

# Meeting of the s.40A Panel to consider the case of Dr Ali Shokouh-Amiri (7117232)

Held on 11 March 2025

## Panel members present ('the Panel')

Charlie Massey, Chief Executive (in the Chair)

Sue Carr, Deputy Medical Director

Anthony Omo, General Counsel and Director of Fitness to Practise

## In attendance

Jacqui Eden, Senior Legal Adviser

Monali Patel, Trainee solicitor

Katherine Ince, Head of Office of the Chair and Chief Executive (Panel Secretary)

## Purpose of this note

- 1 This meeting note records a summary of the Panel's consideration of the relevant decision of the Medical Practitioners Tribunal ('MPT') which considered the Doctor's case ('the decision'), and the Panel's decision on behalf of the General Medical Council as to whether or not to exercise the power to appeal the decision pursuant to section 40A Medical Act 1983 (as amended) ('the Act').

## The relevant decision

- 2 The Senior Legal Adviser confirmed that the decision was a relevant decision for the purposes of s.40A of the Act. The decision not to find the Doctor's fitness to practise impaired and to issue a warning was a decision not to give a direction under s35D of the Act, and accordingly fell within the meaning of s40A(1)(d) of the Act as confirmed by the Court of Appeal in its judgment in the case of *Raychaudhuri v General Medical Council* ([2019] 1 WLR 324, at [47]-[53]).

## Consideration

- 3 The Panel considered the record of the MPT's determination and the legal advice in detail.
- 4 The Panel acknowledged that this was a complex case and noted that it involved very serious allegations. The Panel observed that it concerned the practice of a Consultant Obstetrician

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and Gynaecologist and patients who were in a vulnerable position by virtue of the medical reasons for their consultation with the doctor.

- 5** The Panel was concerned that in respect of a number of the allegations it was very difficult to understand the MPT's reasoning for reaching their findings. They noted that the MPT's approach to the allegations in this case appeared, for example, to include the MPT failing to resolve primary disputes of fact and the misapplication of the evidence they heard in the case, including failing having proper regard to relevant evidence and the impact of the same on their findings. They were also concerned that MPT had failed to reflect that there were a number of different complainants in this case raising wide ranging concerns, some of which were similar in nature. As such, the Panel noted a lack of any reasoning in the MPT's determination on how they had applied the principle of cross admissibility of evidence when making their findings.
- 6** The Panel acknowledged the benefit the MPT had from seeing and hearing the witness testimony in this case, alongside the documentary evidence. However, the Panel agreed that there were clear examples of the evidence in the case not supporting the factual findings made by the MPT.
- 7** The Panel agreed that the reasoning of the MPT also appeared to demonstrate that they were dismissive of the testimony of the patients involved.
- 8** In considering the MPT's determination on misconduct, the Panel was concerned that there was an apparent inconsistency in the MPT's approach to the crossing of professional boundaries by the Doctor in consultations with patients and whether that behaviour amounted to misconduct.
- 9** In deciding that the Doctor's fitness to practise was not impaired, the Panel agreed that the MPT had failed to adequately reflect on the wide-ranging behaviours that had been found to amount to serious misconduct. The Panel agreed that the removal of two patients' ovaries without consent was very serious and noted that there were repeated failures to ensure that chaperones were present when conducting intimate examinations. The Panel had regard to the passage of time since the incidents and the remediation undertaken by the doctor. However, they were of the view that the serious nature of the misconduct found proven by the MPT required a finding that the doctor's fitness to practise was impaired in order to uphold the overarching objective.
- 10** The Panel noted that there appeared to be a number of flaws in the MPT's determinations, which if rectified would be likely to have resulted in a different outcome.
- 11** Based on their assessment of all the relevant information, the Panel concluded that the outcome was insufficient to protect the public and that exercising the GMC's right of appeal in this case would further the achievement of the GMC's overarching objective to protect the public.

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**12** The Panel therefore decided to appeal the MPT’s decision pursuant to section 40A of the Act.



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**Charlie Massey (Chair)**

27 March 2025

**Dated**

### **Background**

**13** This case concerns the determination of an MPT, which concluded on 14 February 2025, considering the matter under Part 4 of the General Medical Council (Fitness to Practise) Rules 2004 (‘the Rules’).

**14** The determination of the MPT, which includes the background, allegations and the MPT’s determinations on Facts, Impairment and Sanction, can be accessed [here](#).

### **The General Medical Council’s power to appeal pursuant to s.40A**

**15** With effect from 31 December 2015, the General Medical Council acquired the power to appeal to the High Court (or equivalent courts in Scotland and Northern Ireland where relevant) against relevant decisions of a MPT if it considers that the decision is not sufficient (whether as to a finding or a penalty or both) for the protection of the public.

**16** The basis upon which the GMC will consider whether or not to exercise this power to appeal is described in “Appeals by the GMC pursuant to s.40A of the Medical Act 1983 (‘s.40A appeals’) – Guidance for Decision-makers” (‘the Guidance’).

**17** Decisions concerning the exercise of the s40A power to appeal were originally delegated by the Council to the Registrar. However, following recommendations from Sir Norman Williams’ Review Council agreed that decision-making in prospective appeals involving decisions of MPTs be delegated to a three person Executive Panel comprising: the Chief Executive and Registrar as Chair; the Medical Director and Director of Education and Standards; and the Director of Fitness to Practise (or their nominated Deputies if not available).

**18** As the Guidance makes clear, when considering whether to bring a s.40A appeal in a particular case, it will be necessary to consider the following questions:

- a. Based on their assessment of all of the information held, and in the particular circumstances of the case, and having regard to the factors set out in the Guidance, does the Panel consider that the MPT’s decision is not sufficient to protect the public?
- b. If the Panel is of the view, on its assessment of all the information held, in the particular circumstances of the case, that there are grounds to consider that the MPT’s decision is not sufficient, it will consider whether exercising the power of

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appeal would further, rather than undermine, the achievement of the over-arching objective.

- c. If the answer is yes, then the GMC may exercise its power of appeal.
- d. In considering that question the Panel will be required to consider and weigh a number of competing factors (including its assessment of the prospects of success of the appeal, and the nature and importance of the issues which would be aired).