PUBLIC RECORD

Dates: 23/06/2025 - 27/06/2025

Doctor:	Dr Ayesha AFZAL
GMC reference number:	6092746
Primary medical qualification:	MB BS 2002 Ziauddin Medical College

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Not Impaired

Summary of outcome

No warning

Tribunal:

Legally Qualified Chair	Mr Tanveer Rakhim
Lay Tribunal Member:	Mr Andrew Waite
Registrant Tribunal Member:	Dr Andy Cohen

Tribunal Clerk:	Ms Hinna Safdar

Attendance and Representation:

Doctor:	Not present, not represented
GMC Representative:	Mr Hugh Barton, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held partly in public and partly in private.

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 - 25/06/2025

Background

1. Dr Afzal qualified in 2002 from Ziauddin Medical College in Karachi, Pakistan. At the time of the events Dr Afzal was a CT1 doctor at West Suffolk Hospital ("the Trust") .

2. The Allegation that has led to Dr Afzal's hearing can be summarised as that, on 20 September 2021, whilst working as a Duty Doctor on an acute adult mental health ward, Dr Afzal grabbed Patient A and began to drag him across the floor. It is alleged that Dr Afzal knew that Patient A was vulnerable by reason of his mental health.

The Outcome of Applications Made during the Facts Stage

3. The Tribunal granted the GMC's application, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that the hearing should proceed partly in private where there are references to XXX made in respect of Dr Afzal. Additional details are set out in Annex A.

4. The Tribunal granted the GMC's application, made pursuant to Rule 31 and 40 of the Rules, that the hearing should proceed in Dr Afzal's absence. It determined that notice had been served on her and it was in the interests of justice for proceedings to continue. Additional details are set out in Annex A.

5. The Tribunal further granted the GMC's application to allow additional evidence to be provided during the course of the hearing. This consisted of a 64-page bundle of correspondence between the GMC and Dr Afzal, dated between 16 December 2024 and 16 June 2025. The existence of this material was brought to the Tribunal's attention between

the evidence of the two GMC witnesses. The Tribunal considered that it was fair and relevant to have sight of this correspondnce bundle as the emails set out Dr Afzal's response to the allegations, including points that differ from the witness evidence. It was noted that the GMC were not intending to rely upon this material. Although much of the content repeated existing material, the Tribunal considered that it may offer further context and emphasis, particularly given Dr Afzal's absence and lack of representation. Admitting the bundle ensured that the Tribunal had a fuller record, including material that may assist in the later stages of the hearing. The Tribunal therefore admitted the bundle into evidence and would consider the weight to be attached to it in due course. The bundle was considered by the Tribunal and admitted into evidence before the second witness was released. The Tribunal did not consider that any further questions arose for the second witness and saw no reason to recall the first witness as a result of reviewing the bundle.

The Allegation and the Doctor's Response

6. The Allegation made against Dr Afzal is as follows:

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

1. On 20 September 2021, you were working as a Duty Doctor on the Southgate Ward, the acute adult mental health ward, at the Wedgewood Unit ("the Unit") at West Suffolk Hospital. To be determined

2. Whilst on the Unit, you had cause to attend upon Service User A and during your attendance you:

    a. grabbed one of Service User A's arms/hands; To be determined

    b. began to drag Service User A across the floor. To be determined

3. At all material times Service User A was vulnerable by reason of his mental health. To be determined

4. By reason of paragraph 1, you were aware of Service User A's vulnerabilities. To be determined

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. To be determined

Witness Evidence

7. The Tribunal received evidence on behalf of the GMC from the following witnesses:

- Ms C, a staff nurse at the time of the events.
- Ms D, a clinical support worker at the time of the events.

Documentary Evidence

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

- Police witness statements from both Ms C and Ms D, dated 6 October 2021 and 7 October 2021 respectively.
- Notes of Trust investigation Meeting with Ms C, dated 9 June 2022
- Notes of Trust Investigation Meeting with Ms D, dated 23 May 2022
- The Datix Report, dated 20 September 2021
- NSNHSFT Investigation Report, dated 16 June 2022
- Trust Investigation Outcome Letter, dated 7 February 2023
- Police Crime reports, dated from 21 September 2021 to 20 March 2022
- Police Interview of Dr Afzal, dated 14 February 2022.
- Various correspondence between Dr Afzal and the GMC.

The Tribunal's Approach

9. 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 Afzal 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.

The Tribunal's Analysis of the Evidence and Findings

10. 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

11. The Tribunal considered it was simply a matter of fact that Dr Afzal, on 21 September 2021, was working as a duty doctor on the Southgate Ward, the acute adult mental health ward, at the Wedgewood Unit ("the Unit") at West Suffolk Hospital.

12. Dr Afzal had not disputed this in any of her correspondence and this was not amongst what she denied. The Tribunal noted that in her interview to the police, when discussing the incident, Dr Afzal stated *"I was the most senior doctor on the ward at that time…He is like a child."*

13. Further, the Tribunal noted that this was set out in the report from the police, dated 20 September 2021, as Dr Afzal is described as a "*CT1 Level Doctor"* and the '*Location'* is noted as "*Southgate Ward, Wedgewood Unit".*

14. The Tribunal determined that, as a matter of fact, it could find that Paragraph 1 of the Allegation was proved.

Paragraph 2(a) and 2(b)

15. The Tribunal considered the evidence before it.

16. Dr Afzal, in her police interview, dated 14 February 2022, explained that she "*helped*" Service User A. She stated *"I said 'GIVE ME YOUR HANDS'. I tried to make him stand. He swiftly got up from the floor. He held his hands up… The other nurses were talking to him and laughing at him. It was a pleasant environment, nothing bad…After he stood up, he went to his bed. The bed was only 2,3 or 4 steps away. There was no space to drag him."*

17. There was a datix report completed by Ms C the same day where she described the incident as "*CT1 level Doctor was see by staff dragging service user (A) by the arm along the floor"*. This was contemporaneous evidence from the day itself.

18. The Tribunal compared this to the witness statements of Ms C and Ms D.

19. In her witness statement to the police, dated 6 October 2021, Ms C stated, *"She (Dr Afzal) then grabbed his (Service User A) right arm and started pulling him alone the floor. As*

soon as she started doing this, both (Ms D) and I told her to stop, which she did… Because we quickly stopped her, he wasn't dragged very far, only a few centimetres."

20. In her GMC witness statement, dated 10 June 2024, Ms C said, *"The patient had placed his arms above him and Dr Afzal proceeded to grab onto one of his hands and started to drag him across the floor. Immediately, both (Ms D) and I told Dr Afzal to stop and told her we do no do that. Dr Afzal let go of the patient after a few seconds. I recall that she did not drag the patient particularly far as she had only been able to pull him for a very brief period of time before me and (Ms D) intervened and told her to stop."*

21. In her police witness statement, dated 7 October 2021, Ms D said "*Out of nowhere and for no reason at all, this doctor (Dr Afzal) then grabbed hold of (Service User A's) arm and started to drag him along the floor towards the bedroom."*

22. In her GMC witness statement, dated 3 June 2024, Ms D said, "*The patient was led on the floor and had the lower part of his body in the bathroom and his head and arms in the bedroom area, above him. Dr Afzal went over to the patient and proceeded to grab onto one of his arms and started dragging him across the floor… Both me and (Ms C) told Dr Afzal to stop. I don't believe that Dr Afzal dragged the patient a significant distance as (Ms C) and I immediately intervened."*

23. In oral evidence, both Ms C and Ms D corroborated their accounts to the police and the GMC. The Tribunal were able to place weight on their evidence as both witnesses were credible given the consistency in their evidence throughout and between each other. It was put to both witnesses, by the Tribunal, that Dr Afzal stated in her interview with the police that she was trying to help Service User A and pull him up. Ms C acknowledged that Dr Afzal may have had the intention to pull him up, but Ms D disputed this as she stated that if this was the case then Dr Afzal would be expected to stand in front of, or to the side of, Service User A. Both used the words "grabbed" to describe how Dr Afzal held Service User A, and both stated that Dr Afzal was holding on to Service User A's arm, and both used the word "drag" to describe how she pulled him. Both witnesses refuted the explanation that Dr Afzal had given to the police of the mood being light-hearted.

24. The Tribunal noted that Dr Afzal had not disputed that she had taken Service user A's hand, but in her interview with the police stated, *"I never dragged him."*

25. The Tribunal accept the oral evidence of the witnesses, as when seeking clarity both witnesses confirmed that Dr Afzal had grabbed Service User A's arm.

26. The Tribunal considered the wording of Paragraph 2 of the Allegation, specifically 2(b). It noted that it had been alleged that Dr Afzal "*began to drag"* Service User A across the floor. The Tribunal considered that, on balance, with the evidence it had before it from both Ms C and Ms D, that it was more likely than not that Dr Afzal had "*began to drag*" Service User A across the floor.

27. The Tribunal therefore found Paragraph 2(a) and 2(b) of the Allegation proved.

Paragraph 3 and Paragraph 4

28. The Tribunal considered Paragraph 3 and Paragraph 4 of the Allegation together as these were not issues that were disputed.

29. The Tribunal noted the definition of vulnerable as set out in Good Medical Practice (2013) ('GMP'):

> *'17 Some patients are likely to be more vulnerable than others because of their illness, disability or frailty or because of their current circumstances, such as bereavement or redundancy. You should treat children and young people under 18 years as vulnerable. Vulnerability can be temporary or permanent.'*

30. In her GMC witness statement, Ms D stated that, *"The patient was quite unwell, both physically and mentally. He had lost a lot of weight, was unable to eat and drink unassisted and lacked capacity."*

31. When Ms C was asked in her Trust Investigation Meeting dated 9 June 2022 whether there was any impact on Service User A or if he was upset, she stated *"I don't think so as he didn't have the capacity at the time and I'm not sure he'd even remember it happening now."*

32. The Tribunal noted that in her interview to the police, Dr Afzal set out how she had "*dealt with that patient before*" referring to Service User A. She stated *"I can't understand what he says- that's normal for him. He is like a child…. The patient has a* [XXX]. *He is sometimes very difficult to talk to…He had been an inpatient for approx.* [XXX] *before the*

incident…I had dealt with the patient before. I am responsible for all the patients… I was the most senior doctor on the ward at that time…He is like a child."

33. The Tribunal concluded that it was of no doubt that Service User A was vulnerable. As his treating doctor on the ward, Dr Afzal would have known this, especially as she has dealt with him on previous occasions.

34. The Tribunal therefore found Paragraph 3 and Paragraph 4 of the Allegation proved.

The Tribunal's Overall Determination on the Facts

35. The Tribunal has determined the facts as follows:

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

1. On 20 September 2021, you were working as a Duty Doctor on the Southgate Ward, the acute adult mental health ward, at the Wedgewood Unit ("the Unit") at West Suffolk Hospital. **Determined and found proved**

2. Whilst on the Unit, you had cause to attend upon Service User A and during your attendance you:

    a. grabbed one of Service User A's arms/hands; **Determined and found proved**

    b. began to drag Service User A across the floor. **Determined and found proved**

3. At all material times Service User A was vulnerable by reason of his mental health. **Determined and found proved**

4. By reason of paragraph 1, you were aware of Service User A's vulnerabilities. **Determined and found proved**

And that by reason of the matters set out above your fitness to practise is impaired because of your misconduct. **To be determined**

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

Submissions

On behalf of the GMC

37. Mr Barton began by addressing the threshold for a finding of misconduct, emphasising that not every breach of professional standards qualifies—instead, the conduct must represent a serious departure from what is expected of a medical practitioner. Drawing on Lord Clyde's judgment in *Roylance*, he stressed that the misconduct must be of a grave nature, further supported by the definition from *Meadow v GMC*, which describes it as an "*elementary and grievous failure*"—conduct that fellow practitioners would regard as "*deplorable*."

38. To illustrate the seriousness of Dr Afzal's actions, Mr Barton highlighted the immediate reactions of the two staff members present during the incident. Both were visibly shocked and appalled, with one even swearing in disbelief. Their instinctive intervention to stop Dr Afzal and their subsequent decision to exclude her from further involvement in the patient's care demonstrated, in his submission, that her behaviour was considered unacceptable by professional peers. He argued that this was not a mere negligent mistake or misjudgment but a deliberate and grossly inappropriate act, reinforcing the gravity of the misconduct.

39. Moving to the issue of impairment, Mr Barton clarified that this is a present-tense assessment, requiring the Tribunal to consider whether Dr Afzal's fitness to practise is currently impaired. He referenced the GMC's overarching objective, which includes protecting public health and safety, maintaining public confidence in the profession, and upholding proper professional standards. In assessing impairment, the Tribunal was directed to consider *Good Medical Practice (2013) ('GMP'),* particularly the necessity for patients to have good doctors (paragraph 1), good doctors working in partnership with patients and respecting patients' rights to privacy and dignity (paragraph 2), duties to treat patients with dignity and privacy (paragraph 47) and to cooperate fully with regulatory investigations (paragraph 73).

40. Mr Barton acknowledged certain mitigating factors, including that Dr Afzal was a junior trainee at the time and that the incident was isolated and short-lived. However, he noted that its brevity was largely due to the intervention of colleagues—had they not been present, the misconduct might have continued. He also stressed that, despite her junior status, Dr Afzal was the most senior medic on duty that day and was responsible for the care of an extremely vulnerable patient (a delirious individual with severe communication difficulties). Her actions, he submitted, amounted to a violation of her clinical duties towards this patient.

41. Mr Barton submitted that there had been no meaningful remediation in the four years since the incident. Dr Afzal had consistently denied the allegations—from her initial police interview through the Trust investigation and the GMC proceedings. Instead of showing insight or contrition, she had accused the intervening staff of lying and alleged a conspiracy against her. Moreover, she had failed to properly engage with the GMC, dismissing the investigation as a fraud. This persistent lack of accountability, in Mr Barton's submission, demonstrated that she remained unable to recognise the seriousness of her actions, thereby posing an ongoing risk to public confidence in the profession.

The Relevant Legal Principles

42. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

43. 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 secondly whether the finding of that serious misconduct could lead to a finding of impairment.

44. The Tribunal must determine whether Dr Afzal's fitness to practise is impaired today, taking into account Dr Afzal's conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

Misconduct

45. The Tribunal first considered whether Dr Afzal's actions amount to misconduct.

46. The Tribunal had regard to Good Medical Practice (2013) ('GMP') and noted the paragraphs Mr Barton identified:

> *"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.*
>
> *2 Good doctors work in partnership with patients and respect their rights to privacy and dignity. They treat each patient as an individual. They do their best to make sure all patients receive good care and treatment that will support them to live as well as possible, whatever their illness or disability.*
>
> *47 You must treat patients as individuals and respect their dignity and privacy.*
>
> *73 You must cooperate with formal inquiries and complaints procedures and must offer all relevant information while following the guidance in Confidentiality."*

47. The Tribunal considered that Dr Afzal grabbing Service User A's arm/hand and beginning to drag him was not appropriate. The Tribunal acknowledged that Service User A was a vulnerable patient but noted that Dr Afzal complied immediately when the nurses instructed her to stop.

48. The Tribunal next considered whether, on the facts of the case, this amounted to serious misconduct. This was a matter of judgment for the Tribunal. In considering this, the Tribunal did take into account the reputation of the profession and whether the conduct brings the profession into disrepute.

49. The Tribunal considered the mitigating circumstances surrounding the event. Dr Afzal had been a junior doctor (CT1) and, as Mr Barton set out in his submissions, Dr Afzal, even at her very junior level, was the most senior medic on duty that day. She was left in charge of this patient that was known to be psychotic and, as Mr Barton put it, "*delirious and he struggled with even the most basic forms of communication."* There was no evidence to suggest that Dr Afzal had the training to deal with patients with complex psychiatric needs, as Service User A had, especially a month into returning back to practise and as a doctor of such a junior level.

50. The Tribunal referred to Ms C's GMC witness statement, in which she set out *"I am able to confirm that members of staff are trained in restraint and handling of vulnerable patients, however, this training does not extend to doctors. Therefore, Dr Afzal would not have been provided with training by the Unit in 'how to safely handle and restrain patients."* The Tribunal considered this lack of training to be concerning and a system failure. In addition, there being no senior doctor present to oversee Dr Afzal's treatment of Service User A was of concern to the Tribunal. In essence, Dr Afzal, as a junior doctor and without the necessary skills, was left in charge of a complex and stressful situation, without relevant training or supervision.

51. Further, the Tribunal noted that this was a short-lived, one-off, isolated incident and that Dr Afzal had no history of any such behaviour and there has been no recurrence of this. The Allegation was that Dr Afzal "*began*" to drag, which was described by Ms C as "*half his body length*" in her witness statement prepared for this hearing, but in oral evidence she stated the distance was merely "*centimetres*", and Ms D did not say any different.

52. Dr Afzal stated in her police interview that she was trying to help Service User A and Ms D conceded in oral evidence that Dr Afzal may have been trying to do so. The Tribunal accepted that was her intention as it had seen no evidence to suggest her actions were anything other than this, for example, an act of malice, hostility or an intent to harm the patient.

53. This was a difficult situation where a psychotic patient was throwing his arms around, and on the evidence before the Tribunal, Dr Afzal was attempting to resolve the situation as best she could in the circumstances. Additionally, as soon as she was told to stop, she complied straight away.

54. The Tribunal did not approve of Dr Afzal's behaviour towards Service User A, but despite this considered that the public would be unlikely to conclude that the actions taken by Dr Afzal amounted to misconduct. The Tribunal further noted that there had been no expert evidence before it to determine what the standard of care expected was, nor whether Dr Afzal's behaviour had been seriously below the conduct expected, given the circumstances of the case.

55. With reference to the paragraphs identified by Mr Barton from GMP, the Tribunal was of the view that, whilst this was a departure from the optimal care to be given to a vulnerable patient from a doctor, in this case considering Dr Afzal's training and knowledge, there was no serious breach of GMP. This was after considering all the relevant facts of the case and having in mind the overarching objective. The Tribunal did not find that Mr Barton's submission in relation to paragraph 73 of GMP was engaged as it related to matters after the event which were not alleged.

56. Reflecting on the circumstances of the event, the Tribunal was of the view that other practitioners would be sympathetic to Dr Afzal considering her level of experience, training, and the lack of senior support during the incident. Therefore, the Tribunal concluded that fellow practitioners would not consider Dr Afzal's actions to be deplorable such as to amount to serious misconduct.

57. In all the circumstances, the Tribunal has concluded that Dr Afzal's conduct did not fall so far short of the standards of conduct reasonably to be expected of a doctor. Therefore, her actions did not amount to misconduct.

58. Given that the Tribunal has not found there to be misconduct, it was not necessary to continue on to consider the question of impairment.

Determination on Warning - 27/06/2025

59. The Tribunal determined that the facts found proved did not amount to serious misconduct and, as such, it was not necessary to consider the question of impairment.

60. The Tribunal invited submissions from the GMC as to whether a warning was required, in accordance with s35D(3) of the Medical Act 1983.

Submissions

Submissions on behalf of the GMC

61. Mr Barton submitted that the GMC did not seek a warning in Dr Afzal's case. He highlighted paragraph 19 and 33 of the warnings guidance:

> *'19 Once the decision makers are satisfied that the doctor's fitness to practise is not impaired, they will need to consider whether the concerns raised are sufficiently serious to require a formal response from the GMC or MPTS tribunals, by way of a warning. When doing so the decision makers must have regard to the public interest…*
>
> *33 The decision makers should record their reasons for issuing or for not issuing a warning.'*

The Tribunal's Determination on Warning

62. The Tribunal took account of the specific circumstances of this case and had regard to the submissions provided by the GMC. The Tribunal had regard to the warnings guidance.

63. With reference to paragraph 16 of the warnings guidance, the Tribunal was clear that the test to consider for the imposition of a warning is met if there is a significant departure from the principles set out in GMP.

64. The Tribunal was clear that, in deciding whether to issue a warning, it should have regard to the principle of proportionality, weighing the interests of the public with those of the practitioner.

65. The Tribunal had regard to the factors set out at paragraphs 16, 20, 26 and 32 of the warnings guidance that decision makers should take account of to determine whether it is appropriate to issue a warning.

> *"16 A warning will be appropriate if there is evidence to suggest that the practitioner's behaviour or performance has fallen below the standard expected to a degree warranting a formal response by the GMC or by a MPTS tribunal. A warning will therefore be appropriate in the following circumstances:*
>
> - *there has been a significant departure from Good medical practice, or*

- *there is a significant cause for concern following an assessment of the doctor's performance"*

20a. There has been a clear and specific breach of Good medical practice or our supplementary guidance.

20b. The particular conduct, behaviour or performance approaches, but falls short of, the threshold for the realistic prospect test or in a case before a tribunal, that the doctor's fitness to practise has not been found to be impaired.

20c. A warning will be appropriate when the concerns are sufficiently serious that, if there were a repetition, they would likely result in a finding of impaired fitness to practise. Warnings may be an appropriate response to any type of allegation…; the decision makers will need to consider the degree to which the conduct, behaviour or performance could affect patient care, public confidence in the profession or the reputation of the profession…

20d. There is a need to record formally the particular concerns (because additional action may be required in the event of any repetition)

26 In deciding whether to issue a warning the decision maker should apply the principle of proportionality, weighing the interests of the public with those of the practitioner. It is important to bear in mind, of course, that warnings do not restrict the practitioner's practice and should only be considered once the decision maker is satisfied that the doctor's fitness to practise is not impaired.

32 If the decision makers are satisfied that the doctor's fitness to practise is not impaired or that the realistic prospect test is not met, they can take account of a range of factors to determine whether a warning is appropriate. These might include:
a the level of insight into the failings
b a genuine expression of regret/apology
c previous good history
d whether the incident was isolated or whether there has been any repetition
e any indicators as to the likelihood of the concerns being repeated.'

66. The Tribunal referred to its decision on Impairment in that it did not find Dr Afzal's actions to amount to serious misconduct and therefore did not progress further to consider the question of impairment itself.

67. The Tribunal had regard to paragraph 26 of the warnings guidance in terms of the principle of proportionality. Taking the evidence in the round, the Tribunal determined that it would be disproportionate for the imposition of a warning on Dr Afzal's registration as the Tribunal did not find that her actions amounted to misconduct.

68. The Tribunal had regard to paragraph 32 of the warnings guidance. As Dr Afzal was not present at the hearing, it had not seen any evidence of insight or remediation. However, it noted that Dr Afzal had no regulatory intervention prior to or since this incident in 2021, it was an isolated event and there has been no repetition of similar conduct.

69. The Tribunal reflected on its decisions in its determination on impairment and determined that, in light of its findings, a warning was not appropriate.

70. The Tribunal has therefore determined not to impose a warning on Dr Afzal's registration.

71. There is no interim order to revoke.

72. That concludes the case.

ANNEX A – 25/06/2025

Determination: Service and proceeding in absence

73. Dr Afzal did not attend the hearing and the Tribunal first considered an application by Mr Hugh Barton, Counsel for the GMC, for part of the hearing to be held in private under Rule 41 of the GMC (Fitness to Practise) Rules 2004 (as amended), on the basis that XXX may be referred to in the context of the GMC's application to proceed in her absence.

74. The Tribunal acknowledged the presumption in favour of public hearings but also noted that matters relating to XXX are generally treated as confidential and heard in private.

75. The Tribunal accepted that while the substantive issues do not concern XXX, XXX has been raised in parts of the material before it, specifically in the service bundle. XXX matters were also raised within the determination dated 26 March 2025 dealing with the refusal decision on Dr Afzal's application to postpone, which had been considered by a Case Manager. Although there is no recent or conclusive XXX evidence, there are references to XXX which may need to be addressed during the hearing.

76. The Tribunal determined that the hearing will be held **partly in private,** limited to any parts where XXX is discussed, in accordance with Rule 41 of the GMC (Fitness to Practise) Rules 2004 (as amended).

77. Dr Afzal is not present or represented at this Medical Practitioners Tribunal ('MPT') hearing. The Tribunal therefore considered whether the relevant documents had been served in accordance with Rules 31 and 40 of the Rules and paragraph 8 of Schedule 4 of the Medical Act 1983.

Submissions

<u>On behalf of the GMC</u>

78. Mr Hugh Barton submitted that the hearing should proceed in the absence of Dr Afzal under Rule 31.

79. Regarding service, Mr Barton invited the Tribunal to consider the Service Bundle from the General Medical Council (GMC). This included a screenshot of the contact information

held for Dr Afzal on the GMC system, namely a registered postal address and email address. On 17 March 2025, Dr Afzal emailed the GMC to confirm her new email address.

80. The Service Bundle indicates that, on 7 May 2025, the Notice of Allegation was sent to Dr Afzal's new email address. This also indicated that the case had been referred to the Medical Practitioners Tribunal Service ('MPTS') for a hearing due to take place on 23 June 2025. Dr Afzal corresponded with Ms E, the solicitor for the GMC, explaining that she was XXX and denied the Allegation.

81. Mr Barton also drew the Tribunal's attention to a Notice of Hearing letter sent by the MPTS on 7 May 2025, via email to Dr Afzal's updated email address, confirming that the hearing would commence on 23 June 2025. The MPTS letter also requested confirmation from Dr Afzal as to whether she would be attending and provided information as to the support available in relation to the hearing. Dr Afzal responded to the Notice of Hearing a day later, on 8 May 2025, stating that she was *"*[XXX] *to arrange my legal representation."*

82. Mr Barton submitted that service had been effected, in accordance with Rule 40 of the Rules by reason of the documents set out within the service bundle. The Tribunal was also invited to proceed in Dr Afzal's absence. He submitted that, when looking at the documentation in the service and proceeding bundle, it was clear that Dr Afzal had deliberately absented herself from today's hearing.

Tribunal's Determination

Service

83. The Tribunal had regard to Rule 40 of the Rules which provides that a notice or document required may be served by ordinary post, or by electronic mail to an electronic mail address, that the practitioner had notified to the Registrar as an address for communications.

84. In light of the evidence, showing the Notice of Hearing being served by email to Dr Afzal and her responses, the Tribunal was satisfied that she had been properly served in accordance with the Rules.

Proceeding in Dr Afzal's Absence

85. In making its determination the Tribunal noted that the decision as to whether or not the hearing should proceed in Dr Afzal's absence was a matter for its discretion and that such discretion was to be exercised with care.

86. The Tribunal noted that the letters sent to Dr Afzal informed her of the date and time of the hearing, her right to attend it, and to be legally represented. Dr Afzal was also provided with links to the legislation in relation to the hearing and the powers of the Tribunal including possible outcomes. She was informed that the hearing could proceed in her absence if she did not attend. The Tribunal noted the various responses Dr Afzal had provided and the correspondence between her and the GMC. Dr Afzal did not provide any further XXX evidence or make any further application to postpone or adjourn. Despite various attempts to make contact during June 2025, neither the GMC, nor the MPTS, had any further contact from Dr Afzal.

87. The Tribunal concluded, in light of the information before it, that Dr Afzal was aware of the hearing and has voluntarily absented herself. It considered that it was in the public interest that the hearing proceeded in a timely manner and that an adjournment would not secure Dr Afzal's future attendance.

88. Accordingly, the Tribunal determined that it was fair and reasonable to proceed in Dr Afzal's absence.