Record of Determinations – Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 25/02/2019 - 01/03/2019
Medical Practitioner’s name: Dr Syed KHADRI
GMC reference number: 7358914
Primary medical qualification: MBBS 2011 Rajiv Gandhi University of Health Sciences - Bangalore Medical College

Type of case: New - Misconduct
Outcome on impairment: Impaired

Summary of outcome: Suspension, 2 months.

Tribunal:

<table>
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<tr>
<th>Role</th>
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<tr>
<td>Legally Qualified Chair</td>
<td>Mr Stuart McLeese</td>
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<tr>
<td>Lay Tribunal Member</td>
<td>Mrs Debbie Hill</td>
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<tr>
<td>Medical Tribunal Member</td>
<td>Dr David Wrigley</td>
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<tr>
<td>Tribunal Clerk</td>
<td>Mr Edward Kelly</td>
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Attendance and Representation:

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<td>Medical Practitioner:</td>
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<td>Medical Practitioner’s Representative:</td>
<td>N/A</td>
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<td>GMC Representative:</td>
<td>Mr Carlo Breen, 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 - 27/02/2019

Background

1. Dr Khadri qualified in 2011 and prior to the events which are the subject of the hearing Dr Khadri was practising as a junior doctor in the respiratory department at Sheffield Teaching Hospitals NHS Foundation Trust ('the Trust') since December 2016.

2. It is alleged by the GMC that, on 10 January 2017, Dr Khadri emailed the department rota coordinator and asked to take 20 March 2017 off as study leave ('the Request'). When questioned on 17 March 2017 regarding the study leave, Dr Khadri stated that he was attending a Practical Assessment of Clinical Examination Skills course ('PACES course') from 18 March to 20 March 2017 and later that day produced an email in support of this assertion. It is alleged that Dr Khadri knew that this course was not being conducted on 20 March 2017. Further, it is alleged that the email Dr Khadri sent on 17 March 2017 contained a falsified course booking confirmation and that it was never his intention to utilise this day for study.

3. Concerns were raised with the Trust by Dr Khadri’s clinical supervisor, Dr B on 21 April 2017 and following a Trust investigation the matter was referred to the GMC in due course. Dr Khadri transferred to a training post at Nottingham NUH NHS Trust to begin radiology training in August 2017.

The Outcome of Applications Made during the Facts Stage

4. The Tribunal determined to grant Mr Breen’s application, made pursuant to Rule 17(6) of the Rules to amend the Allegation. The Tribunal’s full decision on the application is included at Annex A.

5. The Tribunal determined to refuse Dr Khadri’s application, made pursuant to Rule 17(2)g of the Rules that paragraphs 2 and 4 of the Allegation should not be considered due to insufficient evidence. The Tribunal’s full decision on the application is included at Annex B.
The Allegation and the Doctor’s Response

6. The Allegation made against Dr Khadri is as follows:

1. On 10 January 2017, whilst working for Sheffield Teaching Hospitals NHS Foundation Trust, you emailed the rota co-ordinator and asked to take 20 March 2017 off as study leave (‘the Request’). **Admitted and Found Proved**

2. When you made the Request you knew that you did not intend to use 20 March 2017 for study leave. **To Be Determined**

3. On 31 January 2017 you booked tickets to fly out of the UK on 17 March 2017 and you:
   a. failed to inform Dr A and/or the rota co-ordinator that you no longer intended to take 20 March 2017 off as study leave; **Admitted and Found Proved**
   b. knew that you should have informed Dr A and/or the rota co-ordinator that you no longer intended to take 20 March 2017 off as study leave. **Admitted and Found Proved**

4. Your actions as described at paragraph 1 were dishonest by reason of paragraph 2. **To Be Determined**

5. Your actions as described at paragraph 3a were dishonest by reason of paragraph 3b. **Admitted and Found Proved**

6. During an end of placement meeting with Dr A on Friday 17 March 2017 (‘the Meeting’), you told Dr A that you:
   a. were attending a Practical Assessment of Clinical Examination Skills course (‘PACES course’) from 18 March to 20 March 2017, or words to that effect, which was untrue; **Admitted and Found Proved**
   b. did not submit a study leave form to request the time off work because you did not require funding, or words to that effect, which was untrue. **Admitted and Found Proved**

7. Following the Meeting, you submitted a study leave request form dated 17 March 2017 (‘the Form’), stating that you would be attending the PACES course in London from 18 March 2017 to 20 March 2017 and this was untrue. **Admitted and Found Proved**
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8. You attached a receipt (‘the Receipt’) for the PACES course, dated 3 January 2017, to the Form which confirmed the course dates as 18 March 2017 to 20 March 2017. **Admitted and Found Proved**

9. The Receipt was a forged copy of a receipt for a previous course which you had booked, in that you had altered the name and dates of the course. **Admitted and Found Proved**

10. You knew the information you provided at paragraphs 6, 7 and 8 was untrue. **Admitted and Found Proved**

11. Your actions as described at paragraphs 7, 8 and 9 were intended to conceal the fact that the information you provided as set out in paragraph 6a and 6b was untrue. **Admitted and Found Proved**

12. Your actions as described at paragraphs 6, 7, 8 and 9 were dishonest by reason of paragraphs 10 and 11. **Admitted and Found Proved**

The Admitted Facts

7. At the outset of these proceedings, Dr Khadri made admissions to some paragraphs and sub-paragraphs 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.

The Facts to be Determined

8. In light of Dr Khadri’s response to the Allegation made against him, the Tribunal is required to determine whether Dr Khadri was dishonest in emailing the rota co-ordinator, on 10 January 2017, whilst working for the Trust asking to take 20 March 2017 off as study leave when he did not intend to study.

Factual Witness Evidence

9. The Tribunal received oral evidence on behalf of the GMC from Dr C, Consultant Gastroenterologist at the Trust, in person. He also provided a written statement, dated 24 May 2018.

10. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from Dr B, dated 13 April 2018 and 23 October 2018. Dr Khadri did not seek to challenge the witness statements of Dr B, and she was not called to give oral evidence.
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11. Dr Khadri provided his own reflective statements dated 14 September 2017, 8 July 2018, 20 January 2018 and 24 January 2019 and also gave oral evidence at the hearing.

Documentary Evidence

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

- Witness statement of Dr B, dated 13 April 2018;
- Witness statement of Dr C, dated 24 May 2018;
- Supplementary witness statement of Dr B, dated 23 October 2018;
- Email from Dr Khadri enclosing receipt, dated 17 March 2017;
- Email exchange between Dr B and Dr C, dated 17 March 2017;
- Meeting minutes, dated 21 April 2017;
- Dr Khadri’s study leave application form, dated 17 March 2017;
- Email exchange between Dr B and Dr C, dated 20 March 2017;
- Email correspondence between Dr Khadri and Dr C, from 3 April 2017 – 19 April 2017;
- Email from Dr Khadri providing explanation, dated 20 April 2017;
- Testimonial provided by Dr C for disciplinary hearing, dated 26 September 2017;
- Email from Dr Khadri to Dr C, dated 2 November 2017;
- Letter confirming outcome of disciplinary hearing, dated 3 October 2017;
- Trust management report of Dr D, undated;
- Notes of investigation meeting, dated 11 July 2017;
- Case Investigation report by Mr E, dated July 2017;
- Dr Khadri’s Personal testimony of the situation, dated 24 January 2019;
- Admissions and application to amend from Dr Khadri, dated 25 January 2019;
- Flight electronic ticket record, dated 31 January 2017;
- Flight tickets invoice, dated 31 January 2017;
- Reflection on personal vulnerabilities and personal drivers, dated 24 January 2019;
- Reflection – on impact of and consequence of my actions, dated 20 January 2019;
- Reflection on on-going disciplinary process and my experience at Radiology, dated 8 July 2018;
- End of Year Personal Development Plan (‘PDP’) review and reflection, dated 8 July 2018;
- Reflection on dealing with stress, dated 8 July 2018;
- Previous reflection – at disciplinary meeting 2017, dated 14 September 2017;
- Consultant report before respiratory e-portfolio, dates from 3 August 2016 – 06/12/2016;
- Consultant report after respiratory e-portfolio, dates from 05 April 2017 – 01/08/2017;
The Tribunal’s Approach

13. 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 Khadri 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.

14. The Tribunal reminded itself that it must form its own judgment about the witness evidence heard before it, and the reliability of such witnesses, including Dr Khadri. It noted that it must decide whether to accept or reject such evidence, and where it is accepted, what weight to attach to it.

15. The Tribunal referred itself to the case of *Ivey v Genting Casinos (UK) Limited (t/as Crockfords Club) [2017] UKSC 67* (‘Ivey’) and the legal test for dishonesty set out therein, which is as follows:

   ‘...first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts...once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he had done is, by those standards, dishonest’

16. The Tribunal also bore in mind that it should assess and determine each paragraph and sub-paragraph of the Allegation separately. It noted that while it can
draw inferences from the evidence, it must not speculate as to any further evidence that has not come before it.

17. The Tribunal took account of the requirement to give sufficient and clear reasons for its determination.

The Tribunal’s Analysis of the Evidence and Findings

18. The Tribunal has considered the outstanding paragraphs of the Allegation and has evaluated the evidence in order to make its findings on the facts.

19. The Tribunal first considered whether, specifically on 10 January 2017, Dr Khadri made the Request when he was certain that he would not use this day for study leave. The Tribunal had regard to the evidence and submissions from Mr Breen on behalf of the GMC and evidence and submission from Dr Khadri.

20. Mr Breen submitted that the Tribunal should find that Dr Khadri acted dishonestly by taking into account the following considerations:

   - Email dated 10 January 2017 where he seeks to take the day off on 20 March 2017;
   - convenient timing of the “study leave” day that Dr Khadri tried to organise which was the day before annual leave which was due to commence on 21 March 2017;
   - inconsistencies in Dr Khadri’s evidence and less than compelling or clear sequence of events;
   - fact that there was no such course available to book for 20 March 2017; and
   - admitted dishonest falsification of information in the email dated 17 March 2017;

21. The Tribunal took into account that Dr Khadri had made admissions to the majority of the paragraphs of the Allegation from the outset of the Trust investigation in 2017. It took account of Dr Khadri’s evidence that he genuinely intended to undertake a course or coaching. The Tribunal noted that Dr Khadri had been preparing for radiology interviews in February 2017, had previously failed a PACES exam in October 2016 and in May 2017 retook the exam. He therefore had a legitimate reason for requiring study leave.

22. The Tribunal had concerns that Dr Khadri was unclear as to what study or courses he needed to do. On his own evidence, it was apparent that Dr Khadri did not check the dates of the courses he wished to take or confirm their availability until some weeks after the 10 January 2017. However, the Tribunal have to consider Dr Khadri’s state of mind on 10 January 2017 specifically. The Tribunal accepted that he checked with his department whether it would be possible to take study leave so that he could study as stated in the email dated 10 January 2017.
23. The Tribunal found it significant that Dr Khadri had proposed and considered studying the weekend before 20 March 2017 because he may wish to have 20 March available. The Tribunal considered that if Dr Khadri genuinely knew he was not going to attend any course, it was inconsistent that he proposed potential alternative workable options to his department rota co-ordinator. The email of 10 January 2017 reads as follows:

"I was planning to apply for MRCP PACES in June and wanted to study for MRCP PACES later on towards the end of postings.

I was looking at the entire months of March and unfortunately because of inadequate cross cover we do not have many days that can be given to me.

The only suitable day is 20th March, 2016 [sic] as we have enough people on the ward.

I would like to request to take study leave on 20th March, 2016 [sic]. It might be worthwhile to look at a weekend out of city course if there is one and it will help me immensely as I would be tired after travelling and attending an intensive course.

Thank you"

24. The Tribunal was not satisfied that the GMC has provided enough evidence to persuade it, on the balance of probabilities, that Dr Khadri had no intention of studying when he sent the email on 10 January 2017. It accepted that Dr Khadri may have, on 10 January 2017, considered that he would use 20 March 2017 to study. The Tribunal noted that Dr Khadri has been consistent on this point from the outset. Dr Khadri’s conduct thereafter does him no credit, but the Tribunal cannot be satisfied to the requisite standard that the Allegation as specifically drafted is proved.

25. It is clear from the fact that Dr Khadri booked flights on 31 January 2017 that he had made a decision that he would not use 20 March 2017 as study leave by that date. However, that is not determinative of his state of mind on 10 January 2017. The Tribunal therefore were not satisfied, on the balance of probabilities, that when Dr Khadri made the request on 10 January 2017, he knew he did not intend to use 20 March 2017 for study leave and finds paragraph 2 of the Allegation not proved.

26. Given that the Tribunal determined that paragraph 2 of the Allegation is found not proved, it was not satisfied that ordinary decent people, would consider him to have been dishonest and accordingly finds paragraph 4 of the Allegation not proved.
The Tribunal’s Overall Determination on the Facts

27. The Tribunal has determined the facts as follows:

1. On 10 January 2017, whilst working for Sheffield Teaching Hospitals NHS Foundation Trust, you emailed the rota co-ordinator and asked to take 20 March 2017 off as study leave (‘the Request’). **Admitted and Found Proved**

2. When you made the Request you knew that you did not intend to use 20 March 2017 for study leave. **Not Proved**

3. On 31 January 2017 you booked tickets to fly out of the UK on 17 March 2017 and you:
   a. failed to inform Dr A and/or the rota co-ordinator that you no longer intended to take 20 March 2017 off as study leave; **Admitted and Found Proved**
   b. knew that you should have informed Dr A and/or the rota co-ordinator that you no longer intended to take 20 March 2017 off as study leave. **Admitted and Found Proved**

4. Your actions as described at paragraph 1 were dishonest by reason of paragraph 2. **Not Proved**

5. Your actions as described at paragraph 3a were dishonest by reason of paragraph 3b. **Admitted and Found Proved**

6. During an end of placement meeting with Dr A on Friday 17 March 2017 (‘the Meeting’), you told Dr A that you:
   a. were attending a Practical Assessment of Clinical Examination Skills course (‘PACES course’) from 18 March to 20 March 2017, or words to that effect, which was untrue; **Admitted and Found Proved**
   b. did not submit a study leave form to request the time off work because you did not require funding, or words to that effect, which was untrue. **Admitted and Found Proved**

7. Following the Meeting, you submitted a study leave request form dated 17 March 2017 (‘the Form’), stating that you would be attending the PACES course in London from 18 March 2017 to 20 March 2017 and this was untrue. **Admitted and Found Proved**
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12. Your actions as described at paragraphs 6, 7, 8 and 9 were dishonest by reason of paragraphs 10 and 11. Admitted and Found Proved

Determination on Impairment - 28/02/2019

1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the General Medical Council (Fitness to Practise Rules) 2004 as amended (‘the Rules’) whether, on the basis of the facts which it has found proved as set out before it, Dr Khadri’s fitness to practise is impaired by reason of his misconduct.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence from Dr Khadri in the form of further oral evidence and witness evidence from Dr F, Consultant Neuroradiologist at Nottingham University (NUH).

Submissions

GMC Submissions

3. On behalf of the GMC, Mr Breen submitted that Dr Khadri’s fitness to practise is currently impaired by reason of his misconduct.

4. Mr Breen directed the Tribunal’s attention to the principles set out in the following authorities when making its determination:

   - Roylance v GMC (No 2)[2000] 1 AC 311;
   - Meadow v GMC [2006] EWCA CIV 1390;
   - Nandi v GMC [2004] EWQHC 2317; and
5. Mr Breen submitted that the Tribunal should adopt a two stage process to determine whether the facts found proved amounted to misconduct that was serious. He submitted that Dr Khadri’s misconduct was serious, and referred the Tribunal to the facts admitted, which demonstrated Dr Khadri’s serious departure from GMP. He submitted that Dr Khadri had been dishonest and that his conduct had been premeditated.

6. The Tribunal was reminded that Dr Khadri had admitted the majority of the Allegation and consequently, the Tribunal found those paragraphs proved by admission. The nature of the issues admitted were relevant to the second two strands of the GMC’s statutory overarching objective in its Sanctions guidance (2018 edition), which includes to:

(ii) promote and maintain public confidence in the medical profession;

(iii) promote and maintain proper professional standards and conduct for the members of the profession.’

7. Mr Breen acknowledged that Dr Khadri has reflected upon his behaviour and shown remediation. He also noted that Dr Khadri appears to have a good support network in place and now there is a low risk of repetition of such dishonest behaviour. However he submitted that public confidence in the profession would be undermined if a finding of impairment were not made. Mr Breen submitted that a member of the public would expect such a finding where a doctor had been dishonest and had significantly breached GMP. Further he submitted that a finding of impairment is necessary to mark the seriousness of the misconduct.

Dr Khadri’s Submissions

8. Dr Khadri submitted that he is totally remorseful and apologised to the Trust, the GMC, the Tribunal and the public for his dishonest actions. He submitted that he was devastated by his actions, was deeply embarrassed by his uncharacteristic behaviour and has regretted his actions since they occurred. Dr Khadri accepted full responsibility for his actions and submitted that he would never again bring the profession into disrepute.

9. Dr Khadri submitted that whilst he takes full responsibility for his actions and understands he made a grave error of judgement, he has reflected deeply on his behaviour and learnt valuable and difficult lessons. He submitted that he has genuine mitigation and referred the Tribunal to the extensive reflective statements and positive testimonials before it. He also stated he was genuine remorse.
10. Dr Khadri does not condone his actions, however he stated that there were many stressors significantly affecting him when he acted dishonestly. XXX Further he had a problematic relationship with his previous clinical supervisor. Dr Khadri submitted that through ongoing reflections, personal development and frequent communication and meetings with current supervisors, he has developed knows how to address his any problems he encounters calmly and to seek help as mechanisms to deal with stressors in his life more appropriately. He also stated that he now appropriate.

11. This assertion was endorsed in evidence by Dr F, his College Tutor and clinical supervisor, who gave evidence that Dr Khadri has developed considerably as a person and a doctor. Dr F considered that Dr Khadri now, through deep and lengthy reflection, in-depth discussions and targeted training, fully understands his actions and is a well-liked and highly competent practitioner.

12. Dr Khadri stated that since the incidents giving rise to this Allegation he has closely followed policies and procedures to the required standards of GMP. He submitted that through his reflections, remediation and genuine remorse, that he has learned valuable lessons and would never be so detrimentally affected by a difficult situation so as to behave dishonesty in the future.

13. Dr Khadri submitted that his fitness to practise is not currently impaired by reason of his dishonest conduct, but conceded that he was not a legal professional and could not speak knowledgeably as to the legal principles involved in determining current impairment.

The Relevant Legal Principles

14. The Legally Qualified Chair reminded the Tribunal that at this stage of proceedings, there is no burden or standard of proof and the decision on impairment is a matter for the Tribunal’s judgement alone. The Tribunal had regard to all three limbs of the overarching objective.

15. The Tribunal noted that although the term ‘misconduct’ is not defined, it involved conduct which falls below the necessary professional standard and which is serious. It must involve the doctor falling far short of the standards of conduct expected by the profession.

16. Whilst there is no statutory definition of impairment, the Tribunal is assisted by the guidance set down by Dame Janet Smith in the Fifth Shipman Report as endorsed and adopted as the approach in *CHRE v NMC and Paula Grant [2011] EWHC 927 QBD (Admin)*. This recognises that as part of the process in determining whether a doctor is fit to practise today it must take account of past actions or failures to act. In particular, relevant considerations as to whether Dr Khadri’s Fitness to Practise is impaired are whether he:
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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 or is liable in the future to bring the medical profession into disrepute; and/or

c. Has in the past breached or is liable to breach in the future 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.’

17. The Tribunal must determine whether Dr Khadri’s fitness to practise is currently impaired. This involves a forward looking assessment, taking into account his conduct at the time of the events and any relevant factors such as whether the matters are remediable, and the extent to which they have been remedied, any development of insight, any expression of remorse and the likelihood of repetition.

The Tribunal’s Determination

18. In considering the question of impairment, the Tribunal has taken account of all of the evidence adduced at both facts and impairment stages, and the submissions of Mr Breen and those of Dr Khadri.

19. In reaching its decision, the Tribunal had regard to the principles and standards set out in Good Medical Practice (2013)(‘GMP’), in particular paragraphs 1, 65, 67, 68 and 71 when making its determination.

"1. 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 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.

67. You must act with honesty and integrity when designing, organising or carrying out research, and follow national research governance guidelines and our guidance.

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.

MPT: Dr KHADRI
71. You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.

   a. You must take reasonable steps to check the information is correct.

   b. You must not deliberately leave out relevant information.”

**Misconduct**

20. In determining whether Dr Khadri’s fitness to practise is currently impaired by reason of misconduct, the Tribunal first considered whether the facts found proved amount to professional misconduct by reference to the rules and standards ordinarily required to be followed by a medical practitioner. These are set out in GMP. It went on to consider whether that misconduct constituted a serious departure from those standards and is therefore misconduct which is likely to impair Dr Khadri’s fitness to practise.

21. The Tribunal considered that GMP sets out the standards that a doctor must meet and continue to meet, throughout their professional career. The Tribunal was of the view that honesty is a cornerstone of the profession. It considered that patients are entitled to expect doctors to be honest and this is a fundamental tenet of the profession.

22. Having determined, by Dr Khadri’s own admission, that on 31 January 2017 he knew that he would not be taking study leave on 20 March 2017 because he had booked flights to India and that he compounded this dishonesty by then lying to his supervisor and further fraudulently composing an email dated 17 March 2017. These actions are a clear breach of the overarching objectives and GMP. These actions would be seen as deplorable in the eyes of fellow practitioners.

23. The Tribunal acknowledged the stress Dr Khadri was experiencing and his problematic personal situation at the time of the dishonesty. However, these do not detract from the seriousness of the misconduct. Dr Khadri stated that his conduct in falsifying the email was "a pathetic desperate attempt with very little thought". The Tribunal do not disagree with that assessment in general terms, but some thought and effort did go into falsifying the email.

24. Dr Khadri admitted that he had been dishonest. This falls short of the standards expected of a doctor.

25. The Tribunal determined that his actions undermined public trust and confidence in the profession, brought the profession into disrepute and has breached the fundamental tenets of the profession. Further, the Tribunal found his conduct fell
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seriously below the expected GMP standard and constituted serious misconduct likely
to impair his fitness to practise.

Impairment

26. Having determined that Dr Khadri’s dishonesty amounted to serious
misconduct, the Tribunal considered whether this resulted in Dr Khadri’s fitness to
practise being impaired by reason of that misconduct. In determining whether a
finding of current impairment of fitness to practise is necessary, the Tribunal first
looked for evidence of insight and remediation, and the likelihood of repetition,
balanced against the three elements of the overarching statutory objective.

27. The Tribunal considered that insight is important in order for a doctor to
recognise areas of their practice and behaviour that require improvement and to
take appropriate and relevant steps to address them, thus reducing the likelihood of
repetition.

28. The Tribunal noted that Dr Khadri has significant testimonial evidence
attesting to his good character and clinical ability. In his eportfolio amalgamated
feedback from colleagues in July 2018, 15 out of 15 medical professional peers
stated that they have no concerns regarding his honesty or integrity, and Dr Khadri
was described as "an excellent colleague, diligent hard working and (his) work is of
high quality". The Tribunal found it important that colleagues also noted that he is:
"receptive to feedback" and that "He seeks help appropriately when it is required".

29. The Tribunal found the following comments of Dr F to be persuasive:

"He has shown no evidence of the behaviour or poor decision making that led
to the events under investigation during our time working together over the
past 18 months. My impression is of an individual who, in the absence of
supportive supervision made a bad decision in panic/whilst under duress. I
am fully confident that there is no chance of a repeat of such behaviour
(specifically) and I am very happy to continue to mentor him…"

30. Further, the Tribunal noted comments from Dr H, Consultant Hepatobiliary
and Gastrointestinal Radiologist:

"He has been unfailingly honest with me during our time together which is
something I appreciate. For example, he has at times been able to tell me
that he is unable to take on more tasks which, in my experience, is actually a
very difficult thing to do and demonstrates to me clear insight."

31. The Tribunal determined that Dr Khadri has taken his dishonest conduct very
seriously and is impressed by the high volume of positive feedback, support and
testimonials he has accumulated and provided to the Tribunal. It is clear that
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Dr Khadri has been fully transparent regarding his behaviour, has demonstrated remediation and insight. The Tribunal is further reassured by the support network Dr Khadri now embraces. It acknowledges that at the time of the event, Dr Khadri was under significant stress and acted out of character. The Tribunal determined that this behaviour was a grave error of judgement.

32. The Tribunal had borne in mind the comments of Mr E who carried out the case investigation in this matter. In July 2017 he considered Dr Khadri to be “isolated, vulnerable and requiring support”.

33. The Tribunal determined that, taking into account the circumstances that contributed to his actions, his considerable efforts at remediation, his obvious insight and the low risk of repetition, Dr Khadri is not personally impaired because of his dishonest actions.

34. However, Dr Khadri booked flights with disregard for his study leave, and didn’t alert colleagues to the fact that he had done so. Approximately six weeks later when he was challenged, he lied to a colleague and falsified a document in an attempt to conceal his actions. This was a clear breach of the principles set out in GMP. The Tribunal concluded that Dr Khadri’s actions risked bringing the profession into disrepute. Further, it also risked undermining public confidence in the profession and the need to maintain proper professional standards and conduct for members of the profession. A finding of impairment is necessary to mark the seriousness of the misconduct and because of the need to maintain public confidence in the profession.

35. The Tribunal has therefore determined that Dr Khadri’s fitness to practise is impaired by reason of his misconduct pursuant to Section 35(C) of the Medical Act 1983, as amended.

Determination on Sanction - 01/03/2019

1. Having determined that Dr Khadri’s fitness to practise is impaired by reason of his misconduct, the Tribunal has now considered what sanction, if any, it should impose on his registration.

The Evidence

2. The Tribunal has taken into account relevant evidence adduced during the earlier stages of the hearing in reaching a decision on sanction. No further evidence was presented at this stage of the hearing.

GMC Submissions

3. On behalf of the GMC, Mr Breen submitted that Dr Khadri’s registration should be subject to a period of suspension. He drew the Tribunal’s attention to the Sanctions
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Guidance (SG) (February 2018). Mr Breen guided the Tribunal, in some detail, through the paragraphs relevant to its deliberations on mitigating factors, aggravating factors and determining sanction.

4. Mr Breen recognised that this is not a case where protection of patients is a concern. Further, he acknowledged the remediation and reflections of Dr Khadri.

5. Mr Breen submitted that there were no exceptional circumstances in Dr Khadri’s case that would justify taking no action and it would not be appropriate to do so. In relation to the imposition of conditions on Dr Khadri’s registration, Mr Breen submitted that conditions would not be appropriate or proportionate. He asserted that conditions would not be sufficient to maintain public confidence in the profession.

6. Mr Breen submitted that in cases of dishonesty, it is difficult to formulate conditions that are workable and measurable and that these would be inappropriate in this case because Dr Khadri lied in a professional setting to his supervisor.

7. Mr Breen submitted due to the seriousness of Dr Khadri’s conduct that his behaviour falls squarely within the sanction of suspension. He submitted that the public would expect behaviour of this kind to be marked with a sanction reflecting the seriousness of the misconduct. Mr Breen recognised that Dr Khadri’s behaviour is not fundamentally incompatible with continued registration, that he has demonstrated insight and remediation, however he had committed a number of breaches of GMP.

Dr Khadri’s Submissions

8. Dr Khadri submitted that the finding of misconduct and impairment sends a clear message to the profession of the seriousness of his misconduct. He submitted that he has already suffered the consequences of his actions from the Trust investigation and disciplinary process, receipt of a final written warning from the Trust and the GMC FTP process. He stated that this has already sent a strong message that such actions will not be tolerated.

9. Dr Khadri submitted that he is still at an early stage in his career and has learned a valuable and difficult lesson. He submitted that he is genuinely regretful and remorseful and has provided compelling evidence of this. Dr Khadri submitted that he has developed and evolved as a person and a practitioner since the events. He has developed effective and workable mechanisms for dealing with work and personal stressors. He noted that the Tribunal recognised the real and present personal difficulties he was facing at the time of the events.

10. Dr Khadri expressed concern regarding his potential absence from a busy department. He submitted that his expertise would be missed and that a detrimental
burden would be placed on his department and colleagues, potentially leading to less support for patients.

11. Dr Khadri drew the Tribunal’s attention to the testimonial evidence from Dr F, which stated that he is capable of insight, has demonstrated awareness and is keen to continue to practice. He stated that he is evidently a very keen and committed clinician who is passionate about his work and concerned regarding any impact an MPT sanction might place on his training and practise. He highlighted his concern regarding the financial impact on himself and his family.

12. Dr Khadri genuinely believes that he has learned his lesson, has done everything that he is capable of doing or is able to do by way of remediation and that he is ready to return to unrestricted practise. He indicated that whatever decision the Tribunal came to would be “good for me, the profession and the public”.

The Tribunal’s Determination on Sanction

13. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that although sanctions are not imposed to punish or discipline doctors, they may have a punitive effect.

14. Throughout its deliberations, the Tribunal has had regard to the principle of proportionality and has weighed the interests of the public with Dr Khadri’s interests. The Tribunal reminded itself that, at this stage of proceedings, there is no burden or standard of proof and the decision on sanction is a matter for the Tribunal’s judgment alone. It should impose the least serious sanction necessary to achieve the overarching objective. In deciding what sanction, if any, to impose the Tribunal considered each of the sanctions available, starting with the least restrictive.

15. It has borne in mind that the main reason for imposing a sanction is to protect the public. This is in the context of the overarching objective which is concerned with:

a. protecting the health, safety and wellbeing of the public;

b. maintaining public confidence in the profession; and

c. promoting and maintaining proper professional standards and conduct for the members of the profession.

16. The Tribunal had regard to the submissions of Mr Breen for the GMC, Dr Khadri on his own behalf and its findings at the impairment stage. It accepted the advice of the Legally Qualified Chair.
17. The Tribunal considered whether there were any mitigating or aggravating factors in Dr Khadri’s case. In respect of mitigating factors, the Tribunal identified the following:

- Dr Khadri accepted his actions were wrong and wholly unacceptable;
- Dr Khadri has demonstrated genuine remorse for his actions;
- Dr Khadri demonstrated significant remediation and fully disclosed the circumstances of the Allegation to all of his supervisors and colleagues as appropriate;
- Dr Khadri has provided evidence that he has reflected at length including having regard to the effects of his actions on the public and the profession;
- He has engaged fully with his regulator and the Trust;
- Dr Khadri has undertaken a three day course on medical ethics of his own initiative. He identified the course and attended accordingly;
- There is no evidence of any repetition of this behaviour or any further dishonesty;
- Since the time of the Allegation Dr Khadri has demonstrated a high standard of professionalism and this has been evidenced in testimonials from supervisors and colleagues;
- Dr Khadri has identified mechanisms to identify and deal with stressors;
- Dr Khadri has provided evidence of numerous excellent references, all of which speak very highly of his attitude, probity and performance;
- The Tribunal determined that his actions were not fraudulent from the outset of the leave request;
- Dr Khadri gave evidence that he felt isolated and vulnerable at the time of the relevant events and this was evidence by the doctor who carried out the investigation for the Trust; and
- Dr Khadri had a number of personal matters causing him stress throughout this period.

18. The Tribunal went on to identify aggravating factors in Dr Khadri’s case. Aggravating factors include:

- The serious nature of the Allegation involving dishonesty and fraudulent behaviour;
- The deception was maintained for 6-7 weeks and only came to light when the doctor was challenged;
- Dr Khadri then sought to amend documents to cover up the deception;
- Dr Khadri lied to a senior colleague in a work setting; and
- The Allegation involved a serious departure from Good Medical Practice.

19. The Tribunal considered each sanction in ascending order of seriousness, starting with the least restrictive.
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No action

20. The Tribunal first considered whether it would be appropriate to conclude this case by taking no action. The Tribunal considered, amongst others, paragraphs 68-70 of the SG. It has already determined that Dr Khadri’s fitness to practise is impaired by reason of misconduct and that this serious matter of dishonesty undermines public confidence in the profession.

21. Whilst the Tribunal recognises the considerable remediation and reflection from Dr Khadri, it found that there were no circumstances exceptional enough to justify taking no action, and that it would not be sufficient, appropriate or in the public interest, to conclude this case by taking no action. Where dishonesty is determined, there is need to mark the seriousness of the misconduct, maintain standards in the profession and to protect the public.

Conditions

22. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Khadri’s registration. It has borne in mind that any conditions must be appropriate, proportionate, workable and measurable. In doing so, the Tribunal considered the relevant factors in the SG which it may take into account when determining whether an order of conditions would be appropriate.

23. Paragraph 81 of the SG explains that conditions might be most appropriate in cases involving concerns about the Dr’s health, knowledge of English language or performance; none of which are concerns in relation to Dr Khadri.

24. The Tribunal considered whether conditions are workable. It determined that Dr Khadri does not require further time to reflect on his misconduct because he has developed insight. Dr Khadri does not need to undertake further remediation because he has already undertaken significant remediation. Dr Khadri has engaged meaningfully with education and clinical supervisors at work, so would not benefit from a condition of supervision. The Tribunal was satisfied that conditions are not workable in relation to dishonest conduct.

25. The Tribunal was satisfied that the imposition of conditions would not be an appropriate sanction in the circumstances of this case. Conditions would be insufficient to mark the gravity of the misconduct or to uphold public confidence in the profession and to maintain standards.

Suspension

26. The Tribunal then considered whether suspending Dr Khadri’s registration would be appropriate and proportionate.
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27. The Tribunal considered the relevant paragraphs of the SG including; 91, 92, 93 and 97, which state:

"91. Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.

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 (i.e., 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).

93. Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions...

97. Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.

a. A serious breach of Good medical practice, but where the doctor’s misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

[...]                         

e. No evidence that demonstrates remediation is unlikely to be successful, e.g., because of previous unsuccessful attempts or a doctor’s unwillingness to engage.

f. No evidence of repetition of similar behaviour since incident.

g. The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour”
Having considered all the evidence and findings at the facts and impairment stages, the Tribunal determined that Dr Khadri’s dishonesty was confined to a grave error of judgement, further compounded by his later actions.

The Tribunal has previously stated that Dr Khadri’s dishonest conduct was serious, breached the principles set out in GMP and fell short of the standards of conduct to be expected of a doctor. However, the Tribunal determined that Dr Khadri’s behaviour was not fundamentally incompatible with continued registration.

However, the Tribunal noted that suspension can have a deterrent effect and that the reputation of the profession as a whole is more important than the interests of an individual doctor. A period of suspension is the minimum action required to protect the public interest and maintain confidence in the profession and, accordingly, the Tribunal determined that a period of suspension must be imposed.

In determining that a period of suspension was an appropriate response, the Tribunal acknowledged that Dr Khadri had excellent insight into his behaviour, had acknowledged the ways in which it had fallen short of the standards to be expected of doctors and that the behaviour was unlikely to be repeated.

The Tribunal noted that the interests of the public included not only maintaining their confidence in the medical profession but also ensuring that they are not deprived of competent clinicians. The Tribunal was impressed by the admirable oral and documentary testimonial evidence it had received from a wide range of Dr Khadri’s colleagues and supervisors.

The Tribunal was satisfied that a period of suspension would mark the seriousness of Dr Khadri’s misconduct and send the appropriate message to the profession and the public, about what is regarded as behaviour unbefitting of a registered medical practitioner.

The Tribunal concluded that imposing a period of suspension on Dr Khadri’s registration would be sufficient to achieve the requirements of the overarching objective and would be the most appropriate and proportionate sanction in this case.

The Tribunal considered the appropriateness of erasure in this case, concluding that such a sanction would be disproportionate and unnecessary. It determined that Dr Khadri’s conduct is not fundamentally incompatible with continued registration in the particular circumstances of this allegation.
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Duration of Suspension

36. In deciding on the length of the period of suspension the Tribunal took into account that Dr Khadri has taken significant steps to date to remediate his misconduct. It took account of the relevant paragraphs of the SG including 100 and 120 that state:

`100 The following factors will be relevant when determining the length of suspension:

a. the risk to patient safety/public protection’

b. the seriousness of findings and any mitigating or aggravating factors.

c. Ensuring the doctor has adequate time to remediate.’

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.’

37. In considering the length of suspension to impose, the tribunal bore in mind the aggravating and mitigating factors it had identified in this case. Given that Dr Khadri had already achieved insight and made extensive efforts to remediate, the Tribunal could see limited value in imposing a long period of suspension. The purpose of the suspension is to mark the seriousness of the dishonesty and send a message to the profession.

38. The Tribunal determined that, in the particular circumstances of this case, suspension for a period of 2 months would be appropriate and proportionate to maintain public confidence in the profession and to maintain proper professional standards of conduct for members of the profession. In addition, the 2 month period would mark sufficiently the dishonest conduct and limit the impact of clinical deskilling.

Directing Review Hearing

39. The Tribunal considered whether it would be appropriate to direct a review hearing in Dr Khadri’s case. It has borne in mind that no doctor should be allowed to resume unrestricted practice following a period of suspension unless the Tribunal considers that they are safe to do so. The Tribunal had regard to paragraph 163 of the SG which states:

“163. It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.”
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40. Having imposed a short period of suspension, the Tribunal determined that there was no need for a review hearing in this matter. There was no identified risk to patients and all the evidence is that Dr Khadri is a capable and professional doctor who is well regarded by his colleagues. The Tribunal had no concerns that it would be unsafe for Dr Khadri to resume unrestricted practice following this period of suspension and considered there would be no value in direct a review hearing.

Determination on Immediate Order - 01/03/2019

1. Having determined that suspension is the appropriate sanction in this case, the Tribunal has considered, in accordance with Rule 17(2)(o) of the General Medical Council (Fitness to Practise) Rules Order of Council 2004, whether Dr Khadri’s registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Breen, Counsel, submitted that an immediate order is necessary in the public interest given the admitted matters of repeated dishonesty.

3. Dr Khadri submitted that no immediate order was required. He stated it would not be in the best interest of the public or himself. Dr Khadri stated that the Tribunal have identified that there is not a risk to patient safety.

The Tribunal’s Determination

4. The Tribunal had regard to paragraphs 172-178 of the SG.

5. Given that there are no public safety concerns in this matter, the Tribunal determined that it is appropriate for Dr Khadri to continue in unrestricted practice before the substantive order takes effect. It accepted Dr Khadri’s submissions that an immediate order to protect the public is unnecessary. In relation to Mr Breen’s submissions, the public interest is met by the imposition of a substantive period of suspension, a further immediate suspension is not necessary.

6. The effect of the foregoing direction is that, unless Dr Khadri exercises his right of appeal, his registration will be suspended 28 days from the date on which written notice of this decision is deemed to have been served upon him.

7. That concludes this case.

Confirmed
Date 01 March 2019

Mr Stuart McLeese, Chair
Application to amend the Allegation

1. At the outset of proceedings, Mr Breen, Counsel, made an application, on behalf of the General Medical Council (GMC) under Rule 17(6) of the Rules, to add new paragraphs 3 and 5 of the Allegation and renumber the Allegation as follows:

3. On 31 January 2017 you booked tickets to fly out of the UK on 17 March 2017 and you:
   a. failed to inform Dr A and/or the rota co-ordinator that you no longer intended to take 20 March 2017 off as study leave;
   b. knew that you should have informed Dr A and/or the rota co-ordinator that you no longer intended to take 20 March 2017 off as study leave.

5. Your actions as described at paragraph 3a were dishonest by reason of paragraph 3b.

2. Mr Breen submitted that adding the new paragraphs of the Allegation add clarity to the circumstance that gave rise to the remainder of the Allegation.

3. Mr Breen submitted that there would be no injustice to accede to the application and further that there was no reason not to grant it accordingly.

4. Dr Khadri had proposed similar amendments to the Allegation in correspondence dated 25 January 2019. His reasoning is set out at page 80 of the bundle.

5. Dr Khadri’s proposed amendments were rejected by the GMC but all parties agreed to the amendments now proposed.

The Tribunal’s decision

6. The Tribunal was mindful of paragraph 17(6) of the General Medical Council’s (Fitness to Practise) Rules 2004, as amended, (the Rules) which states:

   ‘17(6) Where, at any time, it appears to the Medical Practitioners Tribunal that—

   (a) the allegation or the facts upon which it is based and of which the practitioner has been notified under rule 15, should be amended; and
7. The Tribunal were satisfied these amendments can be made without injustice. The Tribunal the additions add clarification to the circumstances surrounding the Allegation and that it is fair and proper for a more accurate reflection to be included.

8. The Tribunal determined that the amendment can be made without injustice and therefore it considered it appropriate to exercise its power under Rule 17(6) of the Rules and added the paragraph 3 and 5 to the Allegation, as follows:

3. On 31 January 2017 you booked tickets to fly out of the UK on 17 March 2017 and you:

   a. failed to inform Dr A and/or the rota co-ordinator that you no longer intended to take 20 March 2017 off as study leave;

   b. knew that you should have informed Dr A and/or the rota co-ordinator that you no longer intended to take 20 March 2017 off as study leave.

5. Your actions as described at paragraph 3a were dishonest by reason of paragraph 3b.
Rule 17(2)(g) Application

Submissions

1. Dr Khadri made a submission of no case to answer, under Rule 17(2)(g) of the General Medical Council’s (Fitness to Practise) Rules 2004 (the Rules), in relation to paragraphs 2 and 4 of the allegation.

2. Dr Khadri submitted that it is impossible for anyone except himself to know if he did or did not intend to utilise 20 March 2017 as study leave. He stated that he had seen no evidence to support this Allegation and he was very clear that it was his submission and evidence that he had every intention to utilise the day for study leave. Dr Khadri stated that he had failed the previous exam for PACES and that he needed to study in order to prepare for retaking the exam.

3. Dr Khadri submitted that both the GMC and he have provided evidence to support this assertion, primarily in the email 10 January 2017 where he details the type of course he wishes to attend, checked what days of availability there are for him to utilise as study leave, the circumstance for this being the only available day and options surrounding the study period/location.

4. Mr Breen submitted that there is sufficient evidence before the Tribunal to exercise its own judgement in considering the evidence.

5. Mr Breen acknowledged that there is no direct evidence, however asserted that when the evidence provided is considered there is enough material to subjectively test the Allegation and find it proved.

6. Mr Breen submitted that Dr Khadri has admitted dishonest conduct in the context of serious events. He further submitted that the course did not exist on the date requested, that the email was fraudulent and that flights to India were booked before even the study date. He submitted that by inference it can be tested and is reasonable to conclude that he did not intend to study on 20 March 2017, rather that this day was chosen with the intent to spend longer in India with his family and wife.

The Tribunal’s Approach and Legal Advice

7. Rule 17(2)(g) states:

‘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
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shall consider any such submissions and announce its decision as to whether they should be upheld.’

8. The Tribunal has accepted the submission of the GMC and the advice of the Legal Qualified Chair who referred it to the terms of rule 17(2)(g) of the Rules and to the principles derived from the case of R v. Galbraith [1981] 2 All ER 1039.

Tribunal Decision

9. The Tribunal reminded itself that, at this stage, its purpose was not to make findings of fact but to determine whether sufficient evidence existed such that a Tribunal, correctly advised as to the law, could properly find the relevant paragraph(s) proved to the civil standard. The Tribunal considered Dr Khadri’s submissions and those of Mr Breen on behalf of the GMC. It took account of the evidence presented, both oral and documentary, in reaching its decision.

10. The Tribunal has noted that it is accepted that no PACES training course was available on 20 March 2017. It also noted that Dr Khadri had not provided evidence of his search for any course to undertake on 20 March 2017. The Tribunal acknowledged that the GMC are bringing the case by way of inference of dishonesty, but the Tribunal will exercise its own judgement as to whether the evidence before it is sufficient. The Tribunal recognised that Dr Khadri had admitted all other paragraphs of the Allegation and has consistently and completely cooperated with the Trust and GMC investigations.

11. The Tribunal found significant the notes from the interview between Dr Khadri and Mr E on 11 July 2017. Dr Khadri is noted as having stated:

"Monday 20.03.2017 – booked off for study leave. Only day available with good cover on ward etc for PACES exam or do course. Time started running out couldn’t get any courses etc to justify my leave. Booked tickets to India from Friday 17.03.2017 on of two months before. Had annual leave planned for 2 weeks March and 2 weeks April (into next rotation). Hadn’t submitted a study leave form as if not claiming anything we don’t submit forms. Travelled Friday to India."

12. The Tribunal determined that there was a clear intention to be travelling to India on 20 March 2017 prior to 17 March 2017 and that Dr Khadri admitted that he had not booked a course. Looking at the evidence in its entirety and the admission of dishonest conduct from Dr Khadri, the Tribunal determined that from a factual position, at this stage, there is sufficient evidence in place to make a case for the paragraphs of the Allegation to be found proved.
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13. In the Tribunal’s judgment sufficient evidence has been adduced that could allow a tribunal properly to find paragraphs 2 and 4 of the allegation proved to the civil standard. Accordingly, the Tribunal rejects Dr Khadri’s submission.

14. Therefore, the hearing will proceed in relation to the all paragraphs of the Allegation.