation (England) Regulations 2006 for Address A.'

3. Mr Gelsthorpe explained that the application is to change the wording from 'receiving' a caution from Nottingham City Council to 'accepting' a caution from Nottingham City Council in his capacity as a Director of the company, so that paragraph 1b becomes paragraph 2. He stated that the application to amend is made under Rule 17(6)(a) and (b) and that the amendment can be made without injustice in this case.

4. Mr Gelsthorpe referred the Tribunal to the caution received by Dr Mehat, on behalf of the Company. He said that the new wording more accurately reflects the fact that Dr Mehat accepted the caution on behalf of the company in his capacity as Director. He submitted that the amendment can be made without injustice to Dr Mehat.

5. Mr Gelsthorpe submitted that the revised Allegation more accurately reflects the true factual position.
Defence submissions

6. Mr Haycroft opposed the application. He submitted that the new proposed wording was different to the original wording in that it imported the concept of Dr Mehat acting as a director as Mehat Properties Limited. He pointed out that Dr Mehat at first referred himself to the GMC on the basis of the caution that he received in his own name and which is the substance of paragraph 1a. He stated that that response was served over two years ago. He referred the Tribunal to Dr Mehat’s Rule 7 response to the Allegation on 3 November 2016, in which he admitted receiving the caution in his own name. Mr Haycroft informed the Tribunal that it was only very recently that the case had been widened to encompass the caution in the name of Mehat Properties Limited. He noted that the change in position on the part of the GMC was reflected in the Allegation provided under Rule 15 of the Fitness to Practise Rules. Those paragraphs of the Allegation had referred simply to Dr Mehat receiving a caution in the name of Mehat Properties Limited but had not said anything about his role as a Director of that company. The amended Allegation was the first time that Dr Mehat’s directorship had been mentioned and that was only served on Friday 1 March 2019 which was one working day before the hearing was listed. He submitted that the reference to the directorship gave rise to various enquiries that the defence would need to make in relation to the corporate structure of the company, its other officers and its operations. There was insufficient time for those matters to be attended to and that amounted to injustice within the meaning of Rule 17(6) of the Fitness to Practice Rules. Mr Haycroft therefore resisted the application.

The Tribunal’s Decision

7. The Tribunal noted Rule 17(6) of the Fitness to Practice Rules and in particular the prohibition on the making of any amendments of the Allegation if there was injustice. The Tribunal considered the question of injustice very carefully and in particular the extent to which the new Allegation imported concepts that the old did not contain, and, if it did, whether there was any prejudice to Dr Mehat in dealing with them.

8. The Tribunal noted the argument from Mr Haycroft that the amendment would require further enquiries on the part of the defence and that the defence had attended the Tribunal prepared to meet the Allegation as presently drafted. The Tribunal determined that it would not be right to accede to a late application for an
1. Mr Haycroft made an application under Rule 17(2)(g) of the Fitness to Practise Rules 2004 (as amended) November 2017, which provides:

‘the practitioner may make submissions as to whether sufficient evidence has been adduced to find some or all of the facts proved and whether the hearing should proceed no further as a result, and the Medical Practitioners Tribunal shall consider any such submissions and announce its decision as to whether they should be upheld;’

2. Mr Haycroft submitted that there is insufficient evidence before the Tribunal to find paragraph 1b of the Allegation proved. Paragraph 1b states:

‘1b. On 13 November 2015, you received a caution from Nottingham City Council for the following offences under the name of Mehat Properties Limited:

i. failure to comply with Regulation 3(a)&(b), 4(1)(a)&(b), 4(2), 7(1)(a)&(c), 7(2)(f), 7(4)(b), 8(2)(a) of the Management of Houses in Multiple Occupation (England) Regulations 2006 for Address A.’
3. Mr Haycroft submitted that although Dr Mehat signed for the relevant caution it was administered in the name of a limited company, Mehat Properties Limited. He referred the Tribunal to the caution which gives the offenders name as ‘Mehat Properties Limited’. He submitted that, in law, the company, Mehat Properties Limited, is a ‘separate legal person’ to Dr Mehat. The company received the caution through the medium of Dr Mehat signing it. He submitted that anyone in the company who occupied the role of Director or Company Secretary could have undertaken the same role.

4. Mr Haycroft reminded the Tribunal that there were two cautions issued; one to Dr Mehat and one to Mehat Properties Limited. Mr Haycroft stated that the paragraphs of the Allegation are pejorative allegations which connote something ‘wrong’. Mr Haycroft submitted that paragraph 1b can only be established if Dr Mehat received the caution in a personal capacity, which he did not. Mr Haycroft submitted, therefore, that there is insufficient evidence to prove allegation 1b.

GMC submissions

5. Mr Gelsthorpe stated that Dr Mehat was working as an agent for the company, acting in his capacity as a Director. He reminded the Tribunal that there were only two people operating that company, the Director and a Company Secretary. Mr Gelsthorpe submitted that Dr Mehat received the caution as he occupied a position that entitled him to admit criminal offences on behalf of the company. He drew the Tribunal’s attention to the caution and Dr Mehat’s signature. He submitted that the question for the Tribunal was the proper construction of the word ‘received’.

The Tribunal’s Approach

6. In reaching its decision, the Tribunal has had regard to all of the GMC evidence as well as the submissions of Mr Haycroft, on behalf of Dr Mehat, and Mr Gelsthorpe, on behalf of the GMC.

7. The Tribunal has borne in mind that its role at this stage of proceedings is not to make findings of fact but to determine whether, in relation to each paragraph of the allegation:

(1) there is any evidence in support of the GMC’s case; and

(2) where there is such evidence, but it is of a tenuous character, for example, because of inherent weakness or vagueness or because it is inconsistent with other evidence, then:

(a) if the evidence were taken at its highest, is it such that if the
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Tribunal properly directed itself it could not find the allegation proved? Or;

(b) does the relative strength or weakness of the evidence depend on the Tribunal’s view of the reliability of a witness or other factual matters, which are properly within the fact-finding role of the Tribunal?

8. This case falls within limb (1); limb (2) does not arise on the facts.

The Tribunal’s Decision

9. In the judgement of the Tribunal, Paragraph 1 comprises factual matters that are expressed in plain English. The question for the Tribunal is the proper construction of the phrase ‘you received a caution... in the name of Mehat Properties Limited’ Like the remainder of the Allegation, that is a plain English phrase.

10. The Tribunal determined that the GMC has deployed evidence that Dr Mehat ‘received’ the caution in the name of Mehat Properties Limited. There is evidence that he was present when it was administered and it was administered to him. The evidence also suggests that he signed the relevant declaration which comprised an admission that the company had committed criminal offences. There is therefore, in the judgement of the Tribunal, sufficient evidence for a properly directed Tribunal to find that Dr Mehat ‘received’ the relevant caution.

11. The Tribunal rejects the argument that the wording of paragraph 1b necessarily alleges behaviour pejorative to Dr Mehat in relation to his fitness to practise. The question of Dr Mehat’s fitness to practise arises in the form of words at the end of the Allegation, namely that:

‘And that by reason of the matters set out above your fitness to practise is impaired because of your Caution.’

12. That is a matter to be decided at a later stage and, in the judgement of the Tribunal, questions of fact finding and impairment are separate and ought not to be conflated. The Tribunal therefore rejects the application made on behalf of Dr Mehat under Rule 17(2)(g). It finds that sufficient evidence has been adduced in order for the hearing properly to proceed in relation to paragraph 1b.