Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD


Medical Practitioner’s name: Dr Mohammad Marash SALEEMI

GMC reference number: 7592252

Primary medical qualification: Doctor - Medic 2014 Universitatea din Oradea

Type of case
New - Deficient professional performance
New - Misconduct

Outcome on impairment
Impaired
Impaired

Summary of outcome
Erasure

Immediate order imposed

Tribunal:

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<tr>
<th>Legally Qualified Chair</th>
<th>Mrs Linda Lee</th>
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<td>Medical Tribunal Member:</td>
<td>Dr Matthew O'Meara</td>
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<td>Medical Tribunal Member:</td>
<td>Dr Paolo De Marco</td>
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<td>Tribunal Clerk:</td>
<td>Ms Chloe Ainsworth</td>
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Attendance and Representation:

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<td>Medical Practitioner’s Representative:</td>
<td>Ms Catherine Stock, Counsel, directly instructed</td>
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<td>GMC Representative:</td>
<td>Ms Ceri Widdett, Counsel</td>
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Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held partly in public and partly in private.
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Overarching Objective

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

Determination on Facts and Impairment - 10/09/2019

1. This determination will be read in private. However, as this case concerns Dr Saleemi’s deficient professional performance and misconduct, a redacted version will be published at the close of the hearing XXX.

Background

2. Dr Saleemi qualified in Romania in September 2014. After periods of work experience abroad, he returned to the UK in March 2017. In July 2017, Dr Saleemi gained employment as a foundation year one ('FY1') doctor at Lewisham and Greenwich NHS Trust ('the Trust') in the UK. Dr Saleemi intended to remain at the Trust for one year to complete rotations in obstetrics and gynaecology, general surgery and psychiatry. Concerns were repeatedly raised regarding his clinical performance.

3. On 26 July 2017, Dr Saleemi failed to pass his local pharmacy exam, scoring 4/35 with six serious errors. It was recommended that he receive remedial training and that he did not prescribe to patients. On 27 July 2017, Dr Saleemi failed the Immediate Life Support ('ILS') course. He was unsuccessful in the ‘ABCDE approach’, initial resuscitation and defibrillation. On the following day, the obstetrics and gynaecology department at the Trust raised concerns regarding Dr Saleemi’s appointment to his role. The department was advised to provide Dr Saleemi with support to guide improvement.

4. On 31 July 2017, Dr Saleemi met with a mentoring pharmacist to receive feedback regarding the local pharmacy exam. The mentoring pharmacist recommended that Dr Saleemi did not prescribe independently. Dr Saleemi continued to meet with two mentoring pharmacists during his employment with the Trust.

5. On 3 August 2017, Dr Saleemi met with the foundation program director ('FPD') to address his failed local pharmacy exam and ILS. Dr Saleemi stated that he felt overwhelmed in his role and that it was his first clinical role since medical school. An action plan was made, including some remedial prescribing training and that Dr Saleemi resat his pharmacy exam.
6. On 10 August 2017, Dr Saleemi met with the FPD again. He reported that he was coping with being an FY1 doctor and another action plan was installed.

7. On 21 August 2017, Dr Saleemi’s mentoring pharmacists gave feedback regarding his lack of progress in safe prescribing and failure to meet the level of clinical knowledge of prescribing expected of a FY1 doctor. On 23 August 2017, three consultants in the obstetrics and gynaecology department raised concerns regarding Dr Saleemi’s clinical performance and his lack of progress. Following on from this, the FPD escalated the matter on 24 August 2017 and on 7 September 2017, Dr Saleemi was issued with a verbal warning regarding his performance.

8. On 15 September 2017, Dr Saleemi resat the BLS and passed. However, on 20 September, Dr Saleemi re-sat the local pharmacy exam and there remained several serious concerns. As such, it was concluded that Dr Saleemi was not safe to prescribe independently.

9. On 25 September 2017, Dr Saleemi gave notice of resignation and his employment with the Trust was terminated on 21 October 2017. On 18 October 2017, Dr Saleemi’s responsible officer ('RO') completed a referral form to the GMC based on the Trust’s concerns regarding Dr Saleemi’s clinical performance.

10. Dr Saleemi applied for a FY1 doctor post at Medway Hospital ('Medway'), but did not disclose his previous employment with the Trust. Dr Saleemi was initially unaware that the Trust had referred him to the GMC, but when he discovered this, he informed Medway. Medway subsequently completed an internal investigation, which uncovered that Dr Saleemi had not been truthful in his application and Dr Saleemi’s contract was terminated.

The Outcome of Applications Made during the Facts Stage

11. The Tribunal granted Ms Stock’s application on behalf of Dr Saleemi, made pursuant to Rule 41 XXX of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that the Tribunal should sit in private XXX.

The Allegation and the Doctor’s Response

12. The Allegation made against Dr Saleemi is as follows:
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1. In May 2018 you underwent a General Medical Council assessment of the standard of your professional performance. 
   Admitted and found proved

2. Your professional performance was unacceptable in the following areas:
   a. Maintaining Professional Performance; 
      Admitted and found proved
   b. Assessment; 
      Admitted and found proved
   c. Clinical Management; 
      Admitted and found proved
   d. Relationships with Patients; and 
      Admitted and found proved
   e. Working with Colleagues. 
      Admitted and found proved

3. When applying for a position at Medway NHS Foundation Trust (‘Medway’) you failed to declare:
   a. your employment at Lewisham and Greenwich NHS Trust (‘Lewisham and Greenwich’):
      i. on your CV which you submitted to Medway on 19 September 2017; 
         Admitted and found proved
      ii. during your interview with Dr A on 21 September 2017; 
         Admitted and found proved
   b. the local restrictions which Lewisham and Greenwich had placed upon you during your employment. 
      Admitted and found proved
4. Between 21 September 2017 and 1 November 2017 you submitted a gap statement to Medway, in which you stated that you had been unemployed between March 2017 and November 2017, which was untrue.
Admitted and found proved

5. On or around 27 September 2017 you completed an internal Medway form for new medical staff and you falsely answered ‘yes’ to the following question: ‘Is this your first job in the United Kingdom?’
Admitted and found proved

6. You knew that you should have declared the matters as described at paragraphs 3a and 3b to Medway.
Admitted and found proved

7. Your actions as described at paragraphs 3a and 3b were dishonest by reason of paragraph 6.
Admitted and found proved

8. You knew that the information you provided to Medway as described at paragraphs 4 and 5 was untrue.
Admitted and found proved

9. Your actions as described at paragraphs 4 and 5 were dishonest by reason of paragraph 8.
Admitted and found proved

And that by reason of the matters set out above your fitness to practise is impaired because of your:

a. deficient professional performance in respect of paragraphs 1 and 2; and
To be determined

b. misconduct in respect of paragraphs 3 to 9.
To be determined
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The Admitted Facts

13. At the outset of these proceedings, through his counsel, Ms Stock, Dr Saleemi made admissions to the entirety of the Allegation, as set out above, 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.

Impairment

14. The Tribunal decided 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 above, Dr Saleemi’s fitness to practise is impaired by reason of misconduct.

The Evidence

15. The Tribunal has taken into account all the evidence received during the facts stage of the hearing:

- Fitness to practise referral form, dated 18 October 2017;
- CV of Dr Saleemi, submitted for his role at Medway;
- Notes of progression meetings, dated 24 August and 7 September 2017;
- Note of pharmacy meeting 29 August 2017;
- Medway NHS Foundation Trust Investigation Report dated 1 December 2017;
- Gap statement, undated.

Performance Assessment Reports

16. As part of the GMC investigation process, Dr Saleemi was invited to undertake a performance assessment, which was conducted in May 2018. The assessment team’s formal opinion was that Dr Saleemi’s professional performance was deficient and that he was not fit to practise.

17. The Tribunal received witness statements from the following witnesses:

- Dr A, Deputy Medical Director for Planned Care Directorate and RO at Medway;
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- Dr B, Consultant Physician Gastroenterologist at Medway.

18. Dr Saleemi provided his own witness statement, dated 8 August 2019.

19. XXX.

Submissions

GMC submissions

20. On behalf of the GMC, Ms Widdett submitted that Dr Saleemi’s fitness to practise is impaired by reason of his deficient clinical performance and that all three limbs of the overarching objective are engaged. She submitted that there have been serious failures and departures from Good Medical Practice 2013 (‘GMP’) and reminded the Tribunal of the conclusions of the performance assessors, who found Dr Saleemi’s performance to be deficient.

21. Ms Widdett submitted that the Tribunal has received no evidence of remediation and very little evidence of insight. Further, she submitted that Dr Saleemi’s acceptance of the criticisms of his performance is limited. Ms Widdett submitted that there is very little evidence of insight or reflection so there continues to be a risk with regard to his performance.

22. Ms Widdett submitted that Dr Saleemi’s fitness to practise is also impaired by reason of his misconduct. She submitted that all three limbs of the overarching objective are also engaged in this respect. Ms Widdett submitted that Dr Saleemi accepts that his actions in failing to disclose his employment at the Trust in his application for his role at Medway were dishonest. She submitted that Medway was unable to verify his references and had no knowledge of the prescribing concerns attached to him. Ms Widdett submitted that Dr Saleemi’s actions amounted to repeated dishonesty and that he had risked patient safety.

23. Ms Widdett submitted that Dr Saleemi lacks insight into his dishonesty and that he has shown a lack of regard for patient safety. She concluded that in order to maintain public confidence in the medical profession, the Tribunal should find Dr Saleemi’s fitness to practise impaired.
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Submissions on behalf of Dr Saleemi

24. On behalf of Dr Saleemi, Ms Stock submitted that he accepts his fitness to practise is impaired. However, she submitted that the Tribunal should consider the background and context to his actions. She submitted that Dr Saleemi’s role with the Trust was his first employment as a doctor after medical school and that it damaged his confidence XXX.

25. Ms Stock submitted that Dr Saleemi felt unsupported by his educational supervisor, who asked Dr Saleemi why he studied in Romania and if he had been forced to study medicine by his parents. She submitted that the issues with his performance were not raised with him at the time either by his colleagues or his educational supervisor. However, Ms Stock submitted that Dr Saleemi accepts that he did not perform well whilst at the Trust. She submitted that because of his treatment at the Trust, XXX, which in turn affected his clinical performance negatively. Ms Stock pointed out that Dr Saleemi passed his interview for Medway without any issues and that he worked there, albeit it for a short time, without incident.

26. Ms Stock submitted that at the time of Dr Saleemi’s performance assessment in May 2018, XXX and so his performance did not reflect his ability. Further, she submitted that Dr Saleemi was assessed at the level of a foundation year two (‘FY2’) doctor. XXX.

27. Turning to the matter of dishonesty, Ms Stock submitted that Dr Saleemi is not an inherently dishonest person, but accepts that he was dishonest at the time of applying for the post at Medway. She submitted that he accepts his actions amount to misconduct and accepts the impact of his actions on patients, the profession and the public.

28. Ms Stock submitted that Dr Saleemi is genuinely remorseful about his conduct with Medway. She submitted that Dr Saleemi accepts that his fitness to practise is impaired and that this demonstrates his insight. Further, she submitted that whilst it is difficult to remediate dishonesty, Dr Saleemi was at a 'low ebb' and there have been no issues either before or since. Ms Stock submitted that there is no risk of repetition as Dr Saleemi has insight.
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The Relevant Legal Principles

29. 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.

30. In approaching the decision, the Tribunal was mindful of the two-stage process to be adopted: first whether the facts as found proved amounted to misconduct, and that the misconduct was serious, and then whether the finding of that misconduct, which was serious, could lead to a finding of impairment.

31. In respect of the deficient professional performance, the Tribunal had regard to Calhaem, R v GMC [2007] EWHC 2606 (Admin) (19 October 2007):

'(3) "Deficient professional performance" within the meaning of 35C(2)(b) is conceptually separate both from negligence and from misconduct. It connotes a standard of professional performance which is unacceptably low and which (save in exceptional circumstances) has been demonstrated by reference to a fair sample of the doctor’s work.’

32. The Tribunal also had regard to CHRE v NMC and Grant [2011] EWHC 927 (Admin):

‘Do our findings of fact in respect of the doctor’s misconduct, deficient professional ...show that his/her fitness to practise is impaired in the sense that s/he:

a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.’
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33. The Tribunal must determine whether Dr Saleemi’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

Deficient Professional Performance

34. The Tribunal first considered whether Dr Saleemi’s fitness to practise is impaired by reason of his deficient professional performance.

35. Dr Saleemi underwent a GMC performance assessment in May 2018 and his professional performance was found to be unacceptable in the following five areas:

- Maintaining professional performance;
- Assessment;
- Clinical management;
- Relationships with patients;
- Working with colleagues.

36. Dr Saleemi’s performance was assessed in five out of eight categories, with reference to the professional standards described in GMP. He was unable to be assessed in three categories as there was insufficient evidence to make a judgement. The assessment team concluded that the standard of Dr Saleemi’s performance was deficient in all five categories assessed.

37. The Tribunal noted that the assessment of Dr Saleemi indicated that he was significantly underperforming in all the areas assessed. For example, Dr Saleemi scored 27.50% in the knowledge test, which is below the standard set mark of 67.25%. The performance assessors found that ‘Dr Saleemi’s approach to patients, like his approach to assessment and clinical management, was unstructured and poorly focused so that patients were not fully informed, and he did not allay their concerns’.

38. In their report, the performance assessors found:

‘The Team’s unanimous conclusion was that Dr Saleemi’s performance was deficient and that he is not fit to practise as a doctor. This is due to the
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evidence of persistent failure to comply with the professional standards appropriate to the work he did and his performance which clearly departs from the performance described in ‘Good Medical Practice’.

The Team was particularly concerned at Dr Saleemi’s lack of knowledge and his failure to meet the standard expected of a UK medical graduate for provisional registration with a licence to practise.’

39. The Tribunal was satisfied that this was a wide-ranging assessment which encompassed a fair sample of Dr Saleemi’s work and identified significant failings across key areas of GMP. The Tribunal noted Ms Stock’s submissions that Dr Saleemi was assessed at the level of a FY2 doctor, when he had been practising as a FY1 doctor. It was satisfied with the explanation outline in the performance assessment report, which states:

‘As Dr Saleemi had full registration and is considering applying for specialist training posts in medicine and general practice, which require him to demonstrate competency at Foundation Year Two (F2) level, he was assessed as a doctor at the end of the Foundation Programme (F2).’

40. The Tribunal considered whether Dr Saleemi’s fitness to practise was currently impaired by reason of his deficient professional performance. In doing so, the Tribunal again had regard to the helpful approach to determining the question of impairment as set out above.

41. Having considered the unequivocal findings of the assessment team, this Tribunal was satisfied that they constitute deficient professional performance. The Tribunal was satisfied that Dr Saleemi’s unacceptably low standard of performance had the potential to put patients at unwarranted risk of harm and had the potential to bring the medical profession into disrepute.

42. The Tribunal considered the question of Dr Saleemi’s insight and whether he had done anything to remediate his deficient professional performance in the time since the performance assessment was carried out.

43. The Tribunal had sight of Dr Saleemi’s witness statement, dated 8 August 2019. Whilst Dr Saleemi accepted some responsibility for his deficient clinical performance, the Tribunal found that he sought to minimise his accountability throughout:
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‘During the FY1 induction I had to take the PSA exam, unfortunately, I failed the exam. I did not have access to the BNF during the exam and I was only made aware that I had to take the exam a day before. The following day I also failed my ILS course, again, I was not made aware that I had the ILS course until the day before...’

44. The Tribunal noted Dr Saleemi’s explanation that he felt unsupported in the environment at the Trust. However, the Tribunal determined that this did not account for such serious and abundant failings in his clinical performance. The Tribunal determined that Dr Saleemi’s insight into his failings is limited.

45. The Tribunal also noted that Dr Saleemi is currently studying for a MSc in Public Health. However, the Tribunal was unclear as to how this assisted in Dr Saleemi’s insight or remediation, or to what extent undertaking this course of study could assist in remedying his deficient professional performance.

46. Whilst the Tribunal accepts that generally deficient professional performance may be remediable, there is no evidence before it that Dr Saleemi has undergone the required remediation. Without evidence of significant insight and remediation from Dr Saleemi, the Tribunal concluded that he poses a continuing risk to patient safety.

47. Having considered all the evidence before it, the Tribunal has concluded that Dr Saleemi’s fitness to practise is impaired by reason of deficient professional performance.

Misconduct

48. The Tribunal next considered if Dr Saleemi’s fitness to practise is impaired by reason of his misconduct.

49. The Tribunal considered whether the facts found proved are a sufficiently serious departure from the standards of conduct reasonably expected of Dr Saleemi as a registered medical practitioner to amount to misconduct.

50. The Tribunal noted Ms Stock’s submissions that Dr Saleemi accepted his dishonest actions amounted to misconduct.
51. The Tribunal had regard to GMP, particularly the following areas:

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

66 You must always be honest about your experience, qualifications and current role.

…

68 You must be honest and trustworthy in all your communication with patients and colleagues. This means you must make clear the limits of your knowledge and make reasonable checks to make sure any information you give is accurate.’

The Tribunal was satisfied that Dr Saleemi had breached the above paragraphs of GMP by omitting to include his employment at the Trust in his application for a role with Medway.

52. Having found that the facts found proved amount to misconduct, the Tribunal went onto consider whether as a result of that misconduct, Dr Saleemi’s fitness to practise is currently impaired.

53. In relation to this conduct, the Tribunal also noted that Dr Saleemi’s actions were considered sufficiently serious by his employer, Medway, that he underwent formal disciplinary action, which culminated in his termination from the role.

54. The Tribunal acknowledged that Dr Saleemi has apologised for his actions and accepted that his remorse was genuine. It had regard to his witness statement, dated 8 August 2018:

‘I fully take responsibility that I knowingly did not disclose my employment with Lewisham when applying to Medway and I am extremely remorseful for that. I understand that as a doctor it is imperative that we are honest and during that time I clearly made a decision to be dishonest. I had a clear lapse of judgement. It is something that I will continue to regret and am extremely ashamed of.’

The Tribunal found Dr Saleemi to demonstrate some insight into his dishonesty, but found this to be in its infancy. It determined that there was an absence of any
meaningful reflection on the impact of his dishonesty on the patient safety and public confidence in the medical profession.

55. The Tribunal noted that it had no evidence before it of any remediation. Without evidence of sufficient insight and remediation from Dr Saleemi, the Tribunal concluded that he may repeat his actions again in the future.

56. In the Tribunal's view, these are serious matters which would be regarded as deplorable by fellow practitioners, and are not in keeping with the standards expected of a registered medical practitioner.

57. In all the circumstances, the Tribunal concluded that Dr Saleemi’s fitness to practise is impaired by reason of his misconduct.

58. The Tribunal has therefore determined that Dr Saleemi’s fitness to practise is impaired by reason of his deficient professional performance and misconduct.

Determination on Sanction - 11/09/2019

1. This determination will be read in private. However, as this case concerns Dr Saleemi’s deficient professional performance and misconduct, a redacted version will be published at the close of the hearing XXX.

2. Having determined that Dr Saleemi’s fitness to practise is impaired by reason of misconduct and deficient professional performance, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

3. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

The Power to Draw an Adverse Inference

4. The Tribunal noted that Dr Saleemi chose not to give oral evidence during this hearing. The Tribunal had regard to the case of Kuzmin v GMC [2019] EWHC 2129 (Admin) (05 August 2019) and invited submissions from both parties.
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5. On behalf of the GMC, in relation to the case of Kuzmin, Ms Widdett submitted that the Tribunal is entitled to draw an inference where there is an absence of evidence. She submitted that the Tribunal has no evidence of remediation other than submissions made by Dr Saleemi’s Counsel that he is attending a course.

6. On behalf of Dr Saleemi, in relation to the case of Kuzmin, Ms Stock submitted that whether adverse inference should be drawn is dependent on the case. She submitted that this case is clearly distinguished from the case of Kuzmin, who refused to give oral evidence and withdrew his witness statement. Ms Stock submitted that Dr Kuzmin provided no innocent explanation for his actions and so the Tribunal concluded it should draw an adverse inference from this. She submitted that in this case, Dr Saleemi has provided a clear explanation for his actions. Further, Ms Stock submitted that Dr Saleemi has not received notice from the GMC prior to the beginning of the hearing that it would ask for the Tribunal to draw an adverse inference. Ms Stock concluded that doing so would be inherently unfair.

7. The Tribunal noted that it had the power to draw an adverse inference from Dr Saleemi’s decision not to give oral evidence, however on this occasion the Tribunal determined that it was not appropriate for it to exercise that power.

Submissions

GMC submissions

8. Ms Widdett referred the Tribunal to the relevant areas of the Sanctions guidance 2018 (‘SG’) and submitted that the Tribunal should consider any aggravating and mitigating factors in this case. She submitted that it would be inappropriate for the Tribunal to take no action on Dr Saleemi’s registration as this is only for exceptional circumstances and there are no exceptional circumstances in this case. Ms Widdett submitted that no workable conditions could be formed to address Dr Saleemi’s misconduct or deficient professional performance.

9. Turning to the sanction of suspension, Ms Widdett submitted that the Tribunal should consider if Dr Saleemi’s misconduct and performance are incompatible with continued registration. Ms Widdett submitted that Dr Saleemi’s deficient performance and ‘his blatant disregard for the safety of the public’ in being dishonest on his job application for Medway, is so serious that to maintain public confidence in the profession erasure is the appropriate and proportionate sanction in this case.
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10. Ms Widdett submitted that Dr Saleemi has limited insight into the seriousness of his dishonesty and has sought to minimise his accountability. In all the circumstances, there is little potential to remediate and, as such, Dr Saleemi continues to be a risk to patient safety as there is a significant risk of repetition. She submitted that erasure is the only means of maintaining confidence in the profession, protecting patients and of upholding standards of professional conduct.

Submissions on behalf of Dr Saleemi

11. Ms Stock submitted that the most appropriate sanction in this case would be one of suspension. Ms Stock submitted that erasure would be wholly punitive and should be reserved for the most serious of cases.

12. Ms Stock further submitted that Dr Saleemi’s dishonesty was out of character and occurred at a time XXX whist working in a bullying environment. She submitted that Dr Saleemi has demonstrated some insight into the seriousness of his misconduct and has made heartfelt apologies.

13. Ms Stock submitted that Dr Saleemi is a young doctor with potential and should be given the opportunity to show it. She stated that this was Dr Saleemi’s first post after medical school and that in total he only worked at the Trust for a period of twenty days which was not long enough for him to ‘bed in’ and does not provide the full picture of Dr Saleemi’s potential. A period of suspension with an opportunity for a performance assessment would give Dr Saleemi the chance to develop full insight and remediation.

The Tribunal’s Determination on Sanction

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

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

16. The Tribunal has already set out its decisions on the facts and impairment and it took those determinations into account during its deliberations on sanction. It first considered the aggravating and mitigating factors in this case and then moved on to consider each sanction in ascending order of severity, starting with the least restrictive.
Aggravating and Mitigating Factors

17. The Tribunal first considered the aggravating factors in this case:

- Dishonesty, which included several incidents of dishonesty over a period of time;
- Dr Saleemi was dishonest in order to secure a job at Medway and leave the Trust;
- His dishonesty was also to conceal his deficient professional performance;
- Dr Saleemi’s dishonesty put patient safety at risk.

18. The Tribunal then considered the mitigating factors in this case:

- Dr Saleemi’s perception of bullying at the Trust. However, the Tribunal noted that this view was not supported by the evidence before it. It had regard to the timeline of the support provided to Dr Saleemi during his time at the Trust. It had sight of the detailed notes of Dr Saleemi’s several meetings with the mentoring pharmacists, educational supervisor and the FPD. Further, the Tribunal noted that this did not explain Dr Saleemi’s seriously underperforming during the GMC performance assessment some 18 months later. As such, the Tribunal placed limited weight on this as a mitigating factor;
- XXX;
- The Tribunal credited Dr Saleemi with admitting his dishonesty at an early stage when his CV omissions was uncovered;
- The Tribunal noted Dr Saleemi’s apologies for his dishonesty in his interview with Medway and in his witness statement before the Tribunal.

No Action

19. In reaching its decision as to the appropriate sanction, if any, to impose in this case, the Tribunal first considered whether to conclude the case by taking no action.

20. The Tribunal determined that it would be wholly inappropriate to take no action, given the seriousness of the allegations admitted and found proved.
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Conditions

21. The Tribunal next considered whether it would be appropriate to impose conditions on Dr Saleemi’s registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

22. The Tribunal determined that Dr Saleemi’s professional performance was so deficient that it could not be addressed by the imposition of conditions. The Tribunal also determined that conditions would not send out an adequate message to members of the public that dishonesty is unbefitting of a medical practitioner. Furthermore, it would not be possible to formulate conditions, which would be workable or measurable for a case where the Tribunal has found dishonesty. In view of this, the Tribunal determined that the imposition of conditions could not adequately address Dr Saleemi’s impairment.

Suspension

23. The Tribunal next considered whether imposing a period of suspension on Dr Saleemi’s registration would be the appropriate and proportionate sanction in this case.

24. The Tribunal had regard to paragraph 92 of the SG:

‘92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).’

25. The Tribunal first considered whether Dr Saleemi’s registration was incompatible with continued registration due to his deficient professional performance. Whilst the Tribunal noted that poor performance can often be remediated by periods of appropriate retraining, it was concerned that the deficiencies identified in Dr Saleemi’s performance assessment were so pervasive (with him being found to be deficient in all five areas tested), its concerns could not
be addressed by remedial training. Whilst the Tribunal concluded that a period of suspension would protect the public, it was not satisfied that it would allow Dr Saleemi to reach the standard expected for a medical graduate for provisional registration with a licence to practise.

26. The Tribunal noted that the performance assessment team’s unanimous decision was that ‘Dr Saleemi’s performance was deficient and that he is not fit to practise as a doctor’. The Performance Assessment Team was particularly concerned about Dr Saleemi’s lack of knowledge and recommended that ‘Dr Saleemi should be removed from the medical register’. The Tribunal has concluded independently that Dr Saleemi lacks the level of insight or skill necessary to effectively remediate his deficiencies and that a period of retraining and/or supervision would not enable him to meet the required standard.

27. The Tribunal also considered whether Dr Saleemi’s registration was incompatible with continued registration due to his misconduct. The Tribunal determined that Dr Saleemi has been dishonest for his own personal gain. He applied for a job at Medway, omitting his employment with the Trust from his CV. He repeated this dishonesty when he attended the interview with Medway and subsequently accepted the post and completed the GAP form. The Tribunal found this conduct to be deplorable.

28. More seriously, the Tribunal determined that Dr Saleemi’s dishonesty concealed his deficient professional performance and put the patients at Medway at serious risk of harm. The Tribunal determined that Dr Saleemi is a risk to patients and his actions had the potential to greatly undermine public confidence in the profession.

29. In light of the above, the Tribunal determined that this is not a case where suspension is appropriate and that Dr Saleemi’s behaviour breached all three limbs of the overarching objective and is not compatible with continued registration.

30. As such, the Tribunal concluded that the sanction of suspension would be inappropriate in this case.

Erasure
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31. The Tribunal next considered erasing Dr Saleemi’s name from the medical register. The Tribunal had regard to the area of the SG concentrating on erasure, in particular:

‘108. Erasure may be appropriate even where the doctor does not present a risk to patient safety, but where this action is necessary to maintain public confidence in the profession. For example, if a doctor has shown a blatant disregard for the safeguards designed to protect members of the public and maintain high standards within the profession that is incompatible with continued registration as a doctor.

109. Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

... 

b. A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.

... 

h. Dishonesty, especially where persistent and/or covered up (see guidance below at paragraphs 120–128).

The Tribunal was not satisfied that Dr Saleemi has remediated or demonstrated the potential for remediation or retraining. Dr Saleemi’s clinical deficiencies, as evidenced from the reports received from his colleagues and supervisors at the Trust and his GMC performance assessment are deep and wide and his dishonest acts are difficult to remediate.

32. The Tribunal noted that Dr Saleemi blames external factors for his failings, both in terms of his dishonesty and his deficient professional performance. The Tribunal considered that this was evidence of limited insight into the seriousness of his dishonesty which put patient safety at risk. The Tribunal gave credit to Dr Saleemi’s early admission but remained unconvinced that he has shown adequate insight into the serious consequences of his dishonesty.

33. The Tribunal considered the following paragraphs of the SG:
‘120. Good medical practice states that registered doctors must be honest and trustworthy, and must make sure that their conduct justifies their patients’ trust in them and the public’s trust in the profession.

124. Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor’s clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty.

125. Examples of dishonesty in professional practice could include:

... 

d. inaccurate or misleading information on a CV

e. failing to take reasonable steps to make sure that statements made in formal documents are accurate.’

34. The Tribunal concluded that erasure is the only means of protecting patients, maintaining public confidence in the profession and declaring and upholding proper standards and conduct. It was also of the view that Dr Saleemi’s dishonest conduct would undermine the public’s trust in the medical profession.

35. The misconduct and deficient professional performance in this case is of such a serious nature that, for all the reasons set out above, the Tribunal has concluded that erasure is the only proportionate sanction to promote and maintain public confidence in the medical profession, and to uphold proper professional standards and conduct for members of the profession. The Tribunal therefore directs that Dr Saleemi’s name be erased from the Medical Register.

Determination on Immediate Order - 11/09/2019

1. Having determined to erase Dr Saleemi’s name from the medical register, 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, Ms Widdett submitted that an immediate order is necessary to protect patient safety and is in the public interest. She referred the Tribunal to the relevant area of the SG, namely paragraphs 172, 173, 177 and 178.

3. On behalf of Dr Saleemi, Ms Stock did not make any submissions.

The Tribunal’s Determination

4. In reaching its decision, the Tribunal had regard to its previous determinations and the submissions made by Ms Widdett.

5. The Tribunal had particular regard to the following paragraphs of the SG:

‘172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest…

173 An immediate order might be particularly appropriate in cases where the doctor poses a risk to patient safety. For example, where they have provided poor clinical care or abused a doctor’s special position of trust, or where immediate action must be taken to protect public confidence in the medical profession.

…

178 Having considered the matter, the decision whether to impose an immediate order will be at the discretion of the tribunal based on the facts of each case. The tribunal should consider the seriousness of the matter that led to the substantive direction being made and whether it is appropriate for the doctor to continue in unrestricted practice before the substantive order takes effect.’

6. The Tribunal carefully balanced the interests of the doctor against those of the public. It noted that it has found Dr Saleemi to have made serious breaches of GMP by his dishonest actions and found that there is a serious risk to patient safety. The
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Tribunal determined that imposing an immediate order of suspension was necessary in order to meet the statutory overarching objective to promote and maintain public confidence in the medical profession and to promote and maintain proper professional standards and conduct for members of the profession.

7. This means that Dr Saleemi’s registration will be suspended from today. The substantive direction, as already announced, will take effect 28 days from today, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

8. The interim order on Dr Saleemi’s registration is hereby revoked.

9. That concludes this case.

Confirmed
Date 11 September 2019
Mrs Linda Lee, Chair