

Public Minutes of the Investigation Committee

Date of hearing: 11 November 2020

Name of Doctor	Dr Muhammad Ishtiaq Altaf
Doctor's UID	7107611

Committee Members	Mr Pradeep Agrawal
	Mr David Hull
	Professor Jennifer Adgey

Legal Assessor	Ms Eleanor Platt QC
Panel Secretary	Ms Gemma Wolstenholme

Attendance and Representation

GMC Representative	Shirlie Duckworth
Doctor's attendance	Attended
Doctor's representative	Not represented

Outcome	Warning
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Dr Altaf,

- 1 At today's hearing the Investigation Committee carefully considered all the material before it including the submissions made by **you**, and those made on behalf of the GMC by **Ms Shirlie Duckworth**. It has accepted the advice of the Legal Assessor.

Background

- 2 On 13 August 2019, the GMC received an online complaint from Walsall Healthcare NHS Trust (the Trust). The Trust informed the GMC that you had attended an interview on 11 April 2019 and you were invited to accept FY2 position to commence on 07 August 2019. The Trust received an email on the evening of the 06 August 2019 in which you advised that you could not attend the Trust Induction due to personal circumstances. The Trust rescheduled your start date for 12 August 2019 which was agreed with you. The Trust informed the GMC that again, you did not turn up on this date.
- 3 On the 13 August 2019, you emailed the Trust to withdraw from the job offer. The Trust also stated that this is the second time that this has happened with the first occasion being in July 2018, when you withdrew from another position with them. The Trust alleged that you left the Service compromised, breaching patient safety protocol.
- 4 On 02 January 2020, the GMC finished their investigation and wrote to you in accordance with Rule 7 to provide you with an opportunity to comment on the allegations raised by the Trust.
- 5 On 13 March 2020, the GMC wrote to you in accordance with Rule 11 of the Rules and advised you that the Case Examiners were minded to issue you with a warning. You indicated on 10 April 2020, that you were not prepared to accept the proposed warning at this stage and provided the GMC with a further statement.
- 6 On 28 September 2020, the GMC wrote to you again in accordance with Rule 11 of the Rules that the Case Examiners were minded to issue you with a warning. The draft warning had been amended due to a typographical error that your start date was 13 August when in fact it was 12 August and as you had previously indicated you were not prepared to accept the warning, the GMC advised you that your case had been referred to the GMC Investigation Committee.

- 7 On 20 October 2020, Dr Lewis from the Trust spoke to the GMC and advised that a colleague from medical staffing had made the complaint to the GMC. Dr Lewis was not aware of any significant impact that your conduct had on the Trust, or patient safety. Dr Lewis advised that there may have been some issues, but that *'he wasn't aware of any significant consequences'*. Dr Lewis stated that *'this complaint bypassed him and said he would have probably dealt with it differently and would not have complained to the GMC.'*

GMC Submissions

- 8 Ms Duckworth took the Committee through the background of the case as outlined above. Ms Duckworth submitted that there has been a clear and specific breach of Good Medical Practice (GMP) specifically paragraph 38. Patient safety may be affected if there is not enough medical cover. So, a doctor must take up any post [they] have formally accepted and work the contractual notice period before leaving a job, unless the employer has reasonable time to make other arrangements.
- 9 Ms Duckworth reminded the Committee of its powers, that the Committee can dispose of this case with no further action, that they can issue a warning or, in the case of new evidence, the Committee can refer the matter to the Medical Practitioners Tribunal Service (MPTS). However at the outset, Ms Duckworth asked the Committee to rely on the documentary evidence put before it today and issue a warning.
- 10 Ms Duckworth submitted that the recruitment documents provided show that you were offered the position as a FY2 on 11 April 2019 and throughout the whole pre-employment process, they found it difficult to contact you. You were due to start on 07 August 2019 and the Trust received an email the previous evening to advise that you could not attend. A further date was arranged for 12 August 2019, you did not then turn up on the 12 August and emailed on the 13 August 2019 to advise you would not be taking up the position.
- 11 Ms Duckworth directed the Committee to the further information provided by Dr Lewis who had been asked for further information and subsequently provided a timeline for the investigation which provided the Committee with a background to the similar events of 2018. Ms Duckworth does not invite the Committee to make any determinations on the refusal of the offer in 2018, however its inclusion in these matters has been provided as she submits that it is a 'salient reason' as to why the Trust has referred this current matter. Ms Duckworth advises that it is there for the Committee to consider as you have argued in your written submissions that this was an isolated incident. The emails in relation to the withdrawal of your earlier post in 2018 also stated personal reasons and personal circumstances. Ms Duckworth submitted that this shows this is not an isolated incident.
- 12 Ms Duckworth returned to the current allegations in this case. The timeline given by Dr Lewis following the GMC's request for further information states that your reasons

for withdrawing from the FY2 post was due to a family emergency, however Ms Duckworth submitted that your written statement to the GMC disagreed with the timeline given as 'ambiguous' and provided the GMC with a screenshot of an email from the evening of the 06 August 2019 which stated 'Apologies but I won't be able to make it tomorrow, I will call and explain in the morning.' Ms Duckworth explained that this led the GMC to make a further information request to the Trust on 08 October 2020 regarding attempts to contact you about your induction dates. The Trust were invited to provide all correspondence with you.

- 13** The recruitment record was provided which evidences these exchanges. Ms Duckworth submits that this has been provided by the GMC for the Committee's consideration today due to your concerns raised about the communication difficulties experienced by both you and the Trust. Ms Duckworth confirmed that it was difficult for the GMC to contact the Trust in order for them to respond to the information regarding the email sent by you to the Trust 06 August 2019. Email correspondence between the GMC and Ms Bennett, a staff member in HR at the trust, gives conflicting accounts of the timeline of events. The GMC thanked Ms Bennett for her responses but advised some of her emails did not make sense and requested that she clarify as no GMC evidence points to the 08 August as a start date. On 05 November, Ms Bennett advised the GMC in an email that due to the lapse in time, her memory would be affected, however you did not show on the 07 August or the 08 August, so a later start date was agreed.
- 14** Ms Duckworth confessed that despite clarifications being sought, she agreed that there is confusion regarding the communications between you and the Trust, and that the Committee should consider the documents as they are set out today. Ms Duckworth confirmed that it is accepted you contacted the Trust on 06 August 2019, and though the manner in which you agreed to the further start date of the 12 August is unclear, the agreement to this further start date it is not disputed by you.
- 15** Ms Duckworth submitted that you have provided explanation in your personal statement about the reasons for your non-attendance and gave background to the recruitment process, specifically difficulties in communicating with Ms Bennett for the commencement of your post and that the recruitment record is there to evidence the difficulties in these communications as we will not be hearing oral evidence from Ms Bennett today.
- 16** Ms Duckworth advised the Committee that your written statements explain that since no contracts were exchanged, you were confident that you had the time to turn down the position. You stated that you had no childcare due to the sudden illness of your carer and your son was also unwell at this time. Ms Duckworth advised the Committee that they may consider that you have provided remorse, reflection and a genuine expression of apology.

Defence Oral Evidence and Submissions

- 17 You read out the General Affirmation prior to giving your oral evidence and submissions to the Committee today. You began by sincerely apologising and advising that you deeply regretted the isolated conduct that has brought you before the Committee. You admitted your mistake and utterly expressed your regret that this has led to the referral to the GMC.
- 18 You directed the Committee to the timelines provided by the Trust, by HR and by you. When you received your final offer on 05 August 2019 at 16:00, with a start date of 07 August, you went on to contact the Trust by email on 06 August 2019 and a phone call on 07 August 2019 where you explained that you could not attend on 07 August. You stated that you were then given a pre-arranged trust induction date on 12 August 2019 and were advised by the Trust in the meanwhile to consider if 'things can work out for you'.
- 19 You submitted that you were keen to join the Trust, however *'things did not work out'* and that as no contractual agreement was exchanged, you were under the impression that you could still withdraw from your position. You submitted that you were pressurised to leave the post at short notice which led to you to being unemployed for 6 months. You submitted that you have since remediated your conduct having provided frontline NHS work in the face of Covid19, completing your contractual agreements of 6 months and receiving good feedback. You advised that you have provided further remediation by proactively exploring online bulletins regarding withdrawal of work commitments and working notice of contractual agreements. You believed that the Trust could have been more helpful in the matters and drew the Committee's attention back to Dr Lewis's phone note where he was *'not aware of any significant impact that your conduct had on the Trust, or patient safety and stated that this complaint bypassed him... he would have probably dealt with it differently if it hadn't and wouldn't have complained to the GMC.'*
- 20 You advised that you understand it is your duty as a doctor to maintain your fitness to practice, repeated your sincere apology and advised the Committee that this is an isolated incident and will not be repeated.
- 21 GMC Counsel and the Committee then took you through some questions to clarify the evidence put forward by you today.
- 22 Ms Duckworth questioned your actions being isolated and asked if you accepted that in 2018 you also withdrew from a position with the Trust. You directed the Committee back to your personal statement where you submitted that important points were discussed in this interview where you were advised you do some unpaid work; an unbinding clinical opportunity and following further discussion, the shadowing offer following discussion with the consultants was then reduced to two weeks. You stated that at this point you advised during the interview that should you be offered a job elsewhere, you would take it. Following your first week of shadowing, you were

indeed offered a position elsewhere and accepted it. You had not considered this as a further incident of your conduct.

- 23** Ms Duckworth submitted that at this time it was expected that you could resolve the short-term childcare problems in order for you to begin on 12 August 2019. You responded by reiterating your earlier oral evidence that this was a prearranged induction. You had hoped to sort out your personal circumstances in time, however this did not happen, and you realised that you had underestimated your family circumstances. Therefore, you were unable to accept the post. You stated that personal circumstances had arisen and unfortunately this was the reason that you could not accept the post. You submitted that you understood how your actions may have affected the Trust, but this is certainly not your usual attitude towards your work and was in no way deliberate.
- 24** Ms Duckworth submitted that there have been attempts by the GMC to gather further information from the Trust about the consequences of your post not being filled until December 2019, leaving a period of time with no cover for the Trust and that there were difficulties in regard to this matter. Ms Duckworth reminds the Committee that documentary evidence is not required in this case in order to issue a Warning, only that there may be potential implications for patient safety. Ms Duckworth again drew the Committee's attention to Dr Lewis' telephone note in which he states that 'there may have been some issues, but that he wasn't aware of any significant consequences.' You responded to Ms Duckworth that you had expressed in your personal statement that your conduct may have impacted patient safety. Following further clarification by the Committee, you showed appreciation of how your actions affected the Trust insofar as the HR process in appointing an FY2 post was concerned; and how the post being left unfulfilled affected the Trust's overall workload, therefore impacting patient care.
- 25** The Committee confirmed with you, your termination date of your last position as the end of June/beginning of July 2019 and that you did not apply elsewhere. The Committee afforded you an opportunity to go into private session if you wished to elaborate on the personal circumstances which led to your withdrawal of the position, which was considered by you and declined. You confirmed that you had not previously considered the constraints on your time commitments with the post and your family. Though you did not elaborate on your personal circumstances, you stated you were unable to leave your home and though you accept your responsibilities under GMP paragraph 38, home pressures did not allow for this.

Closing GMC Submissions

- 26** Ms Duckworth concluded that you have accepted in your submissions the impact that your actions had on the Trust and that there is no need in these proceedings to prove significant *actual* patient harm but the prospect of potential patient harm as a result of your actions. Ms Duckworth reminded the Committee of paragraph 38 of GMP,

specifically that it is incumbent on the doctor that [he] must take up any post you have formally accepted and work your contractual notice period before leaving a job.

- 27** Ms Duckworth drew the Committee's attention to Paragraph 13 of the GMC's Guidance on Warnings which states that a Warning does not restrict a doctor's practice, they should nonetheless be viewed as a serious response, appropriate for those concerns that fall just below the threshold for a finding of impaired fitness to practise
- 28** Ms Duckworth reminded the Committee of its central role in protecting the public which is its overarching objective. She advised that Warnings allow the GMC to indicate to a doctor that any given conduct, practice or behaviour represents a departure from the standards expected of members of the profession and should not be repeated. They are a formal response from the GMC in the interests of maintaining good professional standards and public confidence in doctors. The recording of warnings allows the GMC to identify any repetition of the particular conduct, practice or behaviour and to take appropriate action in that event. Breach of a warning may be taken into account by a tribunal in relation to a future case against a doctor, or may itself comprise misconduct serious enough to lead to a finding of impaired fitness to practise.
- 29** Ms Duckworth submitted that the Committee must take into account proportionality, weighing the aggravating and mitigating factors. She submitted that the Committee should consider how much weight to give to the circumstantial mitigation, whether this was not properly managed by the doctor, in relation to the specific events that he describes as 'unforeseen' and his written submissions to that effect. Ms Duckworth agreed that there is some personal mitigation in his previous good fitness to practice history and that he had expressed some insight, but also that the doctor indicated that these could affect anyone. She submitted that the doctor had failed to consider his personal responsibility in these matters.
- 30** Ms Duckworth directed the Committee's attention to the test for issuing a warning at paragraph 16 of the GMC's Guidance on Warnings and submitted that there has been a significant departure from GMP falling just short of impaired fitness to practice and, in this case, a formal response by way of a warning is an appropriate mechanism for the GMC to declare and uphold standards of behaviour expected from doctors and maintain the public's trust in the profession.
- 31** Ms Duckworth submitted that, in all of the circumstances of this case and notwithstanding any mitigation present, a Warning was necessary and proportionate. The doctor's conduct did not meet the standards expected and a warning would serve to maintain the public's confidence in the profession, promote the standards expected of a doctor and send a message to the wider profession that such conduct is not acceptable. Ms Duckworth stated this was not an isolated incident, though this is disputed by the doctor. Ms Duckworth submitted to the Committee that notwithstanding the regret and remorse aforementioned, domestic issues and

difficulties in commuting to the place of work were prioritised over the responsibilities described under paragraph 38 of GMP. Therefore, a Warning was appropriate in this case.

Closing Defence Submissions

- 32** You submitted that you are only just at the start of your career and that if a Warning was issued by the Committee, it would decrease your chance in obtaining a post in the future and would attach a stigma to your position. You would feel personally discouraged if you received a Warning today. You requested that the Committee carefully consider the documents before it.
- 33** You submitted that although you withdrew from your commitment to the Trust, you were compelled to do so due to unexpected personal reasons that prevented you from taking up the FY2 post. You submitted that your actions did not constitute a deliberate act and led to your unemployment for a period of six months.
- 34** You expressed sincere regret over this incident and a genuine apology, advising that you now understand how your misconduct may have affected the cover arrangements. You submitted that your conduct represented an isolated incident, not consistent with your usual approach towards professionalism which is evidenced by your references. You acknowledge where things have gone wrong and accept your failing in relation to the matter.
- 35** You submitted to the Committee that you have taken remedial steps through peer discussion and have provided Multi Source Feedback forms to demonstrate your good character and usual work ethic.
- 36** You assured the Committee that there was no risk of repetition in the future.
- 37** You submitted that you have demonstrated a full understanding of your failings and anticipated that your isolated misconduct has not undermined the confidence and trust that the patients and the public have in Doctors. Considering the documents provided by you and your genuine expression of regret, you summarised that a Warning would be disproportionate in this case.

Committee Determination

- 38** The Committee accepted the advice of the Legal Assessor.
- 39** The Committee is aware that it must have in mind the GMC's role of protecting the public, which includes:
 - a. Protecting, promoting and maintaining the health, safety and well-being of the public
 - b. Promoting and maintaining public confidence in the medical professions, and

- c. Promoting and maintaining proper professional standards and conduct for members of that profession

- 40** There is public interest in this case. The Committee noted that your post was not filled until December 2019, leaving a significant period of time with no cover for your position in the Trust. Paragraph 38 of GMP states that Patient safety may be affected if there is not enough medical cover. So, you *must* take up any post you have formally accepted, and work through your contractual notice period before leaving a job, unless the employer has reasonable time to make other arrangements.
- 41** In deciding whether to issue a warning the Committee must apply the principle of proportionality and balance the interests of the public with those of the practitioner.
- 42** The Committee considered the aggravating and mitigating factors in this case and noted that though you were given an opportunity to do so, you did not wish to elaborate on the specific aggravating personal circumstances which led to your conduct, therefore it relied on your oral evidence, previous written statements and submissions given today. The Committee accepts your previous good conduct, the positive feedback it has seen today, and your apology provided.
- 43** The Committee also accepted the mitigation that you have not been brought to the attention of your regulator before. However the Committee determined that the previous incident from 2018 represented too similar an allegation to the one put before it today and therefore does not consider your current misconduct to represent an isolated incident.
- 44** The Committee, having sight of your written reflections and the feedback forms attesting to your usual character, acknowledged your deep regret and apologies given. However, the Committee did not consider that you demonstrated full insight into your conduct. You had been given ample opportunity to expand on the points made in regard to mitigation and there has not been any demonstration to the Committee today of foresight into your actions. It is not considered, from the evidence put forward today, that your circumstances were exceptional.
- 45** Balancing the interest and safety of the public with proportionality in this case, and on the specific facts seen before it today, the Committee has determined that your conduct did not uphold patient safety and the Committee cannot be satisfied that it would not be repeated. The Committee has determined that a warning would be appropriate in this case to maintain the public's confidence in the profession, promote the standards expected of a doctor and send a message to the wider profession that this conduct is not acceptable. The Committee has concluded that in this case your actions do breach paragraph 38 of GMP. The Committee accepts, although there is no definition of 'significant' in the Medical Act or in the Fitness to Practice Rules, your misconduct represents a significant departure from GMP paragraph 38 as it does not meet the standards expected of a Doctor and could serve to damage the public's trust and confidence in the profession.

46 The Committee must be satisfied that the particular conduct, behaviour or performance approaches, but falls just short of, the threshold for the realistic prospect test. The realistic prospect test requires a genuine possibility of a finding of impaired fitness to practise, justifying action on the doctor's registration. The Committee is satisfied that your current fitness to practice is not impaired. However, the Committee is satisfied that the concerns displayed in this case are sufficiently serious that if there were repetition, they would likely result in a finding of impairment. Repetition of your behaviour could affect patient and public confidence in the profession and the reputation of the profession. Therefore, for reasons above, the test for issuing a warning is met.

47 The Committee has concluded that in this case your actions breach Paragraph 38 of GMP. The Committee accepts, although there is no definition of 'significant' in the Medical Act or in the Fitness to Practice Rules, your misconduct represents a significant departure from GMP Paragraph 38 as it does not meet the standards expected of a doctor and could serve to damage the public's trust and confidence in the profession.

48 The Warning will be issued as follows:

'You were given a conditional offer of employment as an FY2 in general medicine at the Walsall Healthcare NHS Trust Hospital (the Trust) that you accepted by fulfilling the conditions and a start date was agreed for 7 August 2019; you failed to attend the Trust induction on 7 August 2019. On 6 August 2019, you notified the Trust that you would not be able to start the following day. A new start date of 12 August 2019 was agreed; you failed to attend for work on 12 August 2019. On 13 August 2019, you emailed the Trust stating that you were declining their offer of employment.

This conduct does not meet with the standards required of a doctor. It risks bringing the profession into disrepute and it must not be repeated. The required standards are set out in Good medical practice and associated guidance. In this case, paragraph 38 of Good medical practice is particularly relevant:

'38 Patient safety may be affected if there is not enough medical cover. So, you must take up any post you have formally accepted, and work your contractual notice period before leaving a job, unless the employer has reasonable time to make other arrangements.'

49 You will be notified of this decision in writing within the next two working days.

That concludes the determination of the Investigation Committee in this case.