

# Meeting of the s.40A Panel to consider the case of Dr Menatalla Elwan (7577792)

Held on 27 April 2026

## Panel members present ('the Panel')

Charlie Massey, Chief Executive (in the Chair)

Pushpinder Mangat, Medical Director and Director, Education and Standards

Anthony Omo, General Counsel and Director of Fitness to Practise

## In attendance

Jim Percival, Deputy General Counsel and Principal Legal Adviser

Jacqui Eden, Senior Legal Adviser

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 Deputy General Counsel confirmed that the decision was a relevant decision for the purposes of s.40A of the Act. The decision was not to give a direction under s35D within the meaning of s40A(1)(d) Medical Act 1983.

## Consideration

- 3 The Panel considered the record of the MPT's determination and the legal advice in detail.
- 4 The Panel noted that the allegations before the MPT concerned two posts made by Dr Elwan on the social media platform 'X' on 7 October 2023. The first post included a comment made by Dr Elwan which accompanied a video ('the first post'). The second post was a comment made by Dr Elwan, which was said to have been in response to a comment posted by another user of 'X' ('the second post').

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- 5 The Panel noted that the MPT’s decision on whether the comment in the first post was antisemitic appeared, in part, to be based upon its findings as to Dr Elwan’s subjective intent. As the allegation was that the post was objectively antisemitic, Dr Elwan’s intent was not relevant and the MPT was therefore wrong to take it into account when determining whether the post was antisemitic.
  - 6 The Panel had concerns with the Tribunal’s apparent acceptance of Professor Sutcliffe’s criticism of the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism. They noted that the courts have acknowledged that there are no universally agreed or legally defined criteria for these terms and that dictionary definitions of antisemitism, and those from the IHRA and the Jerusalem Declaration Definition on Antisemitism, all provide guidance which will assist in identifying whether a statement is antisemitic.
  - 7 In addition, the Panel was concerned that in respect of whether the first post was grossly offensive, the MPT appeared again to have taken account of Dr Elwan’s subjective intent when carrying out an objective assessment and appeared to fail to adequately consider how the post when viewed in its entirety would be objectively interpreted by a member of the public. The Panel also noted that the MPT appeared to take account of an irrelevant factor of there being no evidence that Dr Elwan had discriminated against patients in deciding whether the allegation should be found proven.
  - 8 In respect of the second post, the Panel concluded that it was open to the MPT to find that particular allegation not proven, based on the evidence before it.
  - 9 The Panel agreed that Dr Elwan had shown some insight by deleting the first post the day after she had posted it on ‘X’ and that following the posts that she made on 7 October 2023, there has been no repetition of the conduct. However, the Panel were concerned that the MPT’s determination in respect of the first post contained errors of approach, such that if they were rectified, the outcome would have been different. As such the Panel were concerned about the impact on the maintenance of public confidence and proper professional standards and conduct, should this decision stand.
  - 10 Based on their assessment of all the relevant information, the Panel concluded that the outcome of the MPT was not sufficient to protect the public.
  - 11 The Panel therefore decided to appeal the MPT’s decision pursuant to section 40A of the Act.



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**Charlie Massey (Chair)**

11 May 2026  
**Dated**

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## Background

- 12** This case concerns the determination of an MPT, which concluded on 31 March 2026, considering the matter under Part 4 of the General Medical Council (Fitness to Practise) Rules 2004 ('the Rules').
- 13** The determination of the MPT, which includes the background, allegations and the MPT's determinations on Facts and Impairment can be accessed [here](#).

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

- 14** 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.
- 15** 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').
- 16** 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).
- 17** 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 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).

