

Primary Health Lists

The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care) Rules 2008

[2016] 2785.PHL

Heard on 13-16 March & 3 May at Employment Tribunal Manchester

Panel:

**Professor Mark Mildred – Judge
Dr Gopal Sharma – Professional Member
Ms Pat McLoughlin – General Member**

Between:

Dr Shakeel Abbasi

Applicant

v

NHS Commissioning Board (NHS England)

Respondent

DECISION

Background

1. The Appellant is a General Practitioner who is a partner in a 2-partner practice in Rochdale. A number of concerns about his practice was raised by an email dated 20 May and investigated by the Respondent.
2. Following that investigation a decision was made to seek removal of the Appellant from the Performers List on the ground of unsuitability under Regulation 14(3)(d) of the National Health Service (Performers List) (England) Regulations 2013 (“the Regulations”).
3. On 20 July 2016 the Performers List Decision Panel (“PDLP”) removed the Appellant on the ground of unsuitability, having upheld the 4 allegations against him set out below.
4. The Appellant appeals against that decision under Regulation 17. This appeal is by way of redetermination.

The hearing

5. The appeal was heard by the Panel at Manchester Employment

Tribunal from 13 to 16 March and 3 May 2017. The Appellant was represented by Ms S Malik, Solicitor, of Protection of Human Rights in Public Law and the respondent by Mr M Corrie, Counsel, of Blake Morgan LLP.

The issues

6. The Respondent relied upon 4 allegations as follows: (a) the Appellant compromised patient safety by failing to assess or treat Patient A personally; (b) the Appellant expected Ubaid Qureshi, a healthcare assistant, to work outside the scope of his job description; (c) the Appellant did not complete an urgent mental health assessment despite being advised so to do by the Access and Crisis Team and (d) the Appellant harrassed and bullied his staff.
7. Whether each of these allegations is proved by the Respondent to the civil standard are Issues 1 to 4. In the light of the Panel's findings in relation to each of these Issues, Issue 5 is whether the Appellant is unsuitable to be included on the Respondent's GP Performers List.
8. The evidence of each witness is summarised under each of these Issues in turn.

The evidence

9. The Panel had a bundle running to 290 pages. It was made aware of a late application by the Appellant's representatives for disclosure of documents in 6 categories. We were not called upon to resolve the dispute. During the hearing the Appellant filed 4 further bundles (A2-A5) and the Respondent 8 further bundles (R2-R9). Very few of these documents were, however, referred to in the hearing or in submissions.
10. Dr Shagufta Ali qualified as a doctor in 2004 and as a GP in 2010 and worked at the surgery at Nye Bevan House (where the Appellant and Dr Ghafoor are partners) from 2010 to May 2015 with maternity breaks from November 2011 to September 2012 and from November 2013 to September 2014. Dr Ali sent the email dated 20 May 2015 to the Respondent that gave rise to these proceedings. She normally worked 3 sessions per week but increased this at the end of 2014 at which point she found out much more about the practice as she had to cover for both partners.
11. She was normally paid £90 per hour but when she was asked at a day's notice to work extra over the holiday season at the end of 2014, raised this to £130 per hour. This was approved by the partnership. Dr Ali frequently worked longer than the 2-hour sessions for which she was paid but did not claim extra pay for this.

12. She was offered a partnership by Dr Ghafoor in December 2014 but after discussion with the Appellant refused it because she was told by him that the practice was in financial difficulties and it was obvious that there was a partnership dispute. The Appellant did not say to her that she was unsuitable for partnership.
13. Issue 1: On 31 December 2014 Dr Ghafoor was on bereavement leave and the Appellant was the on-call doctor. Dr Ali believed that the Appellant had triaged Patient A by phone, invited her to come to the surgery to be seen by Mr Qureshi and was out when the patient arrived about 1300 to 1400. Dr Ali had finished her contractual session at 1200 and was just about to leave the surgery, having finished her referrals.
14. Mr Qureshi came in and asked her for help because of the patient's condition: she had a thready (weak) pulse and very low blood pressure. He said that he had been asked to draw up adrenaline but the Appellant was out and he did not know what to do with it. He told Dr Ali that the Appellant had asked him to draw it up and give it to the patient, if it was needed. Dr Ali thought it was very unusual that the Appellant had asked Mr Qureshi to see the patient.
15. Dr Ali saw the patient had a swollen face, was very sweaty and was in shock with a high respiratory rate. Mr Qureshi and Saba Asif (the practice manager) were helping the patient. It seemed to Dr Ali that the Appellant could not have taken a detailed history or asked about the patient's breathing. Dr Ali thought that the patient needed very urgent attention: she had arrived in a taxi and could have died en route.
16. Ms Asif held the oxygen mask for the patient, Mr Qureshi had a pre-filled syringe of adrenaline which Dr Ali injected into the patient's right shoulder and then drew up chlorpheniramine from a phial. Dr Ali sent a receptionist down to the chemists below the practice premises to obtain oral prednisolone but this was not given because the ambulance arrived and the crew put up a line for intravenous steroid administration.
17. Dr Ali was not aware that the patient had been visited at home by a nurse or who that nurse might have been. There was no practice nurse at the time. The practice did not have proper systems in place and the system for recording telephone calls was inadequate. Staff entered a patient's name and problem in a book, if it was thought the patient should be seen by a doctor and this was distributed to whomever was available.
18. Dr Ali put in a significant event analysis about this incident for the practice to consider but nothing happened. Dr Ali discussed the event with her appraiser in May 2015 and was advised to report it to the Respondent and to the GMC which she did. She would probably

have made the report anyway as she had looked up the procedure on the GMC webpage.

19. Issue 2: Dr Ali said that Mr Qureshi would come into her room with a prescription and say that he thought that was what the patient needed and ask her to sign it but she would never agree without seeing the patient herself.
20. Dr Ali thought that reception staff may have sent patients to Mr Qureshi as if he were a GP and that they were following the policy of the partners in doing so. Mr Qureshi was referred to as “Doctor” by the staff and the partners and she believed that the patients assumed that he was a doctor. Nobody at the practice had a name badge. On the notice board at the entrance showing who was in attendance Mr Qureshi was often described as a doctor. In Dr Ali’s view he was exploited by having to work as a nurse, an advanced nurse practitioner (ANP) or as a doctor.
21. The Appellant would triage patients then send them to Mr Qureshi for appropriate tasks such as certain injections and phlebotomy. Mr Qureshi would also come to Dr Ali after taking a patient’s history and an examination and ask her to sign a prescription for, say, an antibiotic. Dr Ali was not prepared to do this and would re-examine the patient whose reaction made Dr Ali believe that Mr Qureshi had already examined them.
22. Issue 3: on 7 January 2015 Patient B had asked to see Dr Ghafoor who was on leave. He was acting aggressively and the receptionist Leanne asked Dr Ali to see him because the Appellant had refused. She saw from the notes that the Appellant had faxed the Access and Crisis team on 5 January but they had told the practice that the Appellant needed to speak to the on-call Approved Mental Health Professional Duty Team (“the AMP”). They in turn would have spoken to the on-call psychiatrist who would consider making an assessment of the patient. This had not been done and there was no record of the advice in the patient’s records.
23. Dr Ali assessed Patient B and waited for the assessment team to arrive until 1430 when she had to leave to pick up her children. She returned to the surgery at 1600. Dr Ali felt that the Appellant should have checked up on his referral so that he would have seen the message from the Access and Crisis Team, contacted the AMP as they had advised and should have seen Patient B on 7 January,
24. In re-examination Dr Ali was taken to various patient records (E48, E50/51). The apparent purpose of the re-examination was to show that the abbreviation “d/w Dr Abbasi” meant “discussed with Dr Abbasi” (so that the inference was that Mr Qureshi was examining patients and taking their histories on his own).

25. Dr Ali became very upset and said that the form of the records were “textbook” and quite different from the very sparse records that were in fact made in the practice and by Mr Qureshi in particular. There would typically be a few words of history and possibly regarding an examination but certainly no “comment” section as appeared on these records. Further, she had never seen “d/w Dr Abbasi” in any record.
26. Dr Ali’s opinion was that the records must have been altered for the purpose of the appeal and said that “they were all liars”.
27. Issue 4: Dr Ali told us that until the Appellant’s suspension she could work with him as a colleague and did not herself feel bullied by him. Shortly after the Appellant was suspended he came into the surgery and walked towards her and stood over her waving his finger aggressively and standing very close to her so that she thought he was going to punch her. He kept asking her why he had been suspended in a very aggressive manner.
28. On the same occasion the Appellant was asking the practice staff to take patients’ telephone numbers and give those patients his number.
29. Dr Ali was aware that reception staff were very reluctant to go into the Appellant’s room and would send Sabah Asif to see him on their behalf. She had also witnessed the Appellant treating staff members very badly and seen them very upset after a conversation with him, including leaving his room in tears because, they said, of the way the Appellant had treated them.
30. Dr Ali said that, after his suspension, the Appellant had told two locum agencies that she was an irresponsible doctor.
31. Shama Khan is the Deputy Manager at the Surgery and began working there in May 2014, having obtained her job through the Job Centre.
32. Issue 2: Mr Qureshi was referred to as “Doctor” by all colleagues and patients. Ms Khan said that she did not know that Mr Qureshi was not a doctor until these complaints were made. He would see patients in morning surgery as if he were a doctor. She thought he was a doctor. He moaned about having too many patients and about having to undertake tasks he should not have to do. If the doctors’ surgeries were full, patients would be booked in to see Mr Qureshi. The partners would do alternate weeks as the on-call doctor to see urgent patients.
33. Issue 4: about a month after he was suspended the Appellant came into the surgery in the early evening after the practice manager had left. She took cheques in for him to sign but he refused to sign the

cheque in favour of Dr Ali as he said she was his enemy. He kept saying that everything and everyone was ridiculous. When asked she refused to give the Appellant her computer log-in details.

34. Ms Khan was offended by the Appellant laughing and calling her uncle a “druggy” in the reception area. He would also call white staff “Gori” as if that were their name in reception. She was reluctant to approach the Appellant with questions as he was dismissive and make her feel silly. She did not look forward to his week as on-call doctor. He was reluctant to take calls and see patients and would ask reception staff to put them off.
35. Sobia Ulhaq has been a receptionist at the practice since December 2014, having been interviewed for the job by the office manager. She began as an apprentice and did not see the Appellant much.
36. Issue 4: the Appellant was not rude to her but was unapproachable. Several days after he had been suspended the Appellant came into the surgery and told Dr Ali, Leanne McQue, Mamoonah Naz and herself to stand up. He was angry and told them that he had been suspended. She saw the Appellant walk towards Dr Ali and confront her, shouting in her face. Dr Ali looked upset. Dr Ali walked out of reception and then the Appellant and his wife left the surgery.
37. Mamoonah Naz is now Deputy Manager but was at the end of 2014 a receptionist at the practice. It was put to her that she had been dismissed by her previous employer, Dr Hamid, for gross misconduct involving forgery of Dr Hamid’s signature. She denied this and said she had resigned the job because she felt she was being treated unfairly.
38. About 4 weeks after she joined the practice she heard from the practice manager and Dr Ghafoor that Dr Hamid was the Appellant’s best friend and that he wanted to fire her because Dr Hamid had told the Appellant that she was useless.
39. Issue 3: after production of a more detailed record relating to Patient B Ms Naz confirmed that she had made the initial note in the patient’s records on 5 January 2015. With the prompt of the new material contained in bundle R3 Ms Naz considered that the Access and Crisis team called the practice a second time in the afternoon of 5 January when the Appellant was not in the practice. Ms Naz made an entry in the telephone book, entry 2 of 6 January 2015. Her evidence was that this could have been made on 5 January for action by the Appellant when he came into the surgery on the next morning or, if the book was in duty doctor’s room, she would have made a sticky note, and written it in the book the next morning. She could not remember which she had actually done.

40. Ms Naz said that the Appellant instructed her to send the fax message to the Access and Crisis team after the first telephone call from them on 5 January saying that they were not the appropriate agency and asking him to telephone them. He accused Ms Naz of increasing his telephone workload saying "My workload has doubled since you started working here; I'm not here to ring all those patients".
41. Issue 4: about 1 week after the Appellant was suspended he came to the surgery with his wife and told the reception staff, Leanne McQue, Sobia Ulhaq, Salma Javed and Rizwana Aslam in an aggressive manner that he had been suspended. He then had a heated discussion with Dr Ali about the unfairness of his suspension, shouting in Dr Ali's face. The Appellant then left with his wife and Dr Ali was in tears.
42. Dr Steven Elliott is a Professional Medical Adviser to Greater Manchester Health and Social Care who went into the Appellant's practice in about August 2015 to investigate the complaint. He visited the practice on notice about 10 times for a total of 30 to 50 hours and was given access to the computer system.
43. Issue 1: Dr Elliott was firmly of the view that the Appellant should have visited Patient A or made sure he saw her in the surgery; he should not have left until he had ensured the problem had been dealt with, made a proper record of the telephone call with the patient and given full handover instructions to another doctor. It was clear that the patient, who had learning difficulties, had a serious condition, possibly an allergic reaction that could prove fatal. The patient lived only 1.2 miles from the surgery. When she came to the surgery she could not see because of the swelling round her eyes and she had to be guided into the surgery.
44. There was a dispute whether the Appellant had told Mr Qureshi that the patient might need adrenaline.
45. Dr Elliott's opinion was that, after speaking to Patient A on the telephone, the Appellant should not have excluded a diagnosis of angioedema or shock. He should therefore have either called an ambulance or made an urgent home visit. He did not consider it was safe to ask the patient to attend the surgery as there was risk she might die en route. He should have visited with the necessary resources eg adrenaline, chlorpheniramine.
46. Issue 2: Dr Elliott examined about 10 patient records made by Mr Qureshi. These were good records with a history and examination followed by an opinion. They were characteristic of a person acting as a doctor rather than a HCA. They were in a different style from the Appellant's records which were not as full or as clear. Dr Elliott was certain that "d/w" meant discussed with, implying that Mr Qureshi

had taken the history and made the examination himself and then consulted the Appellant.

47. Mr Qureshi had seen patients alone, taken histories, examined ears, throat, abdomen and prepared prescriptions for the Appellant to sign. This was inappropriate for a HCA. The investigation team had heard staff and patients refer to him as “Doctor”.
48. Issue 3: the Appellant assessed Patient B on 5 January 2015 and referred him to the Access and Crisis Team at Pennine Acute Hospital Trust for psychiatric assessment. When that Team rejected the referral they asked the Appellant to telephone them to have the procedure explained, but he did not do this despite a request written in the telephone book early on 6 January by Rizwana Aslan. He should have persisted until he made contact with them and completed the referral. He should have seen Patient B on 7 January 2015 rather than refused and left the problem to a locum. Patient B was a long-term patient and the Appellant had been sufficiently concerned two days earlier to seek an urgent psychiatric assessment.
49. Saba Asif is the Practice Manager of the surgery where she has worked since December 2004.
50. Issue 1: Ms Asif was in the office area behind reception when Patient A arrived to see the Appellant and noticed that her face was swollen and she was in night clothes and sweating profusely. On the basis of her experience she considered it was an emergency. She did not know whether the Appellant was in the surgery.
51. Mr Qureshi came to reception and said that he knew about this patient because the Appellant had told him she was coming in and had asked him to see the patient before the Appellant left the surgery. Mr Qureshi told her that the Appellant had told him that the patient would need adrenaline. Patient A was helped to lie down in Mr Qureshi’s room. He asked reception to call an ambulance. Ms Asif was so concerned that she went into Mr Qureshi’s room with the patient. Mr Qureshi was trying to find a blood pressure.
52. When Ms Asif saw that Dr Ali was still in the surgery she called her in and Dr Ali gave the injection of adrenaline and Ms Asif was giving the patient the oxygen mask. The whole episode took a few minutes. Ms Asif was told that the Appellant was calling her on her mobile phone but she did not think it right to interrupt her giving the patient oxygen to take his call and said she would ring him back.
53. Issue 2: Mr Qureshi used to moan about his workload and about being asked to doing work he should not have been doing. Mr Qureshi was not doing inappropriate work when the Appellant was

absent but confined himself to HCA work within his job description. Ms Asif encouraged him to stand up to the Appellant.

54. Ms Asif considered that Mr Qureshi had only acted as a GP when the Appellant was in the surgery. She conceded that he was away from the practice on 22 October 2014 when Mr Qureshi saw patients whilst a semi-retired locum Dr Babar was running an emergency clinic with Mr Qureshi's help. Dr Babar did not have his own log-in to the practice's computer system.
55. Issue 3: Ms Asif had known Patient B a long time and was concerned when he was behaving aggressively to reception staff on 7 January 2015. They were unsure what to do so Ms Asif asked Leanne McQue to inform the Appellant. She came out of his room looking upset because he would not help.
56. Ms Asif then went to see the Appellant who was the emergency doctor and was in his room between patients. The Appellant turned to his computer and said that he could not deal with the patient. He then left the surgery without telling the staff after he finished his morning surgery.
57. The incident went on from about 0845 until 1730. The police were called but could not remove the patient from the practice as he was a mental health patient. Dr Ali became involved trying to help. The Appellant returned before the police and mental health team who came to assess the patient left the surgery and shook hands with them. He then asked Ms Asif for an account of what happened.
58. Issue 4: on 7 January 2015 while Patient B was in the surgery the Appellant met Dr Ali in reception and asked why she could not work like an ordinary doctor and asked Ms Asif to report Dr Ali to the GMC. Dr Ali went into her room and was upset.
59. The Appellant had joined the surgery soon after Ms Asif. To begin with he was commuting weekly from London and the practice was accommodating towards him. There was bullying by the Appellant on and off but Ms Asif just tried to get on with the job. When the practice expanded he became upset when he was given more work. The staff were scared of him because of his manner and body language and would be reluctant to go in to see him. He would turn his back on staff members and throw things around. His moods became unpredictable and his manner aggressive.
60. The staff would come to Ms Asif about these problems and she would ask Dr Ghafoor who said that the Appellant had to be given the work to do. The practice was expanding from 4,000 patients but there was no practice nurse or third locum. The Appellant used to get upset at practice meetings and say that there was not enough

money to hire new people. He told her that it was not difficult to get rid of a practice manager.

61. Ms Asif confirmed that she was told by Leanne McQue that she had been called into the Appellant's room and told in front of his wife that Ms Asif had emailed him to say that, unless he gave her £10,000, Ms Asif would say that the Appellant had raped her. Ms Asif was shocked by this and included it in the joint letter to the GMC and the Respondent dated 23 December 2015 (E136).
62. Ms Asif did not have a specific conversation with Mr Qureshi between his first and second interviews with Dr Elliott that resulted in the former being more forthcoming in his second interview. She did have a conversation with a number of the practice staff encouraging them to tell the Respondent the truth.
63. Ms Asif raised the problem of bullying with the Local Medical Committee and the Clinical Commissioning Group and then the Respondent. These contacts started shortly before the Appellant was suspended. Ms Asif did not want the Appellant to know about this as he was by then being very aggressive.
64. Mr Ubaid Qureshi was employed by the practice as a HCA from 2007 to 2009 and again from 2012 to the present. He is qualified as a doctor in Pakistan but not in the UK, having failed his Professional and Linguistic Assessment Board (PLAB) examinations.
65. Issue 1: on 31 December 2014 at about 1030 the Appellant told Mr Qureshi that Patient A was booked into his (Mr Qureshi's) clinic and might arrive between 12 and 1pm with a possible allergic reaction and instructed him to assess whether she needed emergency medicine and, if necessary, give her adrenaline. The Appellant told Mr Qureshi he would be in his room which reassured him, as he was rather shocked that he was being asked to see a seriously ill patient.
66. Patient A arrived about 1330. Mr Qureshi overheard the reception staff asking what to do with her so he went out to reception. The patient looked very poorly and needed to lie down and was taken into Mr Qureshi's room. Mr Qureshi called reception and was told that the Appellant was not in and they were looking for him. He told Ms Asif he could not manage and she got Dr Ali's help. Dr Ali assessed and managed the patient. Mr Qureshi told Dr Ali he could not find a blood pressure and she asked him to draw up adrenaline which she injected while Ms Asif helped the patient with the oxygen mask.
67. Issue 2: Mr Qureshi confirmed that the Appellant called him "doctor", giving patients the impression that he was a doctor and reassuring patients who were reluctant to see Mr Qureshi that he was a doctor.
68. Mr Qureshi told us that "d/w" meant "discussed with" and that his normal practice was to take a history from a patient, then discuss

with the Appellant, then examine the patient and again discuss with the Appellant before taking action.

69. Mr Qureshi said he told the Appellant that he was being exploited. He left the practice in 2012 but returned in 2014 on the assurance that things would be different. At that time he was still trying to pass the PLAB but had no support.
70. Mr Qureshi confirmed that no one else could log onto the computer in his name and that he never made any records under any other name. He did not know whether Dr Babar had his own smartcard to log in to the practice computer. When Dr Babar was acting as a locum in the absence of the partners Mr Qureshi would discuss patients with him in the same manner as he did with the Appellant.
71. The partners and Ms Asif managed Mr Qureshi's clinics and the reception staff made the clinic lists. The Appellant pressured Mr Qureshi into seeing the Appellant's patients so that he did not have to see them himself. If a patient was waiting to see the Appellant, he would often ask Mr Qureshi to see them instead with Mr Qureshi allowed to come in and ask him questions.
72. It was only the Appellant who asked Mr Qureshi to see patients as a doctor and this did not happen when the Appellant was not in the surgery. Patients who came in without appointments might be directed to Mr Qureshi.
73. Issue 3: Mr Qureshi said he never saw himself referred to as Dr Ubaid or Dr Qureshi on the board in reception to advise patients who was in the surgery.
74. Issue 4: Mr Qureshi said that the Appellant's behaviour was very good apart from certain occasions and that he was the only person with whom the Appellant was prepared to have general discussions.
75. He and the Appellant had occasional disputes. The Appellant made Mr Qureshi cancel a holiday and made derogatory comments about Dr Ghafoor in front of him and in front of patients. He would make very insulting comments about staff and insult Ms Asif very crudely at least weekly. He was particularly insulting to Rizwana Aslam and made suggestive remarks about her. He would stand too close to staff members. The female staff were scared to approach the Appellant.
76. Leanne McQue was a receptionist at the practice from September 2014 to February 2016. Her witness statement dated 12 December 2016 was put in as hearsay evidence by the Respondent.

77. Issue 2: both partners and all staff referred to Mr Qureshi as “doctor” and called him doctor in front of patients. The Appellant used to pass his patients to Mr Qureshi for assessment.
78. Issue 3: on 7 January 2015 Ms McQue was working on reception with others in the back office and Dr Ali in the practice room. The Appellant was the on-call doctor. Dr Ghafoor was away. At about 0930 Patient B came into the surgery screaming at her. Feeling she needed assistance Ms McQue went to see the Appellant who was with a patient. He told her that he did not want to deal with it and, in an arrogant and dismissive manner, told her to ask Dr Ali.
79. The patient carried on screaming for 15-20 minutes so Ms McQue called the police. Dr Ali saw Patient B in her room and the police met Dr Ali and Patient B for several hours. The Appellant stormed into reception and said in front of patients “I do not see why I should see Dr Ali’s patients but I suppose I should”. Those patients of Dr Ali who were waiting in reception to see her refused to see the Appellant because of his attitude.
80. Issue 4: the Appellant’s moods were up and down and his attitude unpredictable. Ms Asif was frequently upset and told staff she was being bullied by the Appellant.
81. The Appellant came to the surgery with his wife on a day in January 2016 at about 1720. He made allegations that Mr Qureshi had been bribed by Dr Ghafoor to tell lies about him, that Dr Ghafoor was involved in fraud and that Ms Asif had threatened to say the Appellant had raped her, if she did not give him £10,000.
82. Ms McQue went with Ms Asif and her PA Ms Sutton to the police and made a report of what had happened.
83. Dr Abbasi’s written evidence was contained in a statement dated 19 December 2016 (F1), in another statement dated 29 October 2015 prepared by different solicitors for the Respondent’s investigation (E72) and in agreed minutes of a Professional Affairs Meeting with the Respondent on 29 October 2015 at which the Appellant was accompanied by his then solicitor (E113).
84. The Appellant’s CV, put in as evidence at the request of the Panel after the first 4 days of hearing, showed that he obtained MBBS in Rawalpindi in 1991 and came to work in the UK in 1993. He passed the PLAB examination in September 1994 and did various House jobs until he became a GP Locum in September 2004. From January 2005 he has been a GP Principal in partnership with Dr Ghafoor.
85. Issue 1: the Appellant denied that he had refused Patient A a home visit. Although she had learning difficulties and complex physical and mental health problems she was usually able to come into the

surgery by herself. On 31 December 2014 he was given a message that a nurse had requested a home visit for the patient who had facial swelling. He could not speak to the nurse (who had left the patient's home when he rang back) so did not know her assessment of the patient's condition. He thought it could be anywhere between non-serious and very serious. He wrote "allergic reaction, cellulitis, tci" in the message book (E115). This record was not produced.

86. The patient refused to go to A & E or have a home visit but wanted to come into the surgery. There were no more emergency slots available. The Appellant accepted that he did not make a record of his conversation or his subsequent reflection on the incident and that he did not know the full symptoms on the basis of the telephone call although the patient could speak and had no apparent breathing problems. It would have been very bad practice to do a home visit in case equipment was needed that the doctor would not have with him.
87. The Appellant told the reception staff to notify the first available doctor when Patient A arrived. He thought she might have a gum infection or cellulitis or an allergic reaction. He finished his morning surgery at 1232 and left the surgery at between 1315 and 1330 to eat and to see his mother who was extremely ill. He subsequently said he had gone out to do home visits to patients. He told Mr Qureshi that a patient with facial swelling was coming in and Mr Qureshi should contact him, if there was an emergency. He did not instruct Mr Qureshi to see the patient or tell him to prepare adrenaline: he told him that Dr Ali was on the premises.
88. Although Dr Ali's contracted time ended at 1200 it was not unusual for her to do extra work for huge fees. The Appellant checked with reception that Dr Ali was still in the surgery but not how long she would be staying. The Appellant regarded his note in the message book as the handover information.
89. It appears from the computer that the patient arrived at 1329 and was seen at 1407 so that her condition could not have appeared life-threatening. The Appellant accepted that the clinician sometimes entered the time seen onto the computer and, if Mr Qureshi had done that, given the urgency of treating the patient this might not have been done for some time after her treatment began.
90. The Appellant said in oral evidence that he had a clear impression the patient had a gum infection or cellulitis and that he might have dealt with her differently, if he had realised the gravity of the situation although he might still have been in the building when the patient in fact arrived. He described his assessment as "spot-on" except his record-keeping.

91. In reply to the Panel the Appellant said that he called the surgery to see whether Patient A had arrived: if not, he was going to call on her in the course of his home visits. He did not carry adrenaline with him but did carry Piriton. He claimed his diagnosis was right and that his safety-netting approach was better than leaving her at home to die. The next day Mr Qureshi showed him that Dr Ali had not injected the patient with adrenaline but used a dummy syringe of the type used to teach injection technique.
92. Issue 2: at the time the Appellant was in dispute with Dr Ghafoor but only in respect of financial and management issues – not about the workload. The list was then about 5,500 patients and the practice was overstretched. He and Dr Ghafoor took alternate weeks as the “on-call” doctor with primary responsibility for seeing non-booked cases.
93. Dr Ghafoor and Ms Asif appointed and managed Mr Qureshi. The Appellant did not realise that Mr Qureshi was running his own clinics outside his remit and of his own accord until he read statements concerning the investigation [F2/12]. Mr Qureshi would never see a patient as a GP to the Appellant’s knowledge – if he ever discussed a patient with the Appellant it was solely for the purpose of his development. Ms Asif would be responsible for sending the Appellant’s patients to Mr Qureshi. Mr Qureshi never examined a patient without the Appellant being in the room. The Appellant never asked even a qualified doctor to see one of his patients on his behalf.
94. The Appellant and colleagues would call Mr Qureshi “doctor” only out of courtesy to reflect the fact that he had a medical degree in Pakistan and never in front of patients.
95. The Appellant said in re-examination that, if he had known Mr Qureshi was acting beyond the scope of his employment, he would have taken disciplinary action against him.
96. Issue 3: the Appellant saw Patient B on the morning of 5 January 2015 unbooked and decided he needed to be fully assessed by the mental health services so wrote a referral letter which was faxed to the Access and Crisis Team at Pennine Acute Hospital Trust. The Team telephoned that afternoon to say that they could not assist but that the referral should be made to the Local Authority the Appellant then asked Rizwana Aslam to speak to the Duty Team at the Local Authority. The Local Authority told her that they should contact the Access and Crisis Team.
97. That team rang the surgery to ask the Appellant to call them back to discuss the position. He did not call them back and did not know there was a message in the message book for 6 January am to call them. The Appellant signed against that message which meant he

did call them back. He also said both that he had called the team back and that he could not remember what happened.

98. On 5 January Patient B was not aggressive to him but only to the staff and that was because he wanted his prescriptions.

99. When Patient B came into the surgery on 7 January 2015 Dr Ali was on duty and the Appellant was the on-call partner. Although the Appellant was a partner and knew the patient it would also have been appropriate to ask Dr Ali to see him, especially as Dr Ali had more qualifications.

100. Neither Ms McQue nor Ms Asif came to the Appellant's room to ask him to see the patient. The Appellant would have seen and assessed the patient, if he had been asked. When the Appellant came back to the surgery on 7 January Patient B was sitting quietly with the police and the assessment team.

101. Issue 4: the Appellant had concerns about the management of the practice and sometimes felt he was having to do more than his share of clinical work. Until 2013/4 he had tried to arrange weekly team meetings but was then excluded by Dr Ghafoor and Ms Asif. Ms Asif's complaint to the CCG two days before his suspension that the practice needed more staff but he was stopping it was wrong and he had contacted the CCG to correct it.

102. He suggested that the practice employ a nurse and a third partner. He did tell Dr Ali that there was no money for a third partner. He was worried about money haemorrhaging from the practice accounts and demanded to become a counter-signatory on the bank accounts.

103. On 29 June 2015 the Appellant refused to sign a salary cheque for Dr Ali because he considered she had made false accusations of malpractice against him.

104. In October 2014 when the Appellant's father was dying Ms Asif had telephoned him to say that Dr Ghafoor had left the country and the Appellant had to return from London to organise locums or she would report him to the GMC. He did this and went back to London to deal with the aftermath of his father's death and Ms Asif had then texted him to say do not worry, we will look after your surgery.

105. The Appellant denied that he was moody with and dismissive of the staff – he loved them more than his family. He denied telling reception staff he was unhappy with the level of work he was given and that he threw the message book around. He did not accuse Ms Asif of blackmailing him. He did not shout at staff or use any of the foul language or personal comments of which he was accused. He was not critical of Ms Asif in front of the staff. Until the last few months he had found her very helpful. He had organised Mr

Qureshi's training and did not force him to cancel a holiday. He did not stop overtime payments.

106. After he was suspended the Appellant went into the surgery to tell the staff and to apologise for letting them down, to give them his number in case they wanted to contact him and to have a group hug.

107. He saw Dr Ali on his computer and asked Ms Asif what was going on. Dr Ali came up to him, danced in front of him and chanted "you're suspended, you're suspended".

108. After the end of Mr Corrie's cross examination the Panel asked the Appellant to clarify the sequence of telephone calls in respect of Patient B.

109. The Appellant said that after the fax referral was made on the morning of 5 January 2015 a member of the Access and Crisis Team called back in the afternoon. Ms Aslam took the call and asked the Appellant to ring them back which he did, getting through after 2 or 3 attempts.

110. The person said that they would not accept the referral until they had spoken to a doctor. The Appellant explained that he was a doctor. He was then advised that the referral should be made to the Local Authority Safeguarding Team. The Appellant then rang the Local Authority. The person there said she would take a note of the patient but then said it was not their responsibility because it was a psychiatric case and that the Appellant should get back to the Access and Crisis Team to confirm that the patient needed to be assessed.

111. The Appellant told us that he rang the Access and Crisis Team that same afternoon and told them that the Council would not accept the case, that it was an acute crisis and that an assessment was required. The Team accepted the referral.

112. Given all that the Appellant did not know why there was a message in the book early on 6 January asking him to call the Access and Crisis Team (E166) and he could not say why he signed against the message on 6 January because that would denote that he had called them (which he had not).

113. The Appellant said that his interview with Dr Elliott on 29 October 2015 was the first time he heard that the referral had not been completed. It was also recorded in the Minutes of that meeting that the Appellant said that he had called the Access and Crisis Team several times but had not been able to get through and that the referral had not been completed because of communication problems. The Appellant then said that he could not remember what had happened, that he accepted there was no note in the clinical

records and that it was possible that he did not get through to the Team.

114. Salma Kauser Bibi worked at the surgery from 2006 to 2008 as a receptionist/admin worker. She was a patient of the Appellant. She described the surgery as a lovely, almost family environment and the Appellant as always kind and approachable, never rude and always happy to talk or listen to concerns. He had good relationships with colleagues.

115. Salma Javed worked as a receptionist on and off at the surgery for 14 years until October 2015 and was his patient. She found the Appellant very professional and a good colleague, never disrespectful to colleagues, even when frustrated by things going wrong, and very caring for his patients. He had great team spirit and never shirked seeing patients.

116. Ms Javed never witnessed any bullying and described the Appellant as assertive rather than aggressive. The Appellant was a thorough and caring doctor. He had diagnosed a problem in her child that the hospital had failed to spot.

117. To begin with Mr Qureshi just had a bloods clinic in the morning and then from 2011 ran an emergency clinic for non-booked patients in parallel with the bloods clinic in different rooms. He would order repeat prescriptions and see a range of patients when the partners were busy. He would triage patients and then get prescriptions signed by doctors. He would just take down the patients' symptoms and take their blood pressure.

118. These clinics were set up by Ms Asif. She and Dr Ghafoor made most of the decisions. Mr Qureshi was referred to in the practice as "doctor" out of respect as he was studying for his PLAB exam at the time. Patients referred to him as doctor but most knew he was not a doctor as he was not allowed to sign prescriptions.

119. Saba Hasan was employed at the surgery between 2006 and 2008 as a receptionist and was the Appellant's patient. She never saw him being rude or aggressive to staff: he was always calm, professional and supportive and the most approachable of all senior management.

120. She never saw the Appellant attempt to avoid duties and always saw all his list. He was extra-vigilant with urgent referrals and on a number of occasions would ask her to keep an eye out for patients.

121. The Appellant produced 55 pages of references from medical colleagues, patients, former employees and community members. These all testify to his high medical standards and committed patient care.

Submissions of the parties

122. In order to give the Appellant the best opportunity to make his case we adjourned at the end of the oral evidence and had sequential written submissions from the Respondent, answered by the Appellant and with the Respondent having a response.
123. Mr Corrie submitted that the decision should rest upon our assessment of the credibility of all the witnesses. For the Appellant's case to be accepted, we would need to find that the Respondent's witnesses were lying. The Appellant was unable to suggest a motive for this although he submitted appraisal documents after the hearing in which he alleged persecution, character assassination and bullying by Dr Ghafoor and Ms Asif. Such a degree of collusion is implausible and is counter to the evidence.
124. Mr Corrie submitted that the Appellant had a strong motive to mislead the Tribunal to protect his career and reputation and that his evidence was vague, evasive, defensive, confused, poorly recollected and self-serving and in contrast with the manner in which the Respondent's witnesses gave their evidence.
125. On Issue 1 Mr Corrie submitted that the Appellant realised that Patient A needed urgent attention but failed to provide it and left the surgery before she arrived and gave no handover note and did not check whether Dr Ali was still on the premises. He left it to Mr Qureshi to see her and administer adrenaline.
126. On Issue 2 Mr Corrie submitted that Mr Qureshi was routinely required by the Appellant to work outside his job description and that the Appellant's case appeared to be that this also happened when the Appellant was absent.
127. The records made it clear that Mr Qureshi at the least examined patients and took their histories. Ms Javed, the Appellant's witness, had confirmed that Mr Qureshi saw patients who could not be booked into the Appellant or Dr Ghafoor's clinic.
128. The Appellant must have known what Mr Qureshi was doing – it was a small practice with an excessive workload.
129. On Issue 3 Mr Corrie submitted that the Appellant knew that an emergency mental health referral was needed for Patient B – he initiated but did not complete it. It was not credible that the Appellant was not asked to see the patient when he was causing a disturbance on 7 January 2015.

130. On Issue 4 Mr Corrie submitted that all witnesses found the Appellant unapproachable and were nervous about approaching him, particularly about allocating him work.
131. There were credible specific allegations of bullying by Dr Ali, Ms Asif and Ms Naz as well as domineering conduct towards Mr Qureshi and an entirely inappropriate encounter with practice staff on 22 May 2015.
132. Ms Malik submitted that the evidence of the Respondent's three main witnesses of fact was unreliable. Dr Ali told the Tribunal that the patients' records were fabricated for the purpose of misleading the Tribunal and that the whole practice were liars. The first part of this was clearly not true and the second discredited the Respondent's witnesses.
133. Ms Asif was asked whether Mr Qureshi worked outside the ambit of his role when Dr Abbasi was absent from the practice and said that he did not which was manifestly untrue. The Appellant made a complaint about financial fraud against his partner Dr Ghafoor and it came to light that Ms Asif was involved in the alleged fraudulent transactions. It was submitted that Ms Asif had a motive to mislead the Tribunal.
134. Mr Qureshi gave unconvincing, contradictory, self serving and confusing evidence. He had motivation to mislead the Tribunal due to the gravity of his malpractice and consequences. It was submitted that Mr Qureshi and Ms Asif intended to mislead the Tribunal to absolve Mr Qureshi and implicate the Appellant and that Mr Qureshi's entire evidence was discredited.
135. It was submitted that the Appellant gave detailed and comprehensive responses to provide a clear picture to the Tribunal and was guarded when responding to questions given that his livelihood rested upon this case.
136. On Issue 1 Dr Abbasi adequately and appropriately triaged the patient in that he completed a detailed assessment over the telephone and established that the patient ought to have an examination by a doctor before the New Year holiday. The patient was booked to see the first available doctor and he asked to be informed when she arrived but he was not informed. Dr Ali saw the patient who arrived at 1329 and was logged by Mr Qureshi as seen at 1407 and left at 1520.
137. Dr Ali, in her complaint letter dated 20 May 2015, E148, stated "She (patient A) presented to the practice at 2pm with her partner, was booked in healthcare assistance clinic, who carried out an initial assessment... He went to look for GP, he spoke with Dr Abbasi, who told him to give her Adrenaline, he then left the practice." This was

the earliest account of the incident recorded by Dr Ali when she was more likely to have been able to recall what happened.

138. It was submitted that Mr Qureshi did not speak to the Appellant before asking Dr Ali to administer adrenaline and that the suggestion that adrenaline was needed was instigated by Mr Qureshi. Adrenaline was not needed and was not administered. This was not an emergency. At hospital the diagnosis was confirmed as “Facial cellulitis, probable Erysipelas” by Consultant Mr K Ali and Dr Naomi Tomlinson (F85 – F88) and she was discharged within 4 hours.
139. The Appellant did not ask Mr Qureshi to see Patient A, dealt competently with the case and did not compromise her safety.
140. On Issue 2 Mr Qureshi lied in saying that he did not work outside his role in the Appellant’s absence. This was supported by Ms Asif who also lied. Ms Khan considered Mr Qureshi’s clinic to be a GP clinic irrespective of whether the Appellant was present or not and booked patients accordingly. Mamoona Naz confirmed in her oral evidence that when both partners were away in October 2014 clinics were booked for patients to see Mr Qureshi as an alternative to seeing a GP. She also confirmed that these clinics were set up by the practice manager, Ms Asif.
141. Dr Ali’s evidence, and in particular paragraph 26 of her witness statement, was “... Ubaid would present me with a prescription, he would give me the patient’s history and would tell me what he found. I would then see the patient and do my own examination and would then decide whether the patient needed the presented prescription. This happened when the partners were away on bereavement...”.
142. Mr Qureshi’s patient consultations in bundle A5, pages 10, 12, 16, 18, 20, 25, 27, 30, 34, 49, 67, 74, 93, 99, 103 and 107 which were in the nature of GP consultations took place when the Appellant was not at the surgery. Reception staff booked patients into Mr Qureshi’s triage clinics irrespective of whether the Appellant was at the practice. It is clear that he saw such patients when, for example, Dr Ali and Dr Baber were on duty.
143. The Appellant was not aware that Mr Qureshi was acting outside his role. From 2014 new reception staff under the direction of Ms Asif without a full understanding of the role of the healthcare assistant or the emergency appointment triage protocol and under the pressure of meeting appointment targets and in light of being short of clinical staff may have booked patients to see Mr Qureshi as a GP rather than to triage patients without any influence or encouragement from the Appellant.
144. Ms Malik accepted that Mr Qureshi was working outside his job description but submitted that the Respondent was unable to prove

that the Appellant was aware or encouraged the activities.

145. Her alternative submission was that, if the Tribunal makes a finding that the Appellant did know Mr Qureshi was acting outside his remit, the Respondent has resolved this issue directly with the partners and the Tribunal is not required to make a determination of the issue. The Respondent has formally written to the Practice partners to resolve this issue and to seek confirmation Mr Qureshi's unlawful activities are relinquished so that the issue is now resolved.
146. On Issue 3 Ms Malik submitted that the Appellant arranged Patient B's referral to the Access and Crisis team for a patient mental health assessment as documented in the patient record (E105) on 5 January 2015. He then spoke to the Access and Crisis Team regarding this referral and the referral was accepted. The receptionists who were involved in arranging this referral were Rizwan Aslam and Atia Javeed and not Mamoon Naz.
147. The record entry made by the receptionist at E104 to E105 states that she was trying to call the Appellant. It was submitted that he eventually did receive the message directly from reception staff calling him and not from the entries made in the telephone book. Ms Malik suggested that he called the Access and Crisis team, unaware of what had been entered into the patient record.
148. Audit trails (R2) show the receptionist's consultation entry made under Mamoon Naz's login on 5 January 2015 (E104 to E105) was edited on 7 January 2015 under Rizwana Aslam's login entry to add "Riz Aslam". It is suggested that this confirms Rizwana Aslam was the receptionist working with the Appellant on the referral. It is suggested that Rizwana Aslam's message confirms she was the receptionist trying to get hold of the Appellant and that she had left the message in the message book. It remains unresolved as to why Mamoon Naz made her entry into the telephone message book on 6 January 2015 (E166). It was submitted that the Appellant signed his initials against the message in the telephone book (E166) as he had dealt with that message on 5 January 2015.
149. Ms Malik submitted that Patient B was booked in for an appointment with Dr Ali at 11:10 on 7 January 2015. The patient is also entered into slots 12:30 and 12:40, presumably so that Dr Ali could continue arranging the referral. Patient B's appointment slot history shows the patient was seen by Dr Ali at 11:53 and left 14:01 (E22). Dr Ali's witness evidence states she left surgery at 14:30 (E143). This corroborates that the Appellant was not aware that the patient was at the practice until he saw Patient B in the waiting area with the police.
150. Ms Asif's evidence to the contrary should be discounted on the basis of her unreliability and Ms McQue's evidence to the contrary is

inadmissible as her witness statement was put in as hearsay. Dr Elliott's investigation was incomplete in that he did not interview Ms Aslam or Ms Javeed or the Access and Crisis Team. The Respondent could not prove that the Appellant had failed to complete the referral of Patient B.

151. On Issue 4 Ms Malik submitted that Dr Ali had spontaneously accepted that anyone would have confronted her angrily after she had caused their suspension as the Appellant had done in May 2015.

152. Ms Asif's evidence of chronic bullying was unreliable as her evidence was false. Alternatively the text message correspondence between the Appellant and Ms Asif (A2, pages 1-7) between 23 September 2014 to 22 May 2015 is pleasant and indicative of a polite and professional relationship inconsistent with Ms Asif's allegations about the Appellant's conduct towards her.

153. Mr Qureshi said the Appellant was "nice and respectful", that they had a "good, professional relationship". He said that they occasionally had disagreements for example the Appellant was sensitive and sometimes became upset about Mr Qureshi being aggressive. Ms Malik submitted that Mr Qureshi's oral evidence discredited his witness statement, the allegation he was bullied and harassed by the Appellant and in particular his complaint in his witness statement para 35 page E6 that "I would feel pressurised into working outside my competency by seeing patients as if I was a GP. I did not want to do this but it was very difficult to say no to Dr Abbasi. Dr Abbasi intimidated me as his attitude would be unpredictable".

154. Sobia Ul Haq (E151) stated in her witness statement that she felt scared around the Appellant and that his facial expressions and unpredictable moods made her feel uncomfortable. She stated if prescriptions needed signing, that she would go to Dr Ghafoor. In oral evidence, however, Ms Ul Haq confirmed she did not see Dr Abbasi much. She said "he never said anything mean, he was just unapproachable".

155. The Appellant's witness Salma Kauser Bibi (F9) worked as a receptionist for 2.5 years with him between 2006 to 2008 and stated that he was kind and approachable and never rude. In addition Ms Malik relied upon character references from a large number of the Appellant's professional colleagues and former staff members of the practice that tended to refute accusations of bad temper and bullying.

156. In his response Mr Corrie reminded us that the Appellant had sought to introduce additional documentation which was not available before the Tribunal at the hearing (Schedules A and B & Dr Abbasi's appraisal) so that the Respondent had been prejudiced in its ability to challenge these documents as they were not available in advance of or during the oral hearing. It had therefore been impossible to either

ask questions of the Respondent's witnesses or to cross examine Dr Abbasi as to their contents.

157. He further submitted that throughout the Appellant's submissions reference was made to matters which were never put to the witnesses giving as examples:

(a) Paragraph 3 bullet point 6. It is not established that a fraud has occurred or that, if it has, Ms Asif had any role in it. More importantly, this was not put as a motivation to mislead as is now suggested;

(b) Paragraph 3 bullet point 7: it was never suggested to Mr Qureshi that a wish to hide his own malpractice was a motivation for not telling the truth;

(c) Paragraph 11, the significant event report is referred to, this was not at any stage referred to in the evidence and was not put to Ms Asif;

(d) Paragraph 18, it was never suggested to either Dr Ali or Mr Qureshi that adrenaline was not administered on 31 December 2014;

(e) Paragraph 36, it is suggested that when Mr Qureshi wrote d/w in the notes these were consultations which he conducted himself with no reference to a doctor. This was not suggested to Mr Qureshi in evidence.

158. The parties returned for oral submissions on 3 May 2017.

159. Mr Corrie urged us not to speculate about the absence of Dr Ghafoor from these proceedings. He submitted that Dr Ali's evidence was credible. She had rejected the offer of a partnership – she had no motive to lie against the Appellant to obtain a partnership. He had provided no evidence of the financial or partnership disputes to found such a submission.

160. Dr Ali's evidence about the clinical records was wrong but her evidence, particularly in relation to Patients A and B where it was corroborated by the clinical records, was accurate. She had no personal agenda and wanted to tell the truth: no evidence of collusion or conspiracy against the Appellant was put to any of the Respondent's witnesses. The Appellant had asserted in his own evidence that there was a reason for that collusion but declined to say what it was.

161. The evidence on Issue 2 that Mr Qureshi only worked as if a GP when the Appellant was in the surgery was wrong but understandable. For Ms Asif and Mr Qureshi it was difficult to admit that they had been parties to a breach of good practice. Their evidence was in other respects open and responsive.

162. Ms Asif's involvement with Dr Ghafoor in a financial fraud had not been put to Ms Asif in cross-examination.

163. On Issue 1 Mr Corrie submitted that there was a medical emergency and the Appellant should have been in the surgery to treat Patient A. It was necessary to give the patient adrenaline and this is what happened. The Appellant was not prepared to address his failure to deal properly with the patient.
164. On Issue 2 Mr Corrie submitted that it was inconceivable that the Appellant could have been unaware that Mr Qureshi was acting as a doctor until notified of the allegations against him. Mr Qureshi was referred to by all alike as “Doctor” in a small surgery with patients listed to be seen by him and with him discussing those patients with the Appellant after he had examined them.
165. On Issue 3 the Appellant had accepted in his interview with Dr Elliott that he had not completed the referral of Patient B after he had been asked to call the Crisis and Access Team to discuss the case. On February 7 the Appellant would have been the first port of call for the reception staff when Patient B had returned and was being noisy and aggressive.
166. On Issue 4 Mr Corrie asked us to accept that all the incidents complained of were true.
167. Mr Corrie submitted that the Appellant’s evidence was vague and he was reluctant to answer simple questions. It was also inconsistent: he had told Dr Elliott that he never called Mr Qureshi “doctor” but told this Panel that he did so out of respect; in relation to Patient B he told Dr Elliott he could not remember, but also that he had telephoned the Access and Crisis Team back.
168. In effect the Appellant was making up his evidence to the Panel as he went along to avoid the consequences: he had no insight into his behaviour and weaknesses.
169. Ms Malik submitted that the Appellant dealt appropriately with Patient A as a non-urgent case, properly triaged. The patient had cellulitis and was discharged from A & E in 4 hours. There was no risk to patient safety. There were inconsistencies about giving the patient adrenaline and prednisolone.
170. On Issue 2 Ms Asif and Dr Ali had clearly lied about when Mr Qureshi had worked outside his role. The Appellant was only aware that he had done this after the allegations were made against him in early 2016. Mr Qureshi’s entries into patients’ records “d/w Dr Abbasi” were false. The Appellant’s only involvement was to see a patient to tell Mr Qureshi whether a patient needed to see a GP as an emergency.
171. New staff had no training so did not know Mr Qureshi’s role; Ms Javid and Ms Hasan were unaware that Mr Qureshi was working outside his role. The Appellant was absent from 25 September to 3 November 2014 and then his mother was ill until March 2015 so that

he was not aware of Mr Qureshi's activities. The Appellant had no administrative responsibilities at the practice.

172. On Issue 3 there was no evidence that the referral of Patient B was rejected on 5 January 2015. Dr Ali completed a referral on 7 January because she was helped by the police. It was reasonable that the Appellant could not have followed the referral up before the patient returned on 7 January.

173. The evidence that the Appellant refused to see Patient B on 7 January should be rejected because of Dr Ali's bias and Ms McQue's absence from the hearing. The Appellant does not remember Ms McQue speaking to him on 7 January. He was with a patient and could not hear Patient B shouting.

174. On Issue 4 Ms Malik reminded us that Dr Ali and Mr Qureshi had not alleged that the Appellant had bullied them and otherwise relied on her written submissions.

175. Ms Malik submitted that the allegations against the Appellant were a collusion resulting from his complaint against Dr Ghafoor. Until then he had a clean record. Dr Ghafoor had offered Dr Ali a partnership but the Appellant vetoed it because there was no room for a third partner and he did not believe Dr Ali was up to partnership standard.

176. Ms Malik sought to introduce a supplementary bundle of documents to support her case. We refused permission on the grounds that several deadlines for filing evidence had passed and the prejudice to the Respondent outweighed the probable probative effect of the new evidence, untested as it would be by cross-examination.

177. Finally we asked Ms Malik about the Appellant's proceedings before the MPTS. She replied that he had been cleared of both matters before it. Mr Corrie told us that those matters were unrelated to the subject matter of this appeal and that the decision of this Panel was awaited by the MPTS for further consideration.

Findings of fact

178. The Appellant has at all material times been a GP partner with Dr Ghafoor in a 2-partner practice in Rochdale.

179. During this time Dr Ali has been a long-term locum.

180. There has been a dispute between the partners regarding finance and practice management since at least 2014.

181. The practice manager Saba Asif is an ally of Dr Ghafoor, rather than of the Appellant.

182. The practice has approximately 5,500 registered patients.

183. On the morning of 31 December 2014 the Appellant spoke to Patient A, who was known to him as a patient with a complex health condition and learning difficulties, after a nurse had requested a home visit for her.
184. The Appellant considered cellulitis the most likely diagnosis of Patient A's condition but had not excluded an allergic reaction.
185. Rather than visit her or arrange an ambulance (either of which we find he should have done, the Appellant asked her to come into the surgery about lunchtime but did not make a written record of his conversation with her in her clinical records.
186. The Appellant left the surgery at about 1pm without having checked whether Dr Ali would remain in the surgery to see Patient A and without making any record of the telephone encounter.
187. The Appellant told Mr Qureshi that Patient A would be coming into the surgery, that the patient might have an allergic reaction and might need adrenaline.
188. Patient A arrived at about 1330 and was an immediate cause for grave concern. She was taken to Mr Qureshi's room whereupon Mr Qureshi sought Dr Ali's help, having noted a thready pulse and being unable to find a blood pressure.
189. Dr Ali administered adrenaline by injection and Ms Asif helped the patient by holding an oxygen mask to her face until the ambulance arrived.
190. The Appellant telephoned Ms Asif about 2pm to check whether the patient had arrived whilst Ms Asif was holding the oxygen mask and she did not take the call.
191. Patient A was taken by ambulance to hospital. A diagnosis of cellulitis was confirmed and treated.
192. Mr Qureshi was at the material time not qualified as a doctor in the UK. He was employed at the practice as a Healthcare Assistant.
193. His job description included urinalysis and measuring and recording blood pressure, pulse, temperature, height, weight and BMI, venepuncture, ECG, spirometry, flu clinics and B12 injection clinics.
194. In addition to these tasks Mr Qureshi took clinical histories, examined patients and prepared prescriptions for a doctor to sign.
195. This did not occur only when the Appellant was on duty.

196. The abbreviation used by Mr Qureshi in patient records “d/w” meant “discussed with”.
197. The practice was under pressure because of its increasing patient numbers and financial constraints and the partnership dispute.
198. Mr Qureshi was asked to run clinics to see patients who arrived without appointments and patients who could not be fitted into the clinic of one of the on duty doctors.
199. Mr Qureshi was widely referred to as “Doctor Ubaid or Doctor Qureshi” by practice staff including the partners and by and in front of patients.
200. The Appellant was at all times well aware of Mr Qureshi’s activities outside his permitted scope and duties at all material times and chose to benefit from them.
201. The Appellant saw Patient B on the morning of 5 January 2015 and had a referral letter faxed to the Access and Crisis Team at Pennine Acute Hospitals NHS Trust.
202. This reflected the Appellant’s view that Patient B needed assessment with a view to voluntary or compulsory admission to hospital.
203. The Appellant was told by that Team to refer Patient B to the Duty Team in the Adult Social Services Department of the Local Authority. He asked Rizwana Aslam to telephone them. She was told that the referral should be sent to the Access and Crisis Team. She faxed the referral to the Access and Crisis Team for the second time.
204. The Access and Crisis Team telephoned back asking the Appellant to contact them to discuss the position as they could not accept the referral.
205. The Appellant did not call the Team back despite a request in the message book that he countersigned.
206. The Appellant refused to see Patient B when he was at the surgery for several hours on 7 January 2015 despite being notified that Patient B was there and being the on-call partner.
207. The Appellant was unapproachable in the surgery and staff were reluctant to ask him to undertake work tasks, preferring to go through Ms Asif.
208. The Appellant was on occasions bad-tempered, swearing and using derogatory language to staff or about patients.

209. On 22 May 2015 after his suspension the Appellant behaved threateningly to a number of his staff and in particular to Dr Ali, reducing her to tears.

Decision

210. We find allegations 1, 2 and 3 proved on the balance of probabilities having taken into account the cases of Re B [2008] UKHL 35, Re H (Minors) [1996] AC 563 and Secretary of State for the Home Department v Rehman [2001] UKHL 37 relied upon by Ms Malik.

211. We do not find allegation 4 proved to that standard.

Reasons

212. We begin with general points. We remind ourselves that we are concerned only with the Appellant and not with any responsibility for what went wrong in the practice that belongs to Dr Ghafoor.

213. The Appellant's evidence was confused and inconsistent. We explicitly reject the submission that it was clear, detailed and comprehensive. It was primarily for that reason that we considered an opportunity should be given for closing submissions to be made in writing in the first instance in order to allow the Appellant the best opportunity to put his considered case.

214. Further, the value of the cross-examination of the Respondent's witnesses on his behalf was diminished by matters not being properly put to witnesses or being put without an adequate evidential basis. Mr Corrie drew attention to some of these in his submissions which, on that point, we accept.

215. Further evidence was sought to be introduced with written submissions and at the oral hearing. We accepted into evidence the Appellant's CV because we considered it a valuable source of information which we had requested throughout the first 4 days of hearings.

216. We rejected the other documents on the ground that the time for filing evidence was long past and it would be wholly unfair to the Respondent to permit attempts to establish a case relying on documents not put to (and not seen by) witnesses and untested by cross-examination.

217. Credibility was in issue in respect of three of the Respondent's witnesses as well as the Appellant himself.

218. We found Dr Ali to be a truthful witness. We find she had no reason to give false evidence about the Appellant, in particular because we consider she rejected an offer of partnership rather than being vetoed

by the Appellant. We expressly reject the submission that she was part of a collusion or conspiracy against the Appellant.

219. Our impression was that she took her job very conscientiously and gave fair evidence in the appeal. She was wrong about Mr Qureshi's records being improved after the event and was very upset by her confusion whilst giving evidence on oath. We did not interpret her off the cuff comment about them all being liars as an attack on the credibility of the Respondent's other witnesses but as an overwhelming expression of distress at the whole process.

220. In our judgment the evidence of Mr Qureshi and Ms Asif was sound in matters of detail with one exception: they were entirely wrong (and knew it) in saying that Mr Qureshi only acted outside his job description and in effect acted as a GP when the Appellant was on the premises.

221. We consider the reason for this was as understandable as it was reprehensible: Mr Qureshi was the person involved and standing to gain financially and professionally (as an aspiring doctor) and Ms Asif was the practice manager permitting Mr Qureshi to act beyond the lawful scope of his employment. Both were embarrassed by their wrongdoing (although neither bore as much responsibility as the two GP partners) and sought to minimise it.

222. Although it is clear that Ms Asif was in closer touch and on better terms with Dr Ghafoor than with the Appellant, we do not conclude that she (or indeed Mr Qureshi) was part of the kind of comprehensive collusion or conspiracy to defraud or otherwise do down the Appellant of which he alleges himself to have been the victim.

223. We regret we did not find the Appellant a reliable witness. A large part of the reason for this may be a failure of memory compounded by a failure to record events as they happened. This cannot, however, explain all the inconsistencies in his evidence.

224. As Mr Corrie pointed out, this was the Appellant's third opportunity to tell his story and he had had professional advice and support throughout. Merely as an example, mentioning for the first time before us (and as an afterthought in these proceedings) that Patient A had not been given adrenaline because Mr Qureshi had shown him a dummy syringe seemed to us an attempt to mislead us by any means he thought up.

225. In relation to Issue 2, the whole emphasis of the Appellant's evidence was that others were also aware of Mr Qureshi's acting outside his role and that he was not wholly responsible. Whilst that may have been a response to Ms Asif and Mr Qureshi's evidence his

real case (that he was wholly unaware what was going on) appeared to be an afterthought.

226. We were so confused by the Appellant's account of his dealings with Patient B on 5 January 2015 that we asked him at the end of his evidence to tell us simply and slowly what happened. His reply was confused and left us none the wiser. He could never explain why he had told Dr Elliott that the referral was not completed on 5 January whereas he sought to persuade us it was.

227. We were extremely struck by the last passage of the oral submissions. The Chair asked Ms Malik about the state of any proceedings before the MPTS. She replied that the Appellant had been cleared on all matters. Mr Corrie intervened to say that those were unrelated matters (and we have no idea what those matters are) and that the MPTS is awaiting our decision before considering further the matters which are the subject of this appeal.

228. We are at a loss to understand why Ms Malik replied as she did without, if appropriate, having confirmed the exact subject of our question or why the Appellant did not immediately correct her, given that he was throughout the hearing prompting her and supplying information to her.

229. On Issue 1 we consider that the Appellant did indeed compromise Patient A's safety. A nurse had been sufficiently concerned to ask for a home visit. The Appellant knew that the patient had complex health issues and learning difficulties. Asking Mr Qureshi to see her some hours later and look after her including arranging for her to have adrenaline was an entirely inadequate and unprofessional response.

230. We prefer the evidence of the Respondent's witnesses who described a woman coming to the surgery extremely ill with a potentially life-threatening condition. At the very least an ambulance should have been called for her or a home visit made as a matter of urgency.

231. We believe Patient A was seen as an emergency by all staff and treated as such by Dr Ali. The fact that her condition turned out to be an infection does not affect our judgement. The Appellant had certainly not excluded an allergic reaction when he asked Mr Qureshi to deal with her. The fact that she was not breathless on the telephone was not determinative as this is a symptom which may occur later on in the condition.

232. In our view the Appellant changed his mind to say that he thought the condition was cellulitis after it turned out that this was the condition from which the patient was actually suffering. To describe his treatment of her as "spot-on" and to attempt to cast doubt on the

patient's need for adrenaline by various trivial points of difference in the witnesses' accounts showed a gross lack of insight.

233. On Issue 2 we bear in mind that this was a growing practice with over 5,000 patients serviced by two partners and a regular locum. There were financial problems which seem to have precluded appointment of a third partner. The idea that one of the partners could have been unaware of Mr Qureshi's activities is wholly implausible.

234. Further, Mr Qureshi's own records show that he took histories from and examined patients. He then "d/w" a doctor including the Appellant. We have no doubt that Mr Qureshi did just that – he ran overflow clinics, seeing patients as would a doctor and then either asked for advice in a discussion with a doctor or prepared a prescription for a doctor to sign.

235. We simply do not believe that the Appellant can have been unaware that Mr Qureshi was providing such a substantial and integral part of the practice's clinical services. As an example the whole staff and many patients called Mr Qureshi "doctor". Some staff thought he was a doctor. The Appellant's evidence to Dr Elliott was that neither he nor anyone at the practice ever called Mr Qureshi doctor whereas he told us that he did so out of respect.

236. It was telling that the Appellant's emphasis moved from a submission that this happened in his absence to saying he was unaware of it. Ms Malik's alternative submission that the dispute has been resolved with the Respondent so that we need make no finding is hopeless, given the Respondent's position in this appeal and our powers and duties.

237. On Issue 3 we conclude that the Appellant told Dr Elliott the truth – that he had not completed the referral of Patient B on 5 January 2015 and that before us he floundered between saying he had (in which case the reminder to do so in the telephone book on 6 January would have been redundant) and that he could not remember what had happened.

238. We conclude that the Appellant did not persevere in the attempt to have this patient assessed despite the fear that he needed in-patient treatment for the protection of himself and the community. When the Access and Crisis Team told Ms Aslam that they needed to speak to the Appellant himself he failed to respond by calling them. The fact that Dr Ali had to start again on 7 January is further proof that the referral was uncompleted.

239. We do not accept that the Appellant was unaware that Patient B was in reception making a disturbance on 7 January or that he was

not asked to come to see the patient: he had seen the patient 2 days before and was the on-call partner.

240. Failing to complete the referral and inadequate record-keeping were clinical failures and a complete lack of candour in dealing with the aftermath casts very great doubt on the Appellant's probity and insight.
241. On Issue 4 we do not consider the evidence of sufficient weight or cogency to find the allegation proved. There can be no doubt that the practice was divided by loyalty to one partner or the other and that the working atmosphere could be tense and unfriendly.
242. We can see from our observation of the Appellant that he may have come across as impatient and arrogant. We do not, however, have sufficient evidence of bullying or harassment to find this allegation proved to the appropriate standard.
243. In particular we accept that there was no oral evidence from Ms McQue. Without that we do not consider it would be fair to make an adverse finding on the allegation that the Appellant intended to make a false allegation of blackmail against Ms Asif. Without such a serious finding, it seems to us that what has been proved may amount to uncollegiate and discourteous behaviour but not to bullying and harassment.
244. For the reasons set out in this section we find that the Appellant's clinical failings and his lack of insight and probity make him unsuitable to be included on the Respondent's GP Performers List.

**Judge Mark Mildred
Primary Health Lists
First-tier Tribunal (Health Education and Social Care)**

Date Issued: 16 May 2017