Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 30/04/2019 - 10/05/2019

Medical Practitioner’s name: Dr Karena GAUS

GMC reference number: 3363825

Primary medical qualification: MB BS 1983 University of Malaya

Type of case
New - Misconduct

Outcome on impairment
Not Impaired

Summary of outcome
Warning not considered

Tribunal:

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<th>Role</th>
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<tr>
<td>Legally Qualified Chair</td>
<td>Mr Leighton Hughes</td>
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<tr>
<td>Lay Tribunal Member:</td>
<td>Mrs Carol Douglas</td>
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<td>Medical Tribunal Member:</td>
<td>Dr Deborah Brooke</td>
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Tribunal Clerk: Ms Keely Crabtree

Attendance and Representation:

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<td>Medical Practitioner:</td>
<td>Present and represented</td>
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<tr>
<td>Medical Practitioner’s Representative:</td>
<td>Mr David Morris, Counsel, instructed by MDU</td>
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<tr>
<td>GMC Representative:</td>
<td>Mr Paul Williams, 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.
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 - 10/05/2019

Background

1. Dr Ghaus qualified in 1983 from the University of Malaya with an MB BS, following which she registered with the GMC on 15 July 1987. In 1996, Dr Ghaus became a Consultant in Paediatrics and Neonatal Medicine. Dr Ghaus was a Consultant in Neonatal Medicine at St Mary’s Hospital (part of Imperial College Healthcare) from 1998-2011. From 1999 – 2006 Dr Ghaus was the Lead Consultant for the Neonatal Service and designated safe-guarding lead for the Service from 2009-2011. Between 2012-2013, Dr Ghaus worked as a Locum Consultant in Neonatal Medicine for Hillingdon Foundation NHS Trust. At present, Dr Ghaus is a Research Fellow at Imperial College, writing her thesis for the post graduate degree of Doctor of Medicine (MD).

2. The allegation that has led to Dr Ghaus’s hearing can be summarised as follows: On 20 June 2016 Patient A (a child) and her grandmother attended at Dr Ghaus’ home. Patient A had an injured finger and described an assault by her mother. Dr Ghaus took Patient A to Chelsea and Westminster Hospital (‘the Hospital’) and handed Patient A’s care over to hospital staff. Thereafter Dr Ghaus submitted documents, including a medical report, to a Senior Social Worker, in respect of her attendance at the Hospital. It was alleged that her actions were inappropriate as she had a ‘close personal relationship’ with Patient A; she had no clinical responsibility for Patient A; and the medical report could have been regarded as a formal child protection report. It is further alleged that Dr Ghaus’ actions were dishonest as she had misrepresented professional positions held by her in the submitted documents.

3. It is also alleged that Dr Ghaus subsequently wrote a letter to the Multi-Agency Safe-guarding Hub of Wandsworth Council, in which she dishonestly stated that she had been asked to produce reports for the Senior Social Worker and that, in any event, the submission of the letter and statement was inappropriate as Dr Ghaus had a close personal relationship with Patient A and no clinical responsibility for her.

The Outcome of Applications Made during the Facts Stage
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4. The Tribunal granted the GMC’s application, made pursuant to Rule 34(13) of the GMC (Fitness to Practise Rules) 2004 as amended (‘the Rules’), for a witness, Dr F, to give evidence by telephone link. It concluded that this was a practical and fair way to hear from the witness and could be done without injustice.

5. Both parties applied for the witness Ms D to be recalled by the GMC and to give further evidence by telephone link. The Tribunal granted this application.

6. The Tribunal agreed, in accordance with Rule 41 XXX of (‘the Rules’), that parts of this hearing should be heard in private where the matters are confidential, XXX.

The Allegation and the Doctor’s Response

The Admitted Facts

7. At the outset of these proceedings, through her counsel, Mr David Morris, Dr Ghaus made admissions to some paragraphs and sub-paragraphs of the Allegation, as set out below, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (‘the Rules’). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

The Facts to be Determined

1. On 20 June 2016 you attended Chelsea and Westminster Hospital (‘the Hospital’) with Patient A with whom you had a close personal relationship. To be determined

2. On or around 23 June 2016 you submitted the following documents (‘the Reports’) to a Senior Social Worker, Mr B, in respect of your attendance at the Hospital referred to in paragraph 1:

   a. a cover letter dated 23 June 2016; Admitted and found proved
   b. ‘A. Medical Report….’ dated 23 June 2016 (the ‘Medical Report’); Admitted and found proved
   c. ‘B. Personal statement of Dr. K. Ghaus’ dated 23 June 2016 (the ‘Personal Statement’). Admitted and found proved

3. In the Reports you referred to yourself as an ‘Academic Research Fellow and Hon. Consultant in Paediatrics and Neonatal medicine, Chelsea
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and Westminster Hospital, Imperial College, London.’ *Admitted and found proved*

4. Your submission of the Medical Report was inappropriate as:
   
a. you had a close personal relationship with Patient A; *To be determined*

b. you had no clinical responsibility for Patient A; *To be determined*

c. the Medical Report could have been regarded as a formal child protection report; *To be determined*

d. you stated in the Medical Report that this report ‘...will be shown before the Court.’ *To be determined*

5. You knew when you submitted the Reports to Mr B that you did not hold the position described at paragraph 3 in that you:

   a. have never held the position of a honorary consultant in Paediatrics and Neonatal medicine at the Hospital; *To be determined*

   b. had not held an Academic Research Fellow position at the Hospital or Imperial College since 31 March 2015. *To be determined*

6. On or around 26 August 2016 you wrote a letter to the Multi-Agency Safe-guarding Hub of Wandsworth Council, in which you:

   a. stated ‘...I had prepared and sent, at the request of the duty Social Worker [Mr B] two reports in the form of a formal medical case record’, referring to the Medical Report and Personal Statement; *Admitted and found proved*

   b. attached a statement titled ‘Witness statement of Dr. Karena Ghaus...Consultant in Neonatal Medicine and Paediatrics (GMC specialist register)’; *Admitted and found proved*

   c. concluded, in the statement described at paragraph 6(b), that Patient A’s ‘...description of being struck by a waste-bin with her hands up near her head was in my opinion entirely consistent with her injury.’ *Admitted and found proved*
7. Your submission of the letter and attached statement described at paragraph 6 was inappropriate as you had:
   a. a close personal relationship with Patient A; **To be determined**
   b. no clinical responsibility for Patient A. **To be determined**

8. You knew when you wrote the letter described at paragraph 6 that you had not been asked to produce the Reports by Mr B. **To be determined**

9. Your actions described at paragraphs 2, 3 and 6(a) were dishonest by reason of paragraphs 5 and 8. **To be determined**

**Factual Witness Evidence**

8. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Dr C, Consultant Paediatrician, in person;
- Mr B, Senior social worker (previously), in person;
- Ms D, Human Resources Business Partner at Chelsea and Westminster Hospital NHS Foundation Trust, in person and by telephone link;
- Mr E, Human Resources Advisor at Imperial College, London, in person;
- Dr F, Consultant in Neonatal Paediatrics at Chelsea and Westminster Hospital NHS Foundation Trust, by telephone link.

9. The Tribunal also received evidence on behalf of the GMC in the form of a witness statement from the following witnesses who was not called to give oral evidence:

- Dr N, Consultant Anaesthetist and the Associate Medical Director for Professional Development at Chelsea and Westminster Foundation Trust.

10. Dr Ghaus provided her own witness statement and also gave oral evidence at the hearing. In addition, the Tribunal received evidence from the following witnesses on Dr Ghaus's behalf:

- Professor A, Professor of Paediatrics and Child Health at Imperial College, in person;
- Professor H, Professor of Paediatrics and Head of Section at Imperial College, London, by video link;
- Ms J, Patient A’s grandmother, in person.
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11. The Tribunal also received evidence on behalf of Dr Ghaus in the form of a witness statement from the following witness who was not called to give oral evidence:

- Professor K, Professor of Neonatal Medicine at Imperial College, London.

Expert Witness Evidence

12. The Tribunal received evidence from Dr L, an expert witness called by Mr Morris, on behalf of Dr Ghaus. The Tribunal had regard to her expert report dated 31 March 2019. Dr L also gave oral evidence to the Tribunal in person. Dr C, Professor A and Professor H also expressed professional opinions during the course of their evidence.

Documentary Evidence

13. The Tribunal had regard to all of the documentary evidence provided by the parties. This evidence included, but was not limited to:

- Hippocratic Oath - Appendix to Professor A’s Witness Statement
- ERS Screenshot
- ICIS entry for Imperial College
- New Contract Request from Department of Medicine
- The Munro Review of Child Protection Final Report
- Emails from Chelsea and Westminster Hospital NHS Foundation Trust (the ‘Trust’) Human Resources Department dated 7 February 2013- 29 April 2013
- Email from Ms O to Dr Ghaus dated 15 February 2013
- Dr Ghaus Employment Contract with Imperial College dated 8 April 2013
- Email from Dr F to Dr Ghaus dated 5 August 2013
- Email between Dr Ghaus and Dr N and others 18 November 2013 – 20 November 2013
- Email from Dr Ghaus to Dr N and others dated 25 March 2014
- Letter from Imperial College to Dr Ghaus dated 14 July 2014
- Letter from Imperial College to Dr Ghaus dated 3 November 2014
- Email from Dr Ghaus to Dr N dated 4 February 2015
- Email from Dr F to Dr Ghaus and others dated 4 February
- Email exchange between Dr N and Dr Ghaus and others dated 4 February 2015 – 16 February 2015
- Working Together to Safeguard Children Guidance March 2015
- Email exchange between Dr Ghaus and Dr N dated 4 February 2015 – 23 March 2015
- Email exchange between Dr N and Dr Ghaus and others dated 23 March 2015 – 24 March 2015
- Email exchange between Dr Ghaus and Dr N and others dated 23 March 2015 – 24 March 2015
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- Email exchange between Dr Ghaus and others dated 23 March 2015
- Email exchange between Dr Ghaus and Imperial College dated 25 March 2015
- Email exchange between Dr Ghaus and Dr F dated 9 April 2015
- Letter from Imperial College to Dr Ghaus dated 8 May 2015
- Email from Dr Ghaus to Dr F dated 12 October 2015
- Sample emails between Dr Ghaus and Chelsea and Westminster Hospital dated October 2015
- Email from Dr Ghaus to Dr N 1 February 2016
- Email exchange between Dr N and Dr Ghaus and others dated 25 February 2016 – 28 March 2016
- Email from Dr F to Dr Ghaus dated 15 April 2016
- Confirmation Email for attendance on Level 3 training update in Child Safeguarding April 2016
- Safeguarding Handout for Level 3 Training update in Child Safeguarding April 2016
- Email from Ms Q to Dr Ghaus dated 22 May 2016
- Email between Ms Q and Dr Ghaus dated 22 May 2016
- Email between Dr Ghaus and RO dated May 2016
- Notes of Mr B attendance at Westminster Hospital dated 20 June 2016
- Email exchange between Ms Q and others dated 8 July 2016 - 11 July 2016
- Email from Mr B to Dr C dated 30 August 2016
- Notes of Meeting between Dr Ghaus, Dr C and Ms D dated 30 August 2016
- Trust Investigation Report, with appendices 1 – 76 dated September 2016
- Letter from Ms Q to Dr Ghaus 5 October 2016
- Referral Form to GMC dated 14 October 2016
- Letter of Request for Honorary Association dated November 2016
- Letter from Imperial College to Dr Ghaus dated 27 January 2017
- Dr Ghaus Appraisal dated December 2017
- Statement from Ms J dated 27 December 2017
- Letter from Mr P
- Sealed Court Order ('Family Court Order) dated 9 October 2017
- Transcript of Dr Ghaus’ Evidence before Family Court -19 December 2016
- Final Judgment of District Judge R in Family Court -2 August 2017
- Family Court Hearing Bundle Index

The Tribunal’s Approach

14. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Ghaus does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.
The Tribunal’s Analysis of the Evidence and Findings

The Tribunal’s evaluation of the witnesses

Dr C - Senior Consultant Paediatrician at the Hospital

15. Dr C had been asked by the Medical Director at the Hospital to conduct an internal investigation to consider two allegations against Dr Ghaus. It was not usual for Dr C to undertake such a role and it was not connected to his role as designated doctor of safeguarding. Whilst Dr C made criticisms of Dr Ghaus’ submission of a medical report he was of the view that she had not done so in any deliberate attempt to mislead. The Tribunal found Dr C to be an honest witness but whose evidence was undermined by the absence of HR records and his inflexibility when challenged on the findings of his investigation.

Mr B – Social Worker

16. Mr B was the duty social worker who attended the Hospital on 20 June 2016. His evidence was limited in its scope and relevance. Mr B denied that he had sought a report from Dr Ghaus and did not appear to attach any importance to any information that she could provide in relation to the incident that had led to her taking Patient A to the Hospital. The Tribunal found him to lack an open mind in relation to all the information potentially available to him in a safeguarding situation. The Tribunal attached little weight to his opinion as to whether Dr Ghaus’ submission of a medical report crossed professional boundaries, as this was not his area of expertise.

Mr E – Human Resources (HR) Adviser at Imperial College London

17. Mr E was a credible witness who made his wealth of HR experience available to the Tribunal. Mr E clearly explained the processes for obtaining honorary status at the Hospital, and for managing a need to complete writing-up research after funding ends.

Ms D – HR Business Partner at Chelsea and Westminster Hospital NHS Foundation Trust

18. Ms D was a careful witness who was mindful not to overstep her remit. Ms D confirmed that the HR evidence pertaining to Dr Ghaus’ role at the Hospital was sorely lacking and that her evidence largely relied upon her drawing inferences on the contractual position from email chains in which Ms D had not been involved. Later in the proceedings Ms D gave candid evidence to the Tribunal that she had no experience of liaising with Imperial College regarding the arrangements for clinical work for doctors registered to do MD degrees. As a result, her evidence was limited in its ability to assist the Tribunal.
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Dr F - Consultant in Neonatal Paediatrics at Chelsea and Westminster Hospital NHS Foundation Trust

19. Dr F explained that her role was to oversee Dr Ghaus in her clinical research at the Hospital. Dr F was unable to help the Tribunal in the matter of the issuing of a contract as she said she had no involvement in that and that it was an administrative issue. Dr F’s understanding was that when the funding for Dr Ghaus’ research ended, so would Dr Ghaus honorary clinical contract. The Tribunal found Dr F to be credible within the bounds of her clinical remit.

Professor A – Professor of Paediatrics and Child Health at Imperial College, London

20. The Tribunal found Professor A to be a highly experienced academic with a comprehensive understanding of the awarding of academic fellowships and associated honorary clinical roles. He relied upon his experience as a professor for 30 years, setting out the usual procedure followed when an MD student is granted an academic fellowship and honorary clinical role within a hospital. The Tribunal found that Professor A correctly emphasised the importance of the account of the first responder in a case of alleged child abuse, because a child’s account can change.

Dr L

21. The Tribunal found Dr L’s evidence to be expert and impartial, clearly identifying the professional contact she had previously had with Dr Ghaus. She provided evidence as to the appropriateness of Dr Ghaus’ conduct in the context of the allegation and referred to guidance, including The Monro Review of Child Protection: Final Report, 2011. Her opinion was that there is no standardised way of dealing with the situation Dr Ghaus found herself in. Dr L particularly directed the Tribunal to paragraph 3.5 in The Monro Review:

‘Dealing with the variety of need is better achieved by professionals understanding the underlying principles of good practice and developing the expertise to apply them, taking account of the specifics of...circumstances.’

Professor H - Professor of Paediatrics and Head of Section at Imperial College, London

22. Professor H drew on his professional experience to express an opinion upon the appropriateness of Dr Ghaus’ submitted documents. He highlighted the exceptional circumstances in which Dr Ghaus had found herself and the overarching need for full details to be provided by her to others in the safeguarding process. Professor H was of the view that the social worker and the judge could then make
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an informed judgement on what weight they were able to give this information. The Tribunal found Professor H to give fair and balanced evidence.

Ms J

23. The Tribunal found Ms J to be a genuine and credible witness who described the nature of Dr Ghaus’ relationship with Patient A and gave an account of the events on 20 June 2016. Ms J spoke highly of Dr Ghaus and expressed her gratitude to Dr Ghaus for what she had done. In assessing her evidence, the Tribunal bore in mind that they had a longstanding acquaintance.

24. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

25. The Tribunal concluded that there are a number of common themes in the charges that it identified and resolved as follows:

The nature of Dr Ghaus’ relationship with Patient A

26. The Tribunal accepted the evidence of Ms J who had described Dr Ghaus’ relationship with Patient A as a ‘mentoring’ one. This was consistent with the evidence of Dr Ghaus. The Tribunal heard that Patient A had other godparents and that Dr Ghaus’ godparent relationship had not been formalised in any way. Ms J stated that the relationship was neither ‘close nor pally’ and that the contact Dr Ghaus had with Patient A had not been frequent and was limited to occasional visits and the exchange of presents. Dr Ghaus had no involvement in Patient A’s education, upbringing or daily life. The Tribunal found Dr Ghaus to be a credible witness when describing her relationship with Patient A and accepted her evidence. When Dr Ghaus was challenged about offering to take Patient A into emergency foster care on 20 June 2016 the Tribunal accepted as genuine her evidence that, as a paediatrician, she would have made the offer to any child in that situation. The Tribunal was satisfied that there was clearly a personal relationship between Patient A and Dr Ghaus but that it could not be characterised as ‘close’.

Clinical Responsibility

27. The GMC’s case, supported by the evidence of Dr C, was that Dr Ghaus had acted diligently in bringing Patient A to the Hospital and that she was under a duty to report what she knew to social services and hospital staff. However Dr C considered that submitting a medical report which included an opinion exceeded Dr Ghaus’ obligations under the circumstances and that she should have provided no more than a factual statement.

28. The defence evidence of Dr L, Professor H and Professor A was consistent; that Dr Ghaus had assumed responsibility as a Good Samaritan and first responder
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and that her duty continued for the purposes of preparing an account for others involved in the safeguarding process. Dr L referred the Tribunal to the GMC guidance on Protecting children and young people, 2012:

‘It is vital that all doctors have the confidence to act if they believe that a child or young person may be being abused or neglected. Taking action will be justified, even if it turns out that the child or young person is not at risk of, or suffering, abuse or neglect, as long as the concerns are honestly held and reasonable, and the doctor takes action through appropriate channels.’

29. In the circumstances the Tribunal was satisfied that by acting as a Good Samaritan and observing published guidance, Dr Ghaus had attained a clinical responsibility for Patient A up until handing her care over to hospital staff. Her clinical responsibility extended to providing safeguarding information thereafter.

The titles used by Dr Ghaus: "Academic Research Fellow and Honorary Consultant in Paediatrics and Neonatal Medicine, Chelsea and Westminster Hospital, Imperial College, London."

30. It is common ground that there was no record of a written contract appointing Dr Ghaus to an honorary clinical role at the Hospital. However, the Tribunal was provided with abundant evidence that she had carried out duties commensurate with the position of honorary consultant at the Hospital for a substantial period. The Tribunal considered:

- The evidence of Professor A that "all academic grades registered for a clinical degree are always employed jointly by the university and the NHS Trust where the clinical work will be done. Dr Ghaus’ university post absolutely required an honorary contract in the NHS."

- The new contract request made by Imperial College on 12 February 2013, which clearly included the declaration that Dr Ghaus had a contractual agreement with the Hospital and Imperial College.

- Professor A’s evidence that there had been an error in the HR department when Dr Ghaus started at the Hospital. He said that they had failed to issue a contract, and this was neither an error of Dr Ghaus or the university. He explained that normally the Hospital and university HR departments worked together to prevent this type of error.

- Professor A’s evidence that all the things required to enable Dr Ghaus to work in a clinical capacity at the Hospital were in place: a security pass, induction, access to clinical notes and joint clinical and academic appraisals. He said it was "inconceivable" that Dr
Ghaus would not have continued to be an honorary consultant at the Hospital until the date of her MD submission.

- Professor A’s evidence conflicted with the evidence of Dr F, but the Tribunal preferred and accepted the evidence of Professor A by reason of his extensive experience of supervising higher clinical degrees in medicine, and his assessment - which the Tribunal accepted - that Dr F had inadequately supervised Dr Ghaus and that Dr F was relatively unfamiliar with the procedures.

- That it could not safely rely on the evidence of Ms D as to Dr Ghaus’ employment status at the Hospital, because she had no experience in liaising with Imperial College about the arrangements for clinical work for doctors registered to do MD degrees at Imperial, and the complete absence of any cogent contemporaneous HR records.

- The email from Ms O, recruitment manager at the Hospital, dated 15 February 2013 to Dr Ghaus which set out: "I understand that you are due to start with our Trust as an honorary Trust doctor in neonatal medicine..."

- The unchallenged evidence of Professor K that "[Dr Ghaus] worked at [the Hospital] in a clinical capacity as a consultant neonatologist ... members of staff at [the Hospital] have not always received contracts in timely fashion...She was a consultant colleague of mine".

- The matters relied upon by Dr Ghaus to support her belief that she had held the position of honorary consultant: She was on the senior consultant rota for neonatal intensive care at the Hospital for a 16 month period in 2013 and 2104; she had attended consultant-level induction and training to gain the highest level of access to paediatric services in the Hospital; her badge gave her entry to all associated clinical areas in paediatrics, neonatal care and the labour suite; she was invited to training dates including Level 3 Children’s Safeguarding for all Consultants; she provided consultant-level training to senior neonatal nurse practitioners and she had corresponded with the Hospital appraisal lead and her Responsible Officer using the title "Honorary Consultant in Neonatal Medicine" at the Hospital without any issue being raised.

31. Dr Ghaus’s honorary status as a consultant was also supported by her unchallenged evidence that her on call consultant work had been without pay.
32. The Tribunal attached little weight to Dr Ghaus' inclusion in email distribution lists which appeared to comprise a large number of consultants at the Hospital. The lists were of unknown provenance and it was not possible to determine whether Dr Ghaus had been included on the lists by error or design. However, it considered that receiving a number of such emails may indeed have supported Dr Ghaus' belief that she remained an honorary consultant at the Hospital.

33. In all the circumstances the Tribunal was satisfied that the absence of a written contract appointing Dr Ghaus an honorary consultant at the Hospital had little influence on her genuine belief and indeed the reality that she had held the position of Honorary Consultant in Paediatrics and Neonatal Medicine at the Hospital. The evidence supporting her belief appeared to the Tribunal to be overwhelming.

34. As to her status as an Academic Research Fellow, the Tribunal accepted that Dr Ghaus was no longer acting in a paid role in that capacity. The funding had ended on 31 March 2015 and Dr Ghaus had been informed of that by email in February 2015. The evidence of Dr F was that once the grant funding ended her honorary contracts ended and that she was thereafter a post graduate student. The Tribunal rejected this evidence, for the reasons set out above, and preferred that of Professor A, namely that Dr Ghaus' honorary positions would not be affected by the absence of funding and that a Research Fellowship was required while she wrote her thesis. Professor A had made an application in November 2016 to back date Dr Ghaus' Clinical Research Fellowship to 31 March 2015. This was for a number of reasons including "to protect research indemnity."

35. Professor A's evidence was supported by that of Mr E, who stated that Honorary (unpaid) status was among the mechanisms permitting researchers access to academic facilities at Imperial College while writing up their research after funding has ended. He accepted that it was unsurprising that Dr Ghaus' Clinical Research Fellowship was back-dated following the November 2016 application to 31 March 2015, as that would reflect the reality of the position and that it was "quite reasonable of her to assume it was in place." Furthermore, Mr E stated that a Clinical Research Fellowship would encompass both clinical and academic work. The Tribunal was therefore confident that the back-dated Research Fellowship encompassed Dr Ghaus’ use of the title ‘Academic Research Fellow’. Mr E also stated that the reason for the back-dating may have been due to Dr Ghaus' sick leave.

36. Accordingly, the Tribunal was satisfied that in June 2016 Dr Ghaus had a genuine and reasonably held belief that she continued to hold the position of Academic Research Fellow at Imperial College. The back-dating clearly reflected the understanding of all those involved, with the exception of Dr F, whom the Tribunal found had relatively little experience of MD supervision. Dr Ghaus had received no funding for her Academic Research Fellowship position since 31 March 2015, effectively making it an honorary role, but the Tribunal considered this distinction to be of little consequence and not misleading.
The Allegations to be determined

Paragraph 1

On 20 June 2016 you attended Chelsea and Westminster Hospital (‘the Hospital’) with Patient A with whom you had a close personal relationship.

37. The Tribunal having found that Dr Ghaus did not have a close personal relationship with Patient A, paragraph 1 is found not proved.

Paragraph 4 a, b, c and d

Your submission of the Medical Report was inappropriate as:

a. you had a close personal relationship with Patient A;

b. you had no clinical responsibility for Patient A;

c. the Medical Report could have been regarded as a formal child protection report;

d. you stated in the Medical Report that this report ‘...will be shown before the Court.’

38. The Tribunal did not find that Dr Ghaus’ submission of the medical report was inappropriate. As for the individual subparagraphs, the Tribunal reminded itself of its findings that Dr Ghaus did not have a close personal relationship with Patient A and that she had acquired a clinical responsibility for Patient A up until handing her care over to hospital staff. This extended to providing safeguarding information thereafter.

39. The Tribunal considered whether the medical report could have been regarded as a formal child protection report. It bore in mind the evidence of Mr B, that he ‘initially thought that this correspondence was a child protection report’, that of Dr C that the report was structured like a child protection report, and Dr L’s comment that the ‘documents titled medical report could have been regarded as a formal child protection report’.

40. However the Tribunal had the opportunity to study the actual formal child protection report prepared by Dr S, which was very different in its content, layout and its presentation. Furthermore Dr Ghaus’ medical report could not be viewed in isolation from the accompanying covering letter and personal statement which, in the view of the Tribunal, made it clear that this was not a formal child protection report. It was of note that neither Dr C nor Dr L had had the opportunity to consider the formal Child Protection Report submitted by Dr S.
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41. Accordingly, notwithstanding any confusion on the part of Mr B, the Tribunal was not satisfied that Dr Ghaus’ medical report could have been regarded as a formal child protection report.

42. There was no dispute that Dr Ghaus had stated in the medical report that it ‘will be shown before the court’.

43. Having regard to the above findings the Tribunal did not accept that the submission of Dr Ghaus’ medical report was inappropriate, the only element of paragraph 4 accepted by the Tribunal was that in paragraph 4 d, which it found to be of little consequence, accepting the evidence of Dr L ‘Dr Ghaus’ medical and safeguarding experience meant that she was aware that a document recording a child’s disclosure of abuse was likely to be put before a court’.

44. Moreover, not only did the Tribunal consider the submission of the medical report not to be inappropriate it was satisfied that Dr Ghaus was under a positive duty to ensure that the information contained in the report and accompanying documents was provided to social services.

Paragraph 5 a and b

You knew when you submitted the Reports to Mr B that you did not hold the position described at paragraph 3 in that you:

a. have never held the position of a honorary consultant in Paediatrics and Neonatal medicine at the Hospital;
b. had not held an Academic Research Fellow position at the Hospital or Imperial College since 31 March 2015.

45. Having regard to its findings of fact as to the titles used by Dr Ghaus, above, the Tribunal found paragraph 5 not proved. It was satisfied that when Dr Ghaus submitted the reports to Mr B she genuinely believed that she held the positions described at paragraph 3.

Paragraph 7 a and b

Your submission of the letter and attached statement described at paragraph 6 was inappropriate as you had:

a. a close personal relationship with Patient A;
b. no clinical responsibility for Patient A.

46. Having regard to its findings of fact in relation to the nature of Dr Ghaus’ relationship with Patient A and the issue of clinical responsibility, the Tribunal did not
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find Dr Ghaus’ submission of the letter and attached statement described at paragraph 6 to be inappropriate.

Paragraph 8

You knew when you wrote the letter described at paragraph 6 that you had not been asked to produce the Reports by Mr B.

47. The evidence of Mr B was that he had not asked Dr Ghaus to produce reports and that he had only expected to receive a medical report from Dr S. This was in stark conflict with the evidence of Dr Ghaus that she had been asked for a report. The evidence of Ms J provided some support for Dr Ghaus, in that she was sure that Mr B had asked Dr Ghaus to provide information, albeit that she could not recall the format in which the information was to have been provided.

48. The Tribunal acknowledged that the conversation between Dr Ghaus and Mr B was very brief, with Dr Ghaus having to leave soon afterwards. The Tribunal considered it would have been highly unlikely for a responsible social worker not to have requested further information from a first responder to an allegation of abuse. It has been referred to the HM Government Guidance: ‘Working Together to Safeguard Children 2015’. Applying that guidance and this being a ‘Section 47 enquiry’, Mr B was under a duty to systematically gather information about the child and family history. He should also have been aware of the expectation that all involved professionals, such as Dr Ghaus, contribute to the assessment of risk, providing information about the child and family.

49. The Tribunal accepted that Mr B did not believe he had requested a medical report from Dr Ghaus. However, the Tribunal concluded that he would have been unlikely to have refused the offer of information, having regard to his safeguarding obligations. The Tribunal accepted the recollection of Dr Ghaus and Ms J that further information had been requested. It found the conflicting evidence to be reconcilable in the light of the brevity of the conversation in the context of the serious safeguarding concern at the Hospital. The Tribunal found it difficult to conclude with any degree of safety just what Dr Ghaus was expected to provide by way of information once she had left the Hospital on 20 June 2016. The Tribunal bore in mind Dr Ghaus’ clear understanding of her professional safeguarding responsibilities; she clearly considered the report and personal statement that she had submitted would meet the expectations of Mr B and indeed her own expectations of herself as a trained and experienced paediatrician who was a first responder in a situation of alleged child abuse.

50. In all the circumstances the Tribunal could not be satisfied that when Dr Ghaus wrote the letter described at paragraph 6 she knew that she had not been asked to produce the reports described therein by Mr B. Accordingly the Tribunal found paragraph 8 not proved.
Paragraph 9

Your actions described at paragraphs 2, 3 and 6(a) were dishonest by reason of paragraphs 5 and 8.

51. In light of the Tribunal finding paragraph 5 and 8 not proved, it follows that it finds paragraph 9 not proved.

52. In conclusion, the Tribunal was entirely satisfied that Dr Ghaus honestly believed that she held the positions detailed in allegation 3. Further, the Tribunal was convinced that Dr Ghaus acted appropriately in submitting the documents outlined in allegations 2 and 6. Indeed, the Tribunal felt that in so doing Dr Ghaus was fulfilling her professional duty in a safeguarding role. Specifically, the Tribunal replied upon the guidance made available to it as follows:

- The Monro Review of Child Protection, 2011: as previously detailed and also paragraph 3.18, principle 9
  
  ‘those working in child protection should work with partner agencies and others to share relevant information’.

- HM Government Working together to safeguard children, 2015: in particular
  
  (i) paragraph 22 ‘Effective sharing of information between professionals and local agencies is essential for identification, assessment and service provision’; and

  (ii) Initiating section 47 enquiries

  ‘All involved professionals should contribute to the assessment as required, providing information about the child and family.’

- General Medical Council: Protecting children and young people, 2012: as previously detailed; and in particular

  (i) Page 8

  ‘Doctors who make decisions based on the principles in this guidance will be able to justify their decisions and actions if we receive a complaint about their practice’;

  (ii) Page 19
You must work with and communicate effectively with colleagues...this includes...social workers’;

(iii) Page 28

You should consider all requests for information for child protection purposes seriously and quickly’;

(iv) Page 42

As a witness of fact...you may include some opinion ...for example of how an injury to a child or a young person has been caused...’;

(v) Page 46

If there is a possible conflict of interest...you must make sure the people instructing you, the other party and the judge are made aware of this without delay’.

- Safeguarding handout for level 3 training update in child safeguarding, Chelsea and Westminster Hospital April 2016:

(i) Page 3, Core competencies include:

Documents concerns in a manner that is appropriate for safeguarding/child protection and legal processes...
Shares appropriate and relevant information with other teams’.

The Tribunal was satisfied that none of Dr Ghaus’ conduct giving rise to the allegation was inappropriate or professionally culpable in any way. Rather, her conduct was driven by a genuinely held sense of professional obligation and undertaken in a manner that was wholly in accordance with current extensive guidance and good medical practice.

The Tribunal’s Overall Determination on the Facts

54. The Tribunal has determined the facts as follows:

1. On 20 June 2016 you attended Chelsea and Westminster Hospital (‘the Hospital’) with Patient A with whom you had a close personal relationship. Not proved

2. On or around 23 June 2016 you submitted the following documents (‘the Reports’) to a Senior Social Worker, Mr B, in respect of your attendance at the Hospital referred to in paragraph 1:
a. a cover letter dated 23 June 2016; **Admitted and found proved**

b. ‘A. Medical Report….’ dated 23 June 2016 (the ‘Medical Report’); **Admitted and found proved**

c. ‘B. Personal statement of Dr. K. Ghaus’ dated 23 June 2016 (the ‘Personal Statement’). **Admitted and found proved**

3. In the Reports you referred to yourself as an ‘Academic Research Fellow and Hon. Consultant in Paediatrics and Neonatal medicine, Chelsea and Westminster Hospital, Imperial College, London.’ **Admitted and found proved**

4. Your submission of the Medical Report was inappropriate as:

   a. you had a close personal relationship with Patient A; **Not proved**

   b. you had no clinical responsibility for Patient A; **Not proved**

   c. the Medical Report could have been regarded as a formal child protection report; **Not proved**

   d. you stated in the Medical Report that this report ‘…will be shown before the Court.’ **Not proved**

5. You knew when you submitted the Reports to Mr B that you did not hold the position described at paragraph 3 in that you:

   a. have never held the position of a honorary consultant in Paediatrics and Neonatal medicine at the Hospital; **Not proved**

   b. had not held an Academic Research Fellow position at the Hospital or Imperial College since 31 March 2015. **Not proved**

6. On or around 26 August 2016 you wrote a letter to the Multi-Agency Safe-guarding Hub of Wandsworth Council, in which you:

   a. stated ‘...I had prepared and sent, at the request of the duty Social Worker [Mr B] two reports in the form of a formal medical case record’, referring to the Medical Report and Personal Statement; **Admitted and found proved**
b. attached a statement titled ‘Witness statement of Dr. Karena Ghaus...Consultant in Neonatal Medicine and Paediatrics (GMC specialist register)’; **Admitted and found proved**

c. concluded, in the statement described at paragraph 6(b), that Patient A’s ‘...description of being struck by a waste-bin with her hands up near her head was in my opinion entirely consistent with her injury.’ **Admitted and found proved**

7. Your submission of the letter and attached statement described at paragraph 6 was inappropriate as you had:

   a. a close personal relationship with Patient A; **Not proved**

   b. no clinical responsibility for Patient A. **Not proved**

8. You knew when you wrote the letter described at paragraph 6 that you had not been asked to produce the Reports by Mr B. **Not proved**

9. Your actions described at paragraphs 2, 3 and 6(a) were dishonest by reason of paragraphs 5 and 8. **Not proved**

55. Although Dr Ghaus has admitted paragraphs 2, 3 and 6 of the Allegation, the Tribunal did not consider that these provided for any degree of culpability and were simply factual statements.

56. Having taken the opportunity to reflect upon this determination and take instructions, Mr Williams made no further submissions on behalf of the GMC.

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**Confirmed**

**Date** 10 May 2019  
Mr Leighton Hughes, Chair