

**PUBLIC RECORD****Dates:** 14/04/2025 - 16/04/2025**Doctor:** Mr Ghulam MALIK**GMC reference number:** 4481807**Primary medical qualification:** MB BS 1983 Jammu University**Type of case**Restoration following  
disciplinary erasure**Summary of outcome**

Restoration application refused. No further applications allowed for 12 months from last application.

**Tribunal:**

Legally Qualified Chair	Mr Lee Davies
Lay Tribunal Member:	Mr Adrian Phillips
Registrant Tribunal Member:	Dr William Roche

Tribunal Clerk:	Mrs Jennifer Ireland
-----------------	----------------------

**Attendance and Representation:**

Doctor:	Present, not represented (14/04/2025 to 15/04/2025 AM) Not present, not represented (15/04/2025 PM to 16/04/2025)
GMC Representative:	Mr Richard Holland, KC

**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 Restoration - 16/04/2025

1. The Tribunal has convened to consider Mr Malik's application for his name to be restored to the Medical Register following his erasure for disciplinary reasons in 2014.
2. The Tribunal has considered the application in accordance with Section 41 of the Medical Act 1983, as amended ('the Act') and Rule 24 of the GMC (Fitness to Practise) Rules 2004, as amended ('the Rules').
3. This is Mr Malik's first application to be restored to the Medical Register.
4. This determination will be handed down in private under Rule 41 of the Rules. However, a redacted version will be published at the close of the hearing.

## Background

5. Mr Malik qualified in 1983 from Jammu University, India. He joined the UK Medical Register in 1996.
6. The circumstances that led to Mr Malik's erasure were a hearing before a MPTS Fitness to Practise Panel (FTPP) which concluded on 20 December 2013 ('the 2013 Panel').
7. Between January 2005 and December 2011, Mr Malik was working as a Trust doctor (SpR equivalent) in Cardiothoracic Surgery, at Derriford Hospital, Plymouth Hospitals NHS Trust ('the Trust'). From about 2006, a number of concerns were raised about Mr Malik's performance, relating to his communication skills, general ability to organise his clinical work and his management of patients. These concerns were identified by several of his consultant colleagues.
8. In August 2008, Mr Malik raised the first of numerous formal grievances against members of the Cardiothoracic team. From March 2009, he raised many more grievances.

The Trust had investigated the 27 grievances and found all to be without foundation. During this time, Mr Malik took most of the grievances forward to Employment Tribunals and, as with the Trust, the majority were struck out for having no reasonable prospect of success, with many also being described as scandalous and vexatious. These vexatious complaints, and other behaviours including failing to respond to his contact bleep on more than one occasion and asserting that his colleagues were engaged in a conspiracy to have him removed from the Trust, were found by the 2013 Panel to have undermined effective working relationships in the Cardiothoracic team.

9. The 2013 Panel also found that Mr Malik had failed to attend three investigatory meetings and a disciplinary hearing and had failed to respond to communication from the Trust in a timely fashion. Following his referral to the GMC in 2012, it was found by the 2013 Panel that Mr Malik had failed to comply with requests made by the GMC during an investigation to return an Employer Details Form despite repeated requests.

10. The 2013 Panel found proved that Mr Malik had also failed to XXX, as formally requested by the Trust.

11. The 2013 Panel then considered whether Mr Malik's actions amounted to serious misconduct, and then whether his fitness to practise was impaired by reason of his misconduct.

12. The 2013 Panel had regard to the unsubstantiated grievances made by Mr Malik, some of which were of the utmost seriousness, including allegations of dishonesty, racism and harm to patients. It was of the view that Mr Malik's actions had a profoundly negative impact on the ability of the Cardiothoracic Department to work as a team. It found that Mr Malik was responsible for a near complete breakdown of effective working in that department.

13. The 2013 Panel found that Mr Malik's conduct clearly breached the principles and values set out in Good Medical Practice (2006) and amounted to serious misconduct. It was of the view that his actions brought the profession into disrepute and his conduct undermined morale in the Cardiothoracic Department with the consequence of adversely affecting patient safety.

14. The 2013 Panel was of the view that Mr Malik's misconduct was not remediable. It formed this view due to the persistent and repeated nature of Mr Malik's conduct, and references to similar conduct in previous employment. The 2013 Panel determined that Mr Malik had not remediated his actions, and it was therefore impossible to conclude that his misconduct was highly unlikely to be repeated.

15. Following the findings of fact, the 2013 Panel XXX. Mr Malik did not comply XXX, which the Tribunal took into consideration when making its determination on misconduct. XXX.

16. The 2013 Panel determined that Mr Malik's fitness to practise was impaired by reason of his misconduct and went on to consider the appropriate sanction.

17. The 2013 Panel concluded that Mr Malik did not have any insight into his misconduct. It was of the view that there had been no acknowledgment of fault, no expression of regret or remorse or anything else which could provide re-assurance that he would not act similarly in the future. The 2013 Panel found that Mr Malik maintained, despite the findings made, that he had done nothing wrong. The 2013 Panel was not satisfied that there was no significant risk of Mr Malik repeating his misconduct.

18. Having considered all the evidence before it, the 2013 Panel determined suspension was not sufficient. It therefore determined to erase Mr Malik's name from the Medical Register. It also imposed an immediate order of suspension.

### **The Current Restoration Hearing**

19. This Tribunal convened to consider Mr Malik's application for his name to be restored to the Medical Register in accordance with Section 41 of the Medical Act 1983 (as amended) and Rule 24 of the Rules.

### **The Outcome of Applications made during the hearing**

20. The Tribunal determined to admit the determinations of the 2013 Panel as evidence and the transcripts of Mr Malik's evidence at the 2013 hearing, pursuant to Rule 34(1) of the Rules. The Tribunal's full decision on the application is included at Annex A.

21. The Tribunal refused Dr Malik's application for the Tribunal to recuse itself and to refer the application to a new Tribunal. The Tribunal's full decision on the application is included at Annex B.

22. The Tribunal refused Mr Malik's application, made pursuant to Rule 29(2) of the Rules, for the hearing to adjourn. The Tribunal's full decision on the application is included at Annex C.

23. The Tribunal granted the GMC's application, made pursuant to Rule 31 of the Rules, to proceed in Mr Malik's absence. The Tribunal's full decision on the application is included at Annex D.

### **The Evidence**

24. The Tribunal has considered all the evidence that it has received, both oral and documentary.

25. The Tribunal received documentary evidence provided by the parties. This evidence included:

- The determinations of the 2013 Panel;
- Transcripts of Mr Malik's evidence before the 2013 panel.
- Mr Malik's application for restoration; and
- Experience Certificate from Kingdom of Saudi Arabia Ministry of Health, dated 4 December 2019;
- Operation Theatre Logbook, dated 15 March 2020 to 7 May 2023;
- Certificate of Good Standing from Saudi Commission for Health Specialties, dated 2 September 2024; and
- Certificate of Good Standing from the Jammu & Kashmir Medical Council, dated 19 September 2024.

### **Mr Malik's evidence**

26. Mr Malik gave oral evidence at the hearing.

27. Mr Malik told the Tribunal that he was sorry for raising the grievances, and that in future he would not raise grievances.

28. Mr Malik told the Tribunal of his work abroad in the time since his erasure. He directed the Tribunal to the certificates of good standing he had obtained and to the list of surgeries he had provided as evidence of his work. He told the Tribunal that no concerns had been raised about his work in his time abroad.

29. Mr Malik told the Tribunal that he had been '*punished*' for the findings of the 2013 Panel, and that he was now ready to return to UK practice.

30. Mr Malik was asked about Continual Professional Development ('CPD') he had undertaken since his erasure, and how he had kept his knowledge and skills up to date whilst he was not working as a doctor. He told the Tribunal that he had completed courses and had some certificates, but had not provided them. Further, he told the Tribunal he had kept up to date through reading medical journals and textbooks, but was unable to further elaborate or provide specific examples.

31. Mr Malik was taken through the grievances that were the subject of the 2013 Panel. He denied having made the grievances in the terms alleged and told the Tribunal that a solicitors' firm had hacked his email account and made some of the grievances on his behalf. He also alleged that the solicitors had increased the seriousness of some of the grievances he had raised, without his input. He was unable to name the firm of solicitors which he alleged had done this.

32. Before the GMC could complete cross examination, and before the Tribunal had an opportunity to ask questions, Mr Malik chose to voluntarily absent himself from the hearing.

### **Submissions on behalf of the GMC**

33. On behalf of the GMC, Mr Holland submitted that the GMC opposed Mr Malik's application for restoration to the Medical Register. He referred the Tribunal to the MPTS Guidance for medical practitioners tribunals on restoration following disciplinary erasure ('the Guidance') throughout his submissions.

34. Mr Holland submitted that the Tribunal should first consider the circumstances which led to Mr Malik's erasure. He directed the Tribunal to the determinations of the 2013 Panel, and reminded the Tribunal that Mr Malik had raised grievances, some of which were of the utmost seriousness, and which the 2013 Panel had determined were false with no evidence to substantiate them. Further, he reminded the Tribunal that the 2013 Panel found that Mr

Malik's actions had had a profoundly negative impact on the ability of the Cardiothoracic department to work as a team and had described some of those allegations he made as scandalous and vexatious. Mr Holland reminded the Tribunal that the 2013 Panel had determined that Mr Malik's behaviour was not remediable and determined to direct his erasure from the medical register.

35. Mr Holland submitted that it was apparent from the evidence Mr Malik gave to this Tribunal that he has no insight into his previous behaviour and that goes beyond not accepting the determination of the 2013 Panel. He submitted that, whilst it was not necessary for Mr Malik to accept the previous findings to display insight, this was not the position in Mr Malik's case. He reminded the Tribunal that Mr Malik had informed the Tribunal in oral evidence that the 2013 Panel had come to the wrong conclusion, because the evidence presented on behalf of the GMC was '*manufactured*'. Mr Holland submitted that Mr Malik had portrayed himself throughout his evidence as the victim, and it was clear that he remains fixated on there being an unlawful conspiracy against him.

36. Mr Holland submitted that Mr Malik had stated in evidence that he should not have raised the grievances. However, it is apparent from his evidence, taken as a whole, that he was not saying he was wrong to do so, but that he should not have done so from a tactical perspective because of what had then happened to him. Mr Holland submitted that, despite being given numerous opportunities to do so, Mr Malik was unable or unwilling to recognise that it may have been him who was at fault, not everyone else.

37. Mr Holland stated that Mr Malik had offered an apology in the course of his evidence. However, Mr Holland stated that, when taken in context of his evidence as a whole, the apologies were not true, as they were qualified by claiming that some of emails he sent accusing a colleague of racism were not written by him, but by an unknown solicitors firm impersonating him and manufacturing evidence against him. He stated that Mr Malik had apologised but did not take any responsibility himself and demonstrated that he has learned nothing from his actions, despite the considerable lapse of time. Further, he submitted that there was evidence that Mr Malik appeared to be dishonest about the evidence he gave last time and dishonest about the matters for which the 2013 Panel found against him by inventing new excuses to try and brush it under the carpet.

38. Mr Holland submitted that Mr Malik has also taken no meaningful action to address his behaviour. He stated that it was true that Mr Malik had certificates of good standing, but

one of those related to somewhere where he had only practised for a few days many years ago and stated that he had not been subject to a complaint to his regulatory body. He submitted that there is no evidence from professional colleagues, nurses, doctors or management that Mr Malik has changed his behaviour and to the contrary, in his oral evidence, he stated that he had told colleagues, and his employers was that he was a victim of racism in the UK. Mr Holland stated that this goes to his ongoing lack of integrity, because it is downplaying the concerns that had been raised in the UK and led to his erasure.

39. Mr Holland reminded the Tribunal that Mr Malik has not been completely out of medical practice since his erasure because he had worked overseas but had not been working since December 2023. He stated that there is no supporting evidence that Mr Malik has done anything to refamiliarize himself with professional standards in the UK, and the expectations that will be required of him in this particular jurisdiction.

40. Mr Holland submitted that Mr Malik claims to have read numerous cardiology books in the meantime but could not provide any specific details such as titles or dates he had read them. Further, Mr Malik has produced no training records or journals to evidence his learning. Mr Holland submitted that Mr Malik had also claimed to have attended numerous online seminars but could not name them, say when he had attended, and he has not produced any certificates of completion or written reflections. Mr Holland submitted that Mr Malik has not provided any other supporting evidence to show that he has been able to keep his skills up to date and to the standard expected. He submitted that the Tribunal may feel he was remarkably unconcerned and blasé about this, which displayed a casual arrogance to his application to restore his name to the medical register.

41. Mr Holland submitted that there had been a significant lapse of time, however, it was clear from Mr Malik's evidence that, despite significant opportunity to do so, he has not changed his attitude and that any changes in his behaviour whilst abroad may be fragile. He submitted that the Tribunal cannot be confident there is no risk of repetition because there has been no acknowledgment of fault. Mr Holland submitted that the Tribunal may well feel from listening to Mr Malik's evidence that his attitude has simply become even more entrenched than it was previously.

42. Mr Holland submitted that Mr Malik had provided scant evidence that he has changed any of his attitudes to what happened. He stated that Mr Malik had, inadvertently, produced much evidence that his attitude has not changed, that he does not feel he had

done anything wrong, that he was the victim, and has invented further excuses for his misbehaviour and misconduct. Mr Holland stated that the onus was on Mr Malik to show that he should be restored to the register, and he had singularly failed in that regard. Mr Holland submitted that, for all those reasons, Mr Malik should not be restored to the medical register.

### Mr Malik's submissions

43. Mr Malik voluntarily withdrew from the hearing before making submissions.

### The Tribunal's Approach

44. The Tribunal reminded itself that its power to restore a practitioner to the Medical Register in accordance with Section 41 of the Act is a discretionary power. This power is to be exercised in the context of the Tribunal's primary responsibility to act in accordance with the statutory overarching objective to protect the public, as set out later in this determination.

45. While the Tribunal has borne in mind the submissions made by the parties, the decision as to whether to restore Mr Malik's name to the Medical Register is a matter for this Tribunal exercising its own judgment. The Tribunal reminded itself that, if it directs that Mr Malik's name should be restored to the Medical Register, it can do so only without restrictions on his practice.

46. Throughout its consideration of Mr Malik's application for restoration, the Tribunal was guided by the approach laid out in the Guidance.

47. The Tribunal reminded itself that the onus is on Mr Malik to satisfy it that he is fit to return to unrestricted practice and that the Tribunal should not seek to go behind the original Panel's findings on facts, impairment and sanction.

48. The guidance sets out at B2 that the test for the Tribunal to apply when considering restoration is:

*'B2 Having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective?'*

49. The Tribunal reminded itself that, in making its decision, it should consider the following five factors set out within paragraphs B4 to B34 of the guidance which address:

- a) the circumstances which led to the erasure;
- b) whether Mr Malik has demonstrated insight into the matters that led to erasure, taken responsibility for his actions and actively addressed the findings about his behaviour or skills;
- c) what Mr Malik has done since his name was erased from the register;
- d) the steps Mr Malik has taken to keep his skills and knowledge up to date; and
- e) the lapse of time since erasure;

and then go on to determine whether restoration will meet the overarching objective.

### The Tribunal's Decision

#### The circumstances that led to disciplinary erasure

50. The Tribunal fully considered the determinations of the 2013 Panel which are summarised above. The Tribunal reminded itself that it should not seek to go behind any of the findings made by the 2013 Panel.

51. The Tribunal noted that the 2013 Panel had found that Mr Malik's conduct which led to his erasure were serious and had severely impacted his colleagues. Further, it noted the 2013 Panel's determination that Mr Malik's '*conduct undermined morale in the Cardiothoracic Department with the consequence of adversely affecting patient safety*'.

52. The Tribunal concluded that Mr Malik does not appear to accept the findings of the 2013 Panel and maintains that he has been the victim of a conspiracy to have him removed from the Trust and the United Kingdom.

#### Insight and remorse

53. The Tribunal considered Mr Malik's level of insight into the issues which led to his erasure. The Tribunal had regard to all relevant paragraphs of the Guidance, in particular paragraph B10 of the Guidance:

**B10** *Factors that can be relevant to a doctor demonstrating genuine insight include, but are not limited to, evidence they have:*

*a considered the concern, understood what went wrong and accepted they should have acted differently*

*b demonstrated that they fully understand the impact or potential impact of their performance or conduct, for example by showing remorse (see below)*

*c demonstrated empathy for any individual involved, for example by apologising fully (see below)*

*d taken steps to remediate and to identify how they will act differently in the future to avoid similar issues arising (see below)’*

54. In assessing Mr Malik’s insight, the Tribunal had regard to his oral evidence before the Tribunal. Mr Malik did not provide a written statement.

55. It was clear to the Tribunal that Mr Malik had not reflected in any detail about the matters which had led to his erasure. He had not addressed his conduct whilst working at the Trust. He had also not set out details of any strategy he had adopted to ensure that going forward, he will not repeat misconduct of a similar nature, beyond stating that he would not raise grievances.

56. Mr Malik had also not addressed the impact of his misconduct on anyone who may have been affected by it, such as the colleagues who were the subject to his vexatious grievances. The Tribunal noted that Mr Malik had apologised when questioned by GMC Counsel, but these apologies were superficial and conditional. It was clear to the Tribunal that that Mr Malik has very little, if any, genuine remorse for his actions.

57. Mr Malik was questioned by GMC Counsel about the grievances, and it was clear in his responses that he maintained that there was a conspiracy within the Trust to have him removed. Further, he appeared to add to this conspiracy by maintaining that a firm of solicitors had ‘hacked’ his email account and made the grievances on his behalf or had changed the emails he had sent to increase the seriousness of the alleged grievance. On further questioning, he was unable to name the firm that was responsible, nor did he have any objective evidence that this had occurred. The Tribunal found it concerning that Mr Malik had widened his belief in a conspiracy against him to incorporate a nameless firm of solicitor, despite no evidence to support this assertion.

58. Mr Malik did not complete his oral evidence, and voluntarily disengaged from the hearing before the Tribunal was able to ask him any questions.

59. Mr Malik told the Tribunal when answering questions, that he had read Good Medical Practice (2024) ('GMP') in the few minutes immediately prior to commencing his evidence. The Tribunal was not satisfied that Mr Malik had an awareness of the standards established in GMP, which has an entire domain about colleagues, culture and safety.

60. Overall, the Tribunal concluded that Mr Malik's insight into his misconduct was poor and had not developed since his initial fitness to practise hearing.

Remediation and risk of repetition

61. The Tribunal asked itself whether Mr Malik's misconduct was remediable. It was of the view that his conduct was attitudinal in origin and so is difficult to remediate, however, it is possible to remediate it. This could be achieved, for example, with well-developed insight, and by undertaking, and learning from, courses on subjects such as communication, ethics and working relationships.

62. Mr Malik had provided no evidence of steps taken to remedy his misconduct. He has not undertaken any learning or courses on the issues which gave rise to his misconduct. Mr Malik could also, for example, have provided testimonials/references from persons who could attest to his conduct and behaviour, but he did not do so.

63. The Tribunal then considered whether Mr Malik's conduct was likely to be repeated. Mr Malik's poor insight, lack of remediation, and his evidence to the Tribunal, led the Tribunal to conclude that he had no understanding of the seriousness of his conduct. Further it was concerned that, despite the passage of time since he was erased, Mr Malik has not come to terms with the findings of the 2013 Panel, nor has he evaluated his behaviour which led to the sanction of erasure. It was also concerned that in the time since his erasure, Mr Malik has continued to believe that he was the victim of a conspiracy to have him removed from his work, which he has expanded to include an unnamed firm of solicitors.

What Mr Malik has done since his name was erased from the Register, steps taken to keep his medical knowledge and skills up to date and the lapse of time since his erasure.

64. Mr Malik's name was erased from the Medical Register in June 2014. He has now been erased for more than 10 years. The Tribunal noted that this was a significant lapse of time.

65. The Tribunal noted that Mr Malik had worked overseas in Saudi Arabia since his erasure, between January 2017 and December 2019, and then a further period between January 2020 and December 2023. He has not worked in medicine since December 2023. He produced a list of surgeries he had completed between 2020 and 2023. The Tribunal noted this evidence and noted that the surgeries listed were either general surgery or thoracic surgery. There was no evidence before the Tribunal to demonstrate that Mr Malik had been conducting cardiac surgeries in the 10 years since his erasure.

66. Further, Mr Malik told the Tribunal that he had taken some courses, but he produced no evidence to support this. He also said in his oral evidence that he has done some reading over the years, but again, he provided no evidence to support this.

67. Overall, the Tribunal concluded that the steps Mr Malik has taken to keep his knowledge and skills up to date were limited, and largely unsupported by evidence.

Whether restoration will meet the statutory overarching objective?

68. The Tribunal considered the Guidance in relation to the application of the overarching objective which states at B35:

*'B35 Having considered the different factors above, the tribunal must make findings in relation to whether the doctor is fit to practise. The tribunal should then step back and balance its findings against whether restoration will meet our overarching objective. This balancing exercise will involve careful consideration of each of the elements.*

*B36 The overarching objective reflects the purpose of the professional regulation of doctors which is to protect the public. Tribunals must act in a way that:*

*a protects, promotes and maintains the health, safety and well-being of the public*

*b promotes and maintains public confidence in the profession, and*

*c promotes and maintains proper professional standards and conduct for members of the profession.'*

69. Having considered the specific concerns that led to Mr Malik's erasure and the factors set out above, the Tribunal went on to determine whether he is fit to practise and be restored to the Medical Register. The Tribunal carefully balanced its findings against whether restoring Mr Malik's to the Medical Register would meet the overarching objective, considering each of the three limbs.

70. In respect of the first limb, the Tribunal had regard to Mr Malik's lack of insight or remediation and its assessment of the ongoing risk of repetition. It noted that his conduct was connected to his practice and had caused significant issues in his working relationships with colleagues. It was of the view that this behaviour had the potential to put patients at unwarranted risk of harm as it risked fundamentally disrupting a clinical team. Further, the Tribunal was not satisfied that Mr Malik had adequately demonstrated that his knowledge and skills are up to date. Given these findings, the Tribunal concluded that restoration would not protect, promote and maintain the health, safety and well-being of the public. On that basis, restoration to the Medical Register would undermine the first limb of the overarching objective.

71. Having regard to the second limb, the Tribunal reminded itself that Mr Malik had undermined effective working relationships by raising 27 unsubstantiated grievances against colleagues, in addition to concerns about his compliance with the Trust investigation and the GMC. It also considered his poor insight, the risk of repetition identified, and the absence of steps taken by Mr Malik to demonstrate remediation and to keep his knowledge and skills up to date. It was of the view that an ordinary, well-informed member of the public, aware of all the relevant facts of Mr Malik's case, would be concerned to learn that he had been allowed to return to practise in such circumstances. The Tribunal therefore found that restoration to the Medical Register would undermine the second limb of the overarching objective.

72. When considering the third limb, the Tribunal considered that it has seen no supporting evidence to demonstrate that Mr Malik has maintained his knowledge during the period since he was erased. It noted that Mr Malik has been out of UK practice for more than

**Record of Determinations –  
Medical Practitioners Tribunal**

10 years and has provided no evidence of CPD courses, no evidence of any learning he has done, and only limited evidence from his work abroad to support his application for restoration. Without this evidence, the Tribunal found that restoration to the Medical Register would undermine the third limb of the overarching objective.

73. Having carefully considered the evidence and specific circumstances, the Tribunal was not satisfied that Mr Malik has demonstrated that he is fit to return to unrestricted UK practice at this time. Accordingly, it refused Mr Malik's application to be restored to the Medical Register.

74. That concludes this case.

ANNEX A – 16/04/2025

**Application to admit documents under Rule 34**

75. At the outset of the hearing, Mr Holland made an application under Rule 34 for the determinations of the 2013 Panel, and transcripts of Mr Malik's oral evidence before the 2013 Panel to be admitted as evidence. Mr Malik opposed these documents being admitted as evidence before the Tribunal.

**Submissions**

76. On behalf of the GMC, Mr Holland submitted that the documents should be admitted to evidence and referred the Tribunal to the Guidance. He stated that, in effect, Mr Malik objects to the entirety of the evidence the GMC wishes to adduce before the Tribunal as part of its case.

77. Mr Holland submitted that, without the determinations of the 2013 Panel, the Tribunal will not be able to properly put into context any evidence given by Mr Malik and, will not be able to make a proper assessment of his insight, remediation or the risk of repetition. He submitted that the Guidance states quite clearly that the Tribunal will be provided with copies of the previous determinations. He submitted that it was difficult to see how the Tribunal could properly carry out its task without sight of the determinations.

78. In respect to the transcript, Mr Holland submitted that the transcripts simply provide extra context for this Tribunal to consider, in terms of insight and how he gave his evidence. He submitted that the 2013 Panel's determinations were limited in that only a summary of Mr Malik's evidence was given. He submitted that the transcript would assist the Tribunal in further determining insight, attitude and whether there has been any change since 2013.

79. Mr Malik submitted that he objected to the Tribunal having the past determinations and the transcript. He stated that the matters were historical and should not be considered. He stated that the 2013 Panel decisions were based on false information presented and that he was erased as part of a conspiracy to get him out of the Trust. He submitted that he would request that the Tribunal not go over all the things for which he had already been punished for.

### Legal Advice

80. The Tribunal was reminded that, the test for adducing evidence in hearings, is set out in Rule 34(1):

*'The Tribunal may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law'.*

81. Further, the Tribunal had regard to the Guidance, particularly at paragraphs B2 and B4 which provide:

**B2** *The test to be applied by tribunals when considering if a doctor should be restored is that 'having considered the circumstances which led to erasure and the extent of remediation and insight, is the doctor now fit to practise having regard to each of the three elements of the overarching objective?'*

...

**B4** *Tribunals will be provided with copies of the previous tribunal or panel's determinations. This will enable them to fully consider the background to the restoration application and identify the specific past concerns about the doctor's fitness to practise.'*

### The Tribunal's decision

82. In respect to the determinations of the 2013 Panel, the Tribunal was firmly of the view that it could not make a fair and fully informed decision in relation to the restoration without receiving those documents. Further, the Guidance was clear in relation to that issue. Therefore, it determined to accept the 2013 Panel's determination into evidence.

83. In respect to the transcript, the Tribunal considered carefully whether it would be both fair and relevant to receive it.

84. The Tribunal was of the view that, as the transcript is of Mr Malik's evidence at the previous hearing, then the document was clearly relevant to the matters this Tribunal must consider.

85. In considering fairness, the Tribunal noted that Mr Malik has not raised any specific reasons why the Tribunal should not receive the transcript. It could not see any indication that information in the transcript was objectionable or prejudicial to his application.

86. The Tribunal also considered that it could encumber Mr Malik's application if the Tribunal was not able to assess any change in his attitude since 2013. Therefore, it considered that not admitting the transcript would be unfair to both parties.

87. The Tribunal accordingly determined to admit the 2013 Panel's determinations and transcripts into evidence under Rule 34(1).

**ANNEX B – 16/04/2025**

**Application for the Tribunal to recuse itself and adjourn for a hearing before a new tribunal**

88. At the outset of Day 2, Mr Malik made an application for the Tribunal to recuse itself and adjourn for a hearing before a new Tribunal.

**Submissions**

89. Mr Malik submitted that the GMC had been given '*freelance*' to do whatever it liked, and that the previous day had been a rehearing of the matters for which he had already been punished. He submitted that the Tribunal should have prevented Mr Holland from asking questions that sought to go behind the 2013 Panel's determinations.

90. Mr Malik asserted that the matters for which he was erased were more than 15 years ago, and the questioning of the GMC was reopening the facts that had already been done. He stated that there was no reason to go over the facts as this was a new application for restoration. He stated that the Tribunal had already overridden his application to not have the 2013 Panel's determinations included, which had made him apprehensive.

91. Mr Malik stated that if the Tribunal was not able to fulfil its duty in hearing only the new application, then a new Tribunal should be constituted to hear the matters. Furthermore, Mr Malik submitted that the Tribunal had adopted the wrong procedure in failing at the outset to identify that this was an application for restoration following disciplinary erasure, and this amounted to a serious procedural irregularity.

92. On behalf of the GMC, Mr Holland submitted that he had not sought to go behind the findings of the 2013 Panel with his questions. He stated that he had, properly, tried to explore the findings with respect to the Guidance, to explore insight, remediation, and whether Mr Malik takes responsibility for his behaviour and has actively addressed the previous findings in 2013.

93. Mr Holland stated that it would be impossible to establish those matters without asking questions about what happened at the previous hearing and the findings that were made. He stated that there had been no procedural irregularity, and the Tribunal should continue the hearing.

#### **The Tribunal's determination**

94. The Tribunal considered the previous day's events and could not identify any procedural irregularity as alleged by Mr Malik. The Tribunal took into account that when opening the case on behalf of the GMC, Mr Holland had made it clear that this was a restoration hearing following disciplinary erasure.

95. The Tribunal did not agree that the GMC was seeking to invite the Tribunal to rehear the factual matters determined by the 2013 Panel. Further, the Tribunal did not find that Mr Holland's questioning had been improper. It was of the view that Mr Holland had properly cross-examined Mr Malik, using the evidence presented and in accordance with the Guidance.

96. Further, the Tribunal took into consideration Mr Malik's request for a new Tribunal, and, given he was not represented, considered it as an application to recuse itself. In short, the Tribunal could see no grounds on which it should recuse itself and adjourn for a hearing before a new Tribunal.

97. The Tribunal therefore determined to refuse Mr Malik's application.

#### **ANNEX C – 16/04/2025**

##### **Application for the hearing to adjourn**

98. On Day 2 of the hearing, Mr Malik made an application for the hearing to adjourn so that he could seek legal advice.

## Submissions

99. Mr Malik submitted that the LQC had given the wrong direction to the Tribunal from the outset and was misinterpreting the law and that the Tribunal had adopted the wrong procedure. He reminded the Tribunal that it could not go behind decisions of the 2013 Panel, and asserted that this hearing clearly was attempting to.

100. Mr Malik asserted that the questioning conducted by the GMC was just going through all the previous matters, and stated that this was a new application, and should be considered on the new information before it.

101. Mr Malik requested the recordings of the previous days evidence from the MPTS and stated that he would need time to seek legal advice in relation to what had occurred. He submitted that the hearing should adjourn to give him the opportunity to do that as it was clear that the Tribunal was not following the law.

102. On behalf of the GMC, Mr Holland submitted that the application was opposed by the GMC. He submitted that Mr Malik could have sought legal representation well in advance of this hearing so that he was not unrepresented. He stated that the Tribunal has been more than fair in listening repeatedly to the same application by Mr Malik and has given its reason for refusal. Mr Holland submitted that if Mr Malik disagrees with the Tribunal's decisions, then if he wishes, he can consult solicitors and make an appeal at the conclusion of the hearing.

## The Tribunal's determination

103. The Tribunal had regard to Rule 29(2) of the Rules, which states:

*'Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.'*

104. The Tribunal wished to reiterate that it was fully aware of the reason that it has been convened, and that this was to consider a new application for restoration following disciplinary erasure. In deciding upon a restoration application, the Tribunal must take into

consideration the determinations of the previous panel, so that it can make a full assessment of current fitness to practise. The Tribunal is not seeking to go behind or reopen the facts determined by the 2013 Panel and had repeatedly told Mr Malik this.

105. The Tribunal was of the view that Mr Malik has had since September 2024 to seek legal advice, having submitted his application. He has been aware of this hearing for several months and has not sought legal advice in that time.

106. The Tribunal reminded itself that the public interest included the fair, economic, expeditious and efficient disposal of the hearing and this had to be balanced against any disadvantage to Mr Malik. The Tribunal did not consider it would be fair to the GMC to adjourn the hearing at this stage. Further, it could see no valid reason to adjourn matters at this stage.

107. In all the circumstances, the Tribunal considered that it would not be fair or appropriate to adjourn the hearing and so the Tribunal refused the application.

#### **ANNEX D – 16/04/2025**

#### **Proceeding in Absence**

108. On Day 2 of the hearing, the Tribunal was due to recommence at 09:30am to continue hearing Mr Malik's oral evidence.

109. At the outset of the day, Mr Malik made an application to for the Tribunal to recuse itself and to adjourn for a hearing before a new Tribunal. This application was refused by the Tribunal.

110. Following this, at 10:30am, Mr Holland commenced questions for Mr Malik, which had the effect of Mr Malik disconnecting from the hearing. A short adjournment was taken by the Tribunal, to allow MPTS Staff time to contact Mr Malik and request him to rejoin the hearing. Mr Malik rejoined the hearing at 11:00am.

111. At 11:00am, Mr Malik made an application for the Tribunal to adjourn the hearing to allow him to seek legal advice on the questions he was being asked by Mr Holland and the procedure adopted by the Tribunal. This application was refused by the Tribunal.

112. Mr Holland was again invited to resume his questioning. Mr Malik announced at this point that he would be leaving the hearing. The LQC told Mr Malik that he was entitled to leave if he wished, but that the hearing could continue in his absence, subject to an application by the GMC.

113. Mr Malik left the hearing at 11:30am.

### Submissions

114. On behalf of the GMC, Mr Holland submitted that Mr Malik was, by his presence, plainly aware that the hearing was being conducted and knows that the hearing has not reached a conclusion. He submitted that Mr Malik had been clearly told that there may be an application to proceed in his absence, and that it might not be in his best interests to leave but had chosen to do so.

115. Mr Holland submitted that given that Mr Malik has deliberately and voluntarily absented himself, despite knowing the potential consequences of doing so. He submitted that there are interests to the public and the parties for expeditious hearings and for hearings to be concluded. Therefore, he submitted the hearing should proceed in Mr Malik's absence.

### The Tribunal's Determination

116. In making its determination the Tribunal noted that the decision as to whether the hearing should proceed in Mr Malik's absence was a matter for its discretion and that such discretion was to be exercised with the utmost care and caution.

117. The Tribunal had regard to the legal authority of *R v Hayward, Jones & Purvis* [2001] QB 862 CA, which states that a defendant has a right to be present at a trial and a right to be legally represented but that those rights can be waived where a defendant voluntarily absents themselves from a trial. Furthermore, the Tribunal had regard to the case of *GMC v Adeogba* [2016] EWCA Civ 162, which expanded upon those principles in a regulatory context.

118. The Tribunal noted that Mr Malik had been present at the hearing up until this stage. Further, he had been warned by the Tribunal that the hearing could continue in his absence, and he chose to leave. The Tribunal concluded, considering the information before it, that Mr Malik had voluntarily absented himself from this hearing.

119. The Tribunal considered whether an adjournment would result in Mr Malik attending the hearing. The Tribunal had already refused an application for an adjournment, on the basis that there were no grounds to do so. Further, there was no evidence before the Tribunal to suggest that an adjournment would result in Mr Malik attending at a future date.

120. The Tribunal noted that any decision to proceed in Mr Malik's absence might result in disadvantage to him including that it may not necessarily have all the information that he would wish to advance at the hearing. However, the Tribunal considered that any such disadvantage must be balanced against other factors including the statutory overarching objective and the public interest. The Tribunal noted that the public interest included the fair, economic, expeditious and efficient disposal of the hearing and this had to be balanced against any disadvantage to Mr Malik.

121. Therefore, in accordance with Rule 31, the Tribunal determined to proceed in Mr Malik's absence.