

Dates: 15/08/2018 - 17/08/2018

Medical Practitioner's name: Dr Zholia Alemi
GMC reference number: 4246372
Primary medical qualification: MB ChB 1992 University of Auckland
Type of case **Outcome on impairment**
New - Misconduct Impaired

Summary of outcome

Suspension, 12 months.
Review hearing directed
Immediate order imposed

Tribunal:

Medical Tribunal Member (Chair)	Dr Helen McCormack
Lay Tribunal Member:	Dr Kevin Hope
Medical Tribunal Member:	Dr Farah Yusuf
Legal Assessor:	Mr Graham White - (15 August) Mr Angus MacPherson (16 & 17 August 2018)
Tribunal Clerk:	Mr Michael Murphy

Attendance and Representation:

Medical Practitioner:	Not present and not represented
GMC Representative:	Mr Matt Kewley, Counsel

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.

Record of Determinations – Medical Practitioners Tribunal

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 - 16/08/2018

Background

1. Dr Alemi qualified in 1992 and at the time of the events was practising as a Psychiatrist for *'Memory Matters'* in Workington.
2. The Allegation that has led to Dr Alemi's hearing can be summarised as a failure to disclose that she was under investigation by the GMC when submitting a form to renew her Approved Clinician status under Section 12(2) Mental Health Act 1983 ('the Form'). It is alleged that Dr Alemi made false declarations in this form which she knew to be untrue and that these actions were dishonest and misleading.

The Outcome of Applications Made during the Facts Stage

3. The Tribunal considered the GMC's application, made pursuant to Rules 15 and 40 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules') that notice of this hearing has been properly served upon Dr Alemi. The Tribunal accepted this application, based on the evidence received. The Tribunal then considered whether to proceed in Dr Alemi's absence in accordance with Rule 31. It determined that it was in the public interest and in Dr Alemi's own interests to exercise its discretion to proceed with the case in her absence. A full determination, outlining the Tribunal's reasoning, can be found at Annex A.

The Allegation and the Doctor's Response

4. The Allegation made against Dr Alemi is as follows:

That being registered under the Medical Act 1983 (as amended):

1. On or around 4 May 2017, you submitted a form to renew your Approved Clinician status under Section 12(2) Mental Health Act 1983 ('the Form').

To be determined'

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2. You failed to disclose on the Form that you were under investigation by the General Medical Council at the time of submitting the Form.

To be determined'

3. You made false declarations in the answers you gave on the Form, in that you answered:

a. 'Yes, please see the answer to previous question' to the question: 'Are you currently or have you ever been the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country or currently being referred to a licensing or regulatory body?';

To be determined'

b. 'No' to the question: 'Do you know of any other matters in your background which might cause your reliability or suitability for approval to be called into question?'.
To be determined'

4. The answers you gave, referred to in paragraph 3, were:

a. untrue;

To be determined'

b. answers you knew to be untrue.

To be determined'

5. Your actions at paragraphs 2 to 3 were:

a. dishonest;

To be determined'

b. misleading.

To be determined'

Factual Witness Evidence

5. The Tribunal received evidence on behalf of the GMC from Ms A, Mental Health Act Approval Functions Manager for Section 12(2) and Approved Clinician for the purposes of the Mental Health Act 1983, by telephone link and in the form of a witness statement.

6. The Tribunal also received evidence on behalf of the GMC in the form of a witness statement from Ms B, an Investigation Officer at the GMC.

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Documentary Evidence

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

- Email correspondence between the GMC and Dr Alemi of various dates;
- 'Notification of conviction or other relevant information' from Cumbria Constabulary, dated 10 June 2016;
- Section 12 application 'Declaration form' dated 30 January 2017;
- Section 12 application 'Declaration form' dated 4 May 2017.

The Tribunal's Approach

8. 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 Alemi 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.

9. The Tribunal took into account the leading authority of *Ivey v Genting Casinos (UK)* [2017] UKSC 57. Paragraph 74 of which states:

'These several considerations provide convincing grounds for holding that the second leg of the test propounded in Ghosh does not correctly represent the law and that directions based upon it ought no longer to be given. The test of dishonesty is as set out by Lord Nicholls in Royal Brunei Airlines Sdn Bhd v Tan and by Lord Hoffmann in Barlow Clowes: see para 62 above. When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When 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 has done is, by those standards, dishonest.'

10. The Tribunal also took into account the witness evidence given by Ms A via telephone. The Tribunal took note of the assistance she provided with regard to the administrative processes involved in an application to renew approved clinician status under Section 12(2) Mental Health Act 1983. It noted that her oral evidence was consistent with her witness statement and it found her evidence helpful in that she had had telephone conversations and email correspondence with Dr Alemi.

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The Tribunal’s Analysis of the Evidence and Findings

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

Paragraph 1

On or around 4 May 2017, you submitted a form to renew your Approved Clinician status under Section 12(2) Mental Health Act 1983 (‘the Form’).

12. The Tribunal has been provided with a copy of the Form and Ms A confirmed in her evidence that this was completed by Dr Alemi. Ms A also informed the Tribunal that this form was part of Dr Alemi’s application for her Section 12 (2) renewal.

13. Based on this evidence, on the balance of probabilities, the Tribunal found paragraph 1 of the Allegation proved.

Paragraph 2

You failed to disclose on the Form that you were under investigation by the General Medical Council at the time of submitting the Form.

14. The Tribunal noted that the Allegation in this paragraph is that Dr Alemi had an obligation to disclose on the Form that she was under investigation by the GMC. The Tribunal has considered the Form, it noted that there is a declaration at the end which she signed on 4 May 2017 to the following effect:

‘I can confirm that the information I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my application being rejected, or if I am approved, in my approval being withdrawn, and I may be liable for prosecution.’

15. The Tribunal further noted the following passage in the ‘applicant notes in confidence’:

‘Please answer all of the following questions in this form. If you answer ‘yes’ to any of the questions, please provide full details in the space indicated.’

16. In light of the foregoing the Tribunal accepts that Dr Alemi had an obligation to answer any questions in the form fully and accurately.

17. By question seven on the Form Dr Alemi was asked:

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'Are you currently or have you ever been the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country or currently being referred to a licensing or regulatory body?'

Dr Alemi answered *'Yes - please see the answer to previous question'*.

18. The previous question was question six which read as follows:

'Have you ever been disqualified or suspended from the practise of a profession, or required to practise subject to specified limitations following fitness to practise proceedings, by a regulatory or licensing body in the United Kingdom or in any other country?'

19. That question clearly related to the past. Dr Alemi answered:

'Yes - GMC imposed some XXX conditions on my licence XXX and we went to High Court in Dec 2016 and January 2017 and the High Court ruling was in favour of me and GMC has to take the conditions off my licence.'

20. The Tribunal considered that the answer which Dr Alemi gave to question seven, namely *'Yes – please see the answer to the previous question'*, was qualified by her reference to the answer to question six. Her response only referred to past investigations by the GMC. She did not disclose that she was currently being investigated by the GMC. The Tribunal noted that nowhere on the form had Dr Alemi made reference to the ongoing GMC investigations.

21. The Tribunal had regard to an email sent by the GMC to Dr Alemi on 18 July 2016. This had attached to it a letter of the same date which referred to an investigation by Cumbria Police Force in respect of certain allegations. It makes it clear that the GMC was conducting an investigation into this matter. Dr Alemi responded to that email on the same date. There was no evidence to suggest that that investigation had been completed or terminated. Indeed there were five subsequent emails from the GMC to Dr Alemi between 6 September 2016 and 24 March 2017 confirming the case was ongoing. Further, by the date when Dr Alemi submitted the Form, she had already been notified on 25 April 2017 of a substantive hearing into another allegation by the GMC. That substantive hearing started on 22 May 2017. It is therefore clear that Dr Alemi was aware that she was under investigation by the GMC by the time she submitted the Form on 4 May 2017.

22. By reason that she did not disclose this investigation in the form, the Tribunal found paragraph 2 of the Allegation proved.

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Paragraph 3 (a)

You made false declarations in the answers you gave on the Form, in that you answered:

- a. 'Yes, please see the answer to previous question' to the question: 'Are you currently or have you ever been the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country or currently being referred to a licensing or regulatory body?';

23. The Tribunal bore in mind that this paragraph of the Allegation relates to question seven of the Form. As previously stated the Tribunal were of the view that Dr Alemi must have known she was subject to the investigations but made no reference to these.

24. In the light of the matters set out in paragraphs 15 to 24, the Tribunal found paragraph 3 (a) of the Allegation proved.

Paragraph 3 (b)

You made false declarations in the answers you gave on the Form, in that you answered:

- b. 'No' to the question: 'Do you know of any other matters in your background which might cause your reliability or suitability for approval to be called into question?';

25. This paragraph of the Allegation refers to question nine of the Form in that it obliged Dr Alemi to disclose any other matters in her background which might cause her reliability or suitability of approval to be called into question. When Dr Alemi answered this question 'No', she did not disclose the Cumbria Police Force criminal investigation or the ongoing GMC investigations. In consequence, the Tribunal found that the declaration she made, in answer to this question was false.

26. The Tribunal therefore found paragraph 3 (b) of the Allegation proved.

Paragraph 4 (a)

The answers you gave, referred to in paragraph 3, were:

- a. untrue;

27. In the light of the foregoing the Tribunal concluded that the declarations Dr Alemi made, as set out in paragraph 3 of the Allegation, were untrue.

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28. The Tribunal therefore found paragraph 4 (a) of the Allegation proved.

Paragraph 4 (b)

The answers you gave, referred to in paragraph 3, were:

b. answers you knew to be untrue.

29. The Tribunal has concluded that Dr Alemi knew she was the subject of a GMC investigation and a criminal investigation. In the absence of any evidence or explanation from Dr Alemi as to her state of mind, it therefore concluded that, when she made the declarations, referred to in paragraph 3 of the Allegation, she knew them to be untrue.

30. The Tribunal therefore found paragraph 4 (b) of the Allegation proved.

Paragraph 5 (a)

Your actions at paragraphs 2 to 3 were:

a. dishonest;

31. The Tribunal deliberated as to whether Dr Alemi's actions would be considered dishonest by an ordinary decent person. It took the view that they would be considered dishonest as she signed the Form to confirm that:

'...the information that I have provided in this declaration form is correct and complete.'

32. The information provided in the declaration form was not correct or complete as the Tribunal concluded that Dr Alemi was aware of the investigations against her.

33. Based on the evidence received the Tribunal found paragraph 5 (a) of the Allegation proved.

Paragraph 5 (b)

Your actions at paragraphs 2 to 3 were:

b. misleading.

34. The Tribunal bore in mind that it is found Dr Alemi's declarations to be false. As a consequence of these being false they are also misleading.

35. The Tribunal found paragraph 5 (b) of the Allegation proved.

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The Tribunal's Overall Determination on the Facts

36. The Tribunal has determined the facts as follows:

That being registered under the Medical Act 1983 (as amended):

1. On or around 4 May 2017, you submitted a form to renew your Approved Clinician status under Section 12(2) Mental Health Act 1983 ('the Form').

Determined and found proved

2. You failed to disclose on the Form that you were under investigation by the General Medical Council at the time of submitting the Form.

Determined and found proved

3. You made false declarations in the answers you gave on the Form, in that you answered:

a. 'Yes, please see the answer to previous question' to the question: 'Are you currently or have you ever been the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country or currently being referred to a licensing or regulatory body?';

Determined and found proved

b. 'No' to the question: 'Do you know of any other matters in your background which might cause your reliability or suitability for approval to be called into question?'.
Determined and found proved

4. The answers you gave, referred to in paragraph 3, were:

a. untrue;

Determined and found proved

b. answers you knew to be untrue.

Determined and found proved

5. Your actions at paragraphs 2 to 3 were:

a. dishonest;

Determined and found proved

b. misleading.

Determined and found proved

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Determination on Impairment - 17/08/2018

1. The Tribunal now has to decide in accordance with Rule 17(2) (I) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Alemi's fitness to practise is impaired by reason of 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.

3. The Tribunal also received an additional bundle of documents from the GMC. This contained information regarding a warning Dr Alemi received from the MPTS in 2012 for a conviction of careless driving and for working as a Section 12 approved (responsible) clinician without being properly approved. Dr Alemi inaccurately stated that she was not the subject of an investigation into her fitness to practise. The bundle also contained the Allegation and determinations of an MPT hearing held for Dr Alemi on 22 May 2017.

Submissions

4. On behalf of the GMC, Mr Kewley submitted that Dr Alemi's conduct amounts to misconduct as the Form reminded candidates that they need to provide complete information to enable a Section 12 Panel ('the Panel') to make an assessment as to their suitability. He submitted that Dr Alemi's misconduct was dishonest as she did not provide information relating to current GMC investigations and a Police investigation which would have been relevant to the Panel.

5. Mr Kewley submitted that Dr Alemi's fitness to practise is impaired by reason of her misconduct as there is a risk of repetition. There was no evidence before the Tribunal of insight or remediation. He submitted that it is in the public interest to make a finding of impairment as Dr Alemi displayed serious dishonesty which could impact upon public trust in the medical profession.

The Relevant Legal Principles

6. The Tribunal reminded itself 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.

7. 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 serious misconduct, and then whether the finding of that misconduct should lead to a finding of impairment.

8. The Tribunal must determine whether Dr Alemi's fitness to practise is impaired today, taking into account her conduct at the time of the events and any relevant

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factors since then such as whether the conduct, if remediable, has been remedied and whether there is any likelihood of repetition.

The Tribunal's Determination on Impairment

Misconduct

9. The Tribunal considered whether its findings of dishonesty amounted to misconduct.

10. It noted that Section 12 approval gives a doctor the power to detain potentially vulnerable people in hospital against their will. The suitability checks carried out by the Panel are therefore of the utmost importance. The Tribunal regarded Dr Alemi's actions as serious as she dishonestly omitted vital information from her declaration. In consequence the Panel was not able to conduct a thorough suitability check.

11. The Tribunal had regard to paragraphs 1, 65 and 71 of Good Medical Practice (2013) ('GMP') which state:

'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.

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.'

12. The Tribunal concluded that Dr Alemi's conduct engaged these paragraphs of GMP and fell short of the standards reasonably to be expected of a doctor and amounted to misconduct.

13. The Tribunal having found that the facts found proved amounted to misconduct went on to consider whether, as a result of that misconduct, Dr Alemi's fitness to practise is currently impaired.

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14. Based on the evidence received, the Tribunal considered that Dr Alemi's conduct reflected each of the four limbs which Dame Janet Smith set out in the fifth report to the Shipman inquiry relating to impairment, namely whether the findings of fact mean that the doctor has in the past acted and/or is liable in the future to act so as to:

- cause unwarranted risk of harm to patients;
- bring the profession into disrepute;
- breach a fundamental tenet of the profession;
- behave dishonestly.

15. The Tribunal bore in mind that no patients have been directly put at risk by Dr Alemi's actions but that there was a potential for this. It noted that, in the Section 12 approvals process, the need to assess a doctor's suitability is made explicitly clear. The information provided by Dr Alemi resulted in the Panel not being able to conduct a thorough check of her suitability which, upon her approval, could have put patients at risk.

16. The Tribunal noted that it has not received any evidence from Dr Alemi as to her insight or remediation. It noted that she received a warning for similar behaviour in 2012. It therefore took the view that the risk of repetition is high.

17. The Tribunal concluded that a finding of impairment is appropriate to uphold its over-arching objective and therefore determined that Dr Alemi's fitness to practise is impaired by reason of misconduct.

Determination on Sanction - 17/08/2018

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

Submissions

2. On behalf of the GMC, Mr Kewley referred the Tribunal to paragraph 4 of the Sanctions Guidance (2018) ('SG') which states:

'When deciding whether to impose a sanction, tribunals must consider the overarching objective of protecting the public'

3. Mr Kewley submitted that the Tribunal should consider the risk of repetition of Dr Alemi's misconduct as the warning she received from the MPTS in 2012 did not have the desired effect. He submitted that no evidence of remediation or insight has been presented and that the correspondence from Dr Alemi in the service bundle indicates that she has no intention or desire to engage.

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4. Mr Kewley submitted that it is in the public interest to erase Dr Alemi's name from the medical register.

The Tribunal's Determination on Sanction

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

6. In reaching its decision, the Tribunal has taken account of the SG and GMP. It has borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Alemi's interests with the public interest.

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

8. The Tribunal considered the mitigating factors of this case. It noted that no issues have been raised regarding Dr Alemi's clinical practice at any point. It also noted that XXX shortly before she completed the Form XXX she was due to attend an MPT hearing on 22 May 2017. It also noted that the 2017 Tribunal found her fitness to practise not to be impaired. The Tribunal bore in mind that the 2017 Tribunal had received positive testimonials and positive 360 Feedbacks relating to Dr Alemi.

9. The Tribunal next considered the aggravating factors of this case. It noted that the warning Dr Alemi received in 2012 by the MPTS, related to a similar matter to those before this Tribunal. There was no suggestion of dishonesty at the time of the warning in 2012. The Tribunal was aware that Dr Alemi has engaged with the GMC with regard to the 2017 hearing. Her engagement for this hearing has been inconsistent and limited, and no evidence of insight or remediation has been provided.

No action

10. In reaching its decision as to the appropriate sanction, if any, to impose in Dr Alemi's case, the Tribunal first considered whether to conclude the case by taking no action.

11. The Tribunal determined that as Dr Alemi has not submitted any evidence of insight or remediation that it can not conclude there were any exceptional circumstances in this case.

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Conditions

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

13. The Tribunal concluded that as Dr Alemi has not submitted any evidence as to her insight that there are no appropriate conditions that can be formulated to address the dishonesty in this case. Due to the lack of evidence, the Tribunal could not be satisfied that Dr Alemi would comply with conditions.

14. The Tribunal therefore concluded that conditions are insufficient to meet the public interest.

Suspension

15. The Tribunal then went on to consider whether imposing a period of suspension on Dr Alemi's registration would be appropriate and proportionate.

16. The Tribunal had regard to paragraphs 91, 92 and 93 of the SG which provide:

'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 unbecoming 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 (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).

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.'

17. The Tribunal was of the view that a sanction of suspension would have a deterrent effect on Dr Alemi and on the wider medical profession. It was aware that the warning issued to Dr Alemi by the MPTS in 2012 did not deter her from displaying similar misconduct in 2017 but it regarded suspension as a more powerful deterrent.

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18. The Tribunal recognised that Dr Alemi's conduct was sufficiently serious that action must be taken to protect members of the public and to maintain public confidence in the profession. It did not consider that the misconduct was fundamentally incompatible with continued registration. Although it involved dishonesty and had the potential to cause patient harm, the dishonesty was not persistent, it related to one Form only and was not covered up.

19. The Tribunal bore in mind that there has been no acknowledgement of fault from Dr Alemi in this hearing. It has not had the opportunity to hear from her regarding insight and remediation, so it was unable to satisfactorily assess the likelihood of repetition. However, it did note that Dr Alemi engaged with the 2017 Tribunal and it regarded her in a positive light as evident by these extracts from its determination:

'You gave very detailed evidence to the Tribunal. You demonstrated an excellent memory and you were able to recall events very clearly. The Tribunal found you to be a credible witness, not evasive, candid and open in your responses.'

'The Testimonials and references which you have received from the persons identified in the table, and which the Tribunal has seen, speak extremely highly of you.'

20. The Tribunal considered that it should not ignore this relatively recent endorsement of Dr Alemi's character. It also reflected that this hearing comes at the end of a 7 or 8 year period of Dr Alemi's involvement with the GMC and that during that time her fitness to practise has not previously found to be impaired. Although it regretted Dr Alemi's absence from this hearing, it noted that she had attended a 20 day hearing in May and June of last year during which she gave lengthy evidence. Moreover at that hearing she represented herself. The Tribunal considered that in the light of these contextual factors it would be a proportionate response for Dr Alemi to be given a further chance to explain her position in respect of insight, including remorse and remediation at a review hearing.

21. The Tribunal therefore determined that a period of suspension would be an appropriate and proportionate sanction which would protect public confidence in the profession.

22. Erasure was carefully considered by the Tribunal, as this was proposed by the GMC. The Tribunal has already explained why it has found that Dr Alemi's misconduct was not fundamentally incompatible with registration. Moreover, it noted the recent experience of the 2017 Tribunal of Dr Alemi presenting herself in a positive and cogent manner which it did not consider it should ignore.

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23. In considering the appropriate period of suspension, the Tribunal was aware that the maximum period of suspension is 12 months. The Tribunal determined that a period of 12 months suspension would reflect the seriousness of Dr Alemi's misconduct and would provide her with an opportunity to demonstrate her insight and remediation. It bore in mind that she has a criminal court case scheduled for October 2018 and will need the maximum time available to her in order to provide adequate evidence to a future Tribunal reviewing this case.

24. Shortly before the end of the period of suspension, Dr Alemi's case will be reviewed by a Medical Practitioners Tribunal. A letter will be sent to Dr Alemi about the arrangements for the review hearing. At the next hearing, the review Tribunal will be assisted by the following:

- A reflective piece demonstrating her insight and understanding of the gravity of her misconduct;
- Evidence of her remediation;
- Evidence of her continuing professional development;
- Any other relevant evidence she wishes to present to assist the Tribunal.

25. The effect of the foregoing direction is that, unless Dr Alemi exercises her right of appeal, her registration will be suspended 28 days from the date on which written notice of this decision is deemed to have been served upon her. A note explaining her right of appeal will be sent to her.

Determination on Immediate Order - 17/08/2018

1. Having determined to impose 12 months suspension upon Dr Alemi's registration, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Alemi's registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Kewley submitted that an immediate order is necessary for the protection of patients and that it would be in the public interest. He submitted that this is due to the risk of repetition and Dr Alemi's lack of insight.

The Tribunal's Determination

3. The Tribunal was of the view that no evidence of insight or remediation has been presented and therefore a risk of repetition remains. The Tribunal concluded that an immediate order is necessary both to protect patients and to maintain public confidence in the medical profession.

4. This means that Dr Alemi's registration will be suspended from when notification is

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deemed to have been served. The substantive direction, as already announced, will take effect 28 days from when written notice of this determination has been served upon Dr Alemi, 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.

5. The interim order currently imposed on Dr Alemi's registration will be revoked when the immediate order takes effect.

6. That concludes the case.

Confirmed

Date 17 August 2018

Dr Helen McCormack, Chair

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ANNEX A – 16/08/2018

1. Dr Alemi is neither present nor represented at these proceedings.
2. The Tribunal has considered whether notice of this hearing has been properly served upon Dr Alemi in accordance with Rules 15 and 40 of the General Medical Council (Fitness to Practise) Rules 2004 (as amended) (the Rules) and Schedule 4, Paragraph 8 of the Medical Act 1983 (as amended). In so doing, the Tribunal has taken into account all the information placed before it, together with Mr Kewley's submissions on behalf of the General Medical Council (GMC).
3. The Tribunal has been provided with a service bundle which shows Dr Alemi's registered address to be 'N/A'. The service bundle contained an email from Dr Alemi, dated 8 March 2018, in which she confirms she has *'no address to give to MPTS and I have no intention to attend any meetings or reply any further to communications from GMC or MPTS'*. The GMC did not have a registered address for Dr Alemi so contacted her via her registered email address. The service bundle also contained correspondence from Dr Alemi using the same email address.
4. The Notice of Hearing, dated 28 June 2018, was sent to Dr Alemi's registered email address. The Tribunal has taken account of the automated delivery confirmation of this email also dated 28 June 2018. Having considered all the information, the Tribunal is satisfied that notice of this hearing had been properly served upon Dr Alemi.
5. The Tribunal went on to consider whether to proceed with the case in Dr Alemi's absence in accordance with Rule 31 of the Rules. In doing so, it took account of the advice of the Legal Assessor who referred to the judgment in the case of *R v Jones* [2003] 1AC1. He advised that the Tribunal has discretion to proceed with the case in the doctor's absence, though this discretion is to be exercised with caution with the overall fairness of the proceedings in mind. The Tribunal had regard to all the circumstances including the following:
 - The nature and circumstances of the doctor's behaviour in absenting herself, in particular, whether the behaviour was voluntary and therefore waived the right to be present.
 - Whether an adjournment would resolve the matter.
 - The public interest that a hearing should take place within a reasonable time.
 - Fairness to the GMC.
6. The Tribunal bore in mind that its discretion to proceed in the practitioner's absence must be exercised with caution and with regard to the overall fairness of the proceedings. The Tribunal has balanced the interests of the practitioner, including fairness to her, against the public interest, including the need to protect patients.

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7. The Tribunal took note of the email submitted by Dr Alemi, dated 16 April 2018, in which she stated *'I appreciate if you kindly would withhold all these meetings until I return back to UK in late October 2018. I do not live in UK'*. The GMC responded on 20 April 2018 asking if she would confirm if she intended to make an application for a postponement of the forthcoming hearing. It was made clear that if no application was forthcoming the GMC would progress to the listed hearing. Dr Alemi made no response to that email.

8. On the basis of the information provided the Tribunal was satisfied that Dr Alemi had voluntarily waived her right to be present and represented at this hearing. It was satisfied that she was aware of the hearing and that it could proceed in her absence. The Tribunal considered that, were it to adjourn, it would be unlikely that Dr Alemi would attend a future hearing. The Tribunal has therefore determined that it is in the public interest and in Dr Alemi's own interests to exercise its discretion and proceed with the case in her absence. Having reached this decision, the Tribunal wished to emphasise that it will not draw any adverse inference from Dr Alemi's non-attendance.