Meeting of the s40A Panel to consider the case of Dr Imrana Puttaroo
Held on 26 February 2020

Panel members present

Charlie Massey, Chief Executive (in the Chair)
Colin Melville, Medical Director and Director of Education and Standards
Anthony Omo, General Counsel and Director of Fitness to Practise

In attendance

Kate Takes, Senior Legal Adviser
Jim Percival, Principal Legal Adviser and Deputy General Counsel
Mark Swindells, Assistant Director, Corporate Directorate (Panel Secretary)

Purpose of this note

1 This meeting note records a summary of the Members’ 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.

The relevant decision

2 The Principal Legal Adviser confirmed that the decision was a relevant decision for the purposes of s.40A as it was a decision to direct suspension within the meaning of s40A(1)(a) Medical Act 1983.

Consideration

3 The Panel considered the record of the MPT’s determination and the legal advice in detail.
4 The Panel was disappointed to see a doctor having a finding of serious misconduct and dishonesty so early in her career.

5 The Panel noted that lying to senior colleagues about communications with patients and their families, is a very serious breach of trust and of professionalism, particularly where the doctor's handling of the case is under scrutiny, and would be likely to result in a finding of impairment of fitness to practise in many cases. However, the Panel acknowledged that the courts have recognised that there can be exceptional cases where a finding of impaired fitness to practise will not be required;

6 The Panel also noted that the circumstances of this case are similar to other cases in which decisions of MPTs not to find impairment have been upheld by the High Court on appeal (eg. Uppal and Hilton).

7 The Panel noted that, after an initial ‘cover up’, Dr Puttaroo admitted the allegations and was able show some insight, and that the MPT found that she had gone beyond what was required in terms of remediation.

8 Whilst the Panel was naturally concerned about the finding of dishonest behaviour, the Panel could find no errors of law in the MPT’s reasoning. The Panel also noted that the MPT’s warning will remain on this doctor’s record.

9 The Panel therefore considered that they could not conclude that this decision was insufficient to protect the public given the particular circumstances of this case and accordingly decided not to appeal the MPT’s decision pursuant to section 40A Medical Act 1983.

23 March 2020

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Charlie Massey (Chair)  Dated
Background

10 This case concerns the determination of an MPT, which concluded on 30 January 2020, considering the matter under Part 4 of the General Medical Council (Fitness to Practise) Rules 2004 (‘the Rules’).

11 The allegations relate to Dr Puttaroo, a Foundation Year 2 trainee on a GP rotation, who attended a consultation with Patient A on 20 February 2017. Patient A had been asked to attend the surgery for an appointment following a telephone consultation with another GP earlier the same day; it is understood that, due to symptoms and medical history, the GP had wanted to check the possibility of a gastro-intestinal bleed and wanted to make sure that Patient A was not showing any signs of acute anaemia.

12 Dr Puttaroo saw Patient A and advised her to have blood tests, which were taken that day. However, it was alleged that Dr Puttaroo dishonestly recorded an examination with several observations which had not taken place within Patient A’s medical notes (it is understood that this was identified by Patient A, who had access to their records the next day via the Surgery’s online system ‘patient access’). Further, when asked about the matter the next day, Dr Puttaroo allegedly provided false information – including that Patient A was lying or confused because she had examined her – in order to try and conceal the initial dishonesty.

13 Dr Puttaroo admitted her actions seven days later in a written statement to the GP surgery.

MPT hearing

14 The MPT hearing commenced on 27 January 2020.

Facts

15 Dr Puttaroo admitted all of the facts including that she had been dishonest.

Impairment

16 Dr Puttaroo gave oral evidence at stage 2 of the proceedings (along with a written statement) and accepted that her actions could have put patients at risk, and that she breached fundamental tenets of the profession in doing so. She also referred to the pressures and lack of support she faced during her training and her concern that she was going to be criticised for not doing an adequate examination. In addition, Dr Puttaroo also presented testimonial evidence, including from her Foundation Programme Director, clinical ward supervisor and educational supervisor, which noted that Dr Puttaroo had been open about her actions and understood what she had done had been wrong.
In finding serious misconduct, the MPT noted that the seriousness of the factual findings involving dishonesty and that Dr Puttaroo’s initial dishonesty had been exacerbated by the initial attempts to cover up. The MPT found that ‘Dr Puttaroo’s actions breached fundamental tenets of the medical profession and the guidance set out in GMP, as it risked the safety of her patient. It found that Dr Puttaroo’s actions also undermined the confidence that patients could have in the profession, and brought the profession into disrepute.’

However, the MPT did not find that Dr P’s misconduct meant that her fitness to practise was impaired. In determining this matter, the MPT found that Dr P’s insight had been ‘gradual’ over three years but, through her reflection and remediation, now had ‘developed a good level of insight.’ The MPT also noted that it considered Dr Puttaroo had ‘gone beyond what was required’ in relation to remediation, including attending a number of professional courses that ‘targeted her deficiencies’ over a two-year period, giving presentations to other doctors on honesty and probity and using her case as an example during those talks. The MPT also referred to the stress and pressure Dr Puttaroo had been facing during her FY2 placement and noted that, from the evidence before it, it considered that Dr Puttaroo was ‘very unlikely to repeat this behaviour.’

The MPT concluded that a finding of impairment was not required in this case in order to meet the overarching objective.

Warning

In considering whether to impose a warning, the MPT noted that it ‘considered Dr Puttaroo’s dishonest behaviour, which occurred in a clinical setting, was towards the higher end of the scale, as it could have resulted in harm occurring to Patient A.’ However, the MPT also referred to the various mitigating factors in the case – remediation, insight, expression of regret, good character, testimonials and a very low risk of repetition – and confirmed that its ‘decision to find Dr Puttaroo’s practice [sic] not currently impaired was influenced to a considerable extent by the existence of these mitigating factors.’

The MPT determined it was necessary to issue a warning to Dr Puttaroo ‘to uphold the principles of the overarching objective’ and noted that this would have a deterrent effect on Dr Puttaroo and the profession as a whole.

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

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 Medical Practitioners Tribunal (“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.

23 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”).

24 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 Medical Practitioners Tribunals 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) (“the Panel”).

25 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:

25.1 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?

25.2 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.

25.3 If the answer is yes, then the GMC may exercise its power of appeal

25.4 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).