Fitness to Practise Panel
17 March – 7 April 2008
7th Floor, St James's Buildings, 79 Oxford Street, Manchester, M1 6FQ

Name of Respondent Doctor: Dr Mohammad SHARIEF

Registered Qualifications: MB ChB 1980 University of Baghdad

Registered Address: South East

Registration Number: 4078513

Type of Case: New case of impairment by reason of: misconduct.

Panel Members: Mr J Donnelly, Chairman (Lay)
Ms K Butt (Lay)
Dr M Johnson (Medical)
Mrs S Sturdy (Medical)

Legal Assessor: Mr P Jennings

Secretary to the Panel: Miss L Meads

Representation:
GMC: Mr R Kitching, Counsel, instructed by Field Fisher Waterhouse Solicitors
Doctor: Present and represented by Mr A Hockton, Counsel, instructed by

Allegation

1. At all material times, you were employed as a Senior Lecturer in Neurology by Kings College London and were responsible for running the Multiple Sclerosis Research Clinic (MSRC) in your capacity as an employee of Kings College London;
   Admitted and found proved
2. At the material times, you were the Principal Investigator responsible for identifying and recruiting suitable eligible subjects for clinical trials at the MSRC;
   Admitted and found proved
3. In or around June 1999 you classified Patient CAG as having Secondary Progressive Multiple Sclerosis (SPMS); **Admitted and found proved**
4. In or around December 1999 you re-classified Patient CAG as suffering from relapsing remitting multiple sclerosis (RRMS) rather than SPMS, **Admitted and found proved**
   a. There was no sufficient clinical evidence to justify the re-classification of CAG, **Found proved**
   b. In or around May 2000,
      i. you admitted patient CAG onto a clinical trial, namely, the

Rebif/Avonex trial, **Admitted and found proved**

ii. Patient CAG did not fulfil the criteria for inclusion on the trial, **Found not proved**

c. You

i. knew,

ii. ought to have known,

that Patient CAG did not fulfil the criteria for inclusion on the trial;
This allegation was not made out due to the finding at 4bii

5. Your actions and/or omissions in paragraph 4(b)(i) above were
   a. inappropriate, **Found not proved**
   b. unprofessional, **Found not proved**
   c. not in the best interests of the patient, **Found not proved**
   d. dishonest; **Found not proved**
6. In or around February 2000 you classified Patient EH as having SPMS; **Admitted and found proved**
7. In or around May or June 2000 you reclassified Patient EH as suffering from RRMS rather than SPMS, **Admitted and found proved**
   a. There was no sufficient clinical evidence to justify the re-classification of Patient EH, **Found proved**
   b. In or around June 2000,
      i. you admitted Patient EH onto a clinical trial, namely, the Rebif/Avonex trial, **Admitted and found proved**
      ii. Patient EH did not fulfil the criteria for inclusion in the study in that he did not have RRMS, **Found proved**
   c. You
      i. knew, **Found proved**
      ii. ought to have known, **Found proved**

   that Patient EH did not fulfil the criteria for inclusion on the trial;
8. Your actions and/or omissions in paragraph 7(b)(i) were
   a. inappropriate, **Found proved**
   b. unprofessional, **Found proved**
   c. not in the best interests of your patients, **Found proved**
   d. dishonest; **Found proved**
9. In, or around, March or April 2002 you admitted Patient A onto a clinical study, namely, the Biogen Study, **Admitted and found proved**
   a. Patient A did not fulfil the criteria for inclusion in the study in that a cranial scan did not demonstrate **cranial** lesions consistent with MS, **Found proved**
   b. You
      i. knew, **Found proved**
      ii. ought to have known, **Found proved**

      that Patient A did not fulfil the criteria,
   c. Patient A suffered an adverse study drug reaction, **Admitted and found proved**
   d. You refused to accede to the request to unblind Patient A; **Found not proved**
10. Your actions and/or omissions in paragraph ~~9(a) to (c)~~ **and (b)** were
    a. inappropriate, **Found proved**
    b. unprofessional, **Found proved**
    c. not in the best interests of your patients, **Found proved**
    d. dishonest; **Found proved**
11. Your actions and/or omissions in paragraph 9(d) were
    a. inappropriate,
    b. unprofessional,
    c. not in the best interests of your patients;

    This allegation was not made out due to the finding at 9d
12. In or around September 2002 you admitted Patient E onto a clinical trial, namely, the Active Biotech trial, **Admitted and found proved**
    a. Patient E did not fulfil the criteria for inclusion in the study in that Patient E had not suffered relapses within the last 12 months,

Found proved

b. You
    i. knew, **Found proved**
    ii. ought to have known, **Found proved**

that Patient E did not fulfil the criteria for inclusion on the trial,

c. You fabricated a letter, dated 22 January 2001, which purported to be to E's General Practitioner (GP), Dr L, **Found proved**
d. In the above letter you falsely claimed to have spoken to Patient E's GP; **Found proved**

13. Your actions and/or omissions in paragraph 12, 12(c) and 12(d) were
    a. inappropriate, **Found proved**
    b. unprofessional, **Found proved**
    c. not in the best interests of your patients, **Found proved**
    d. dishonest; **Found proved**
14. In, or around, November 2002 you screened Patient RYP as being suitable for inclusion on a clinical trial, namely, the BMS-188667 trial, **Found proved**
    a. Patient RYP did not fulfil the criteria for inclusion in the study in that Patient RYPwas **Admitted and found proved**
        i. not clinically stable, **Found not proved**
        ii. not free of exacerbations in the 2 month period prior to signing informed consent, **Admitted and found proved**
    b. You
        i. knew, **Found proved**
        ii. ought to have known, **Admitted and found proved**

    that Patient RYP did not fulfil the criteria for inclusion on the trial;
15. Your actions and/or omissions in paragraph 14 were
    a. inappropriate, **Found proved**
    b. unprofessional, **Found proved**
    c. not in the best interests of your patients, **Found proved**
    d. dishonest; **Found proved**
16. In, or around, November 2002 you screened patient MM as being suitable for inclusion on a clinical trial, namely, the BMS-188667 trial, **Found proved**
    a. Patient MM did not fulfil the criteria for inclusion in the study in thatPatient MM **Admitted and found proved**
        i. did have exacerbations of MS, **Admitted and found proved**
        ii. was not clinically stable for two months prior to informed consent and during the run in period including the day of dosing, **Admitted and found proved**
    b. Patient MM fulfilled the criteria for exclusion on the trial in that Patient MM had received corticosteroids within three months prior to informed consent, **Admitted and found prove**
    c. You
        i. knew, **Found proved**
        ii. ought to have known, **Admitted and found proved**

    that Patient MM did not ~~meet~~ **fulfil** the inclusion criteria for the trial,

    d. You
        i. knew, **Found proved**
        ii. ought to have known, **Admitted and found proved**

    that Patient MM fulfilled the criteria for exclusion from the trial,

    e. You sought to justify your actions to Professor F, the Head of your Department, by reference to an outdated trial protocol, **Admitted and found proved**
    f. You
        i. knew, **Found proved**
        ii. ought to have known, **Admitted and found proved**

    that the protocol had been updated;
17. Your actions and/or omissions in paragraph 16~~(a) to (d) and (f)~~ were

a. inappropriate, **Found proved**
b. unprofessional, **Found proved**
c. not in the best interests of your patients, **Found proved**
d. dishonest; **Found proved**

18. Your actions and/or omissions in paragraph 16(e) were
    a. misleading, **Found proved**
    b. unprofessional, **Found proved**
    c. dishonest; **Found proved**
19. On, or around, 10 October 2001 you forged the signature of Dr G on a ~~Federal Drugs Authority~~ representations and warranties document; **Found proved**
20. Your actions were
    a. misleading, **Found proved**
    b. unprofessional, **Found proved**
    c. dishonest; **Found proved**
21. On 18 April 2002 you sent an e-mail to Sister H, a research sister at the Multiple Sclerosis Research Clinic, in which you asked her to append a signature purporting to be your own on an internal King's College research grant form; **Found proved**
22. Your actions in paragraph 21 were
    a. misleading, **Found proved**
    b. inappropriate, **Found proved**
    c. unprofessional, **Found proved**
    d. dishonest; **Found proved**

And by reason of the matters set out above your fitness to practise is impaired because of your misconduct." Found proved

Dr Sharief: The Panel has given careful consideration to all the evidence adduced in this case including the witness statements of Dr I, General Practitioner, and of Patient E. It has heard the oral evidence of Sister H, Senior Research Manager, Professor F, retired Deputy Head of the Department of Clinical Neurosciences, Dr J, Registrar in Neurology, Professor K, Professor of Clinical Neurology and a Consultant Neurologist, Dr L, General Practitioner via videolink, Dr G, Clinical Lecturer in Neurology, Professor M, Professor of Neuroradiology and an Honorary Consultant, and your own evidence.

The Panel also had the benefit of hearing evidence from Dr N, Consultant Neuroradiologist, and Dr O, Reader in Clinical Neurology and a Consultant Neurologist, both experts on behalf of the General Medical Council (GMC) and from Professor P, Professor of Clinical Neurology, an expert called on your behalf.

The Panel had regard to the expert evidence of Dr O and Professor P. Where there were differences between these experts the Panel preferred the evidence of Dr O. It noted there were significant differences between Professor P's two reports in 2006 and in 2008.

The Panel has taken account of the submissions made by Mr Kitching on behalf of the GMC and those of Mr Hockton on your behalf.

It has borne in mind that the burden of proof rests on the GMC and that the standard of proof required is that the Panel has to be satisfied so that it is sure that the facts have been proved.

At the start of the hearing, Mr Hockton made the following admissions on your behalf: paragraphs 1, 2, 3, stem of 4, 4(b)(i), 6, stem of 7, 7(b)(i), stem of 9, 9(c), stem of 12, 14(a), 14(a)(ii), 14(b)(ii), 16(a), 16(a)(i), 16(a)(ii), 16(b), 16(c)(ii) (as amended), 16(d)(ii), 16(e) and 16(f)(ii). These have already been announced as found proved.

The Panel has considered each remaining paragraph separately and has determined the following:

Patient CAG

Paragraph 4(a) has been found proved. Having classified Patient CAG in June 1999 as having secondary progressive multiple sclerosis (SPMS) you reclassified her in December 1999 as having relapsing remitting multiple sclerosis (RRMS). The Panel heard from both experts about the need for good evidence before reclassifying a patient from SPMS to RRMS. There was a history of SPMS throughout Patient CAG's notes. The only evidence that you used to reclassify Patient CAG as suffering from RRMS was a clinically ambiguous letter from the patient's general practitioner (GP). Until you received this letter, it was clear not only to yourself but to numerous other doctors that Patient CAG had SPMS. You told the Panel that you spoke on the telephone to the patient's GP but you did not make a note of this significant and important conversation that led to your reclassifying the patient. Additionally you did not make any notes in the patient records about your decision, nor did you see the patient before you reclassified her.

Paragraph 4(b)(ii) has been found not proved. The Panel could not be sure that in or around May 2000, Patient CAG did not fulfil the criteria for inclusion on the Rebif/Avonex trial.

As paragraph 4(b)(ii) has been found not proved paragraphs 4ci and 4cii fall.

Paragraph 5, which relates to your actions in admitting the patient to the trial in May 2000 and not to your reclassifying her in December 1999, has been found not proved in its entirety.

Patient EH

Paragraph 7(a) has been found proved. Having classified Patient EH in February 2000 as having SPMS you reclassified him three or four months later as having RRMS. You said in your evidence that your main basis for reclassifying Patient EH as suffering from RRMS rather than SPMS was that the patient had bounced back after receiving physiotherapy. The only record of the patient receiving physiotherapy was in 1997, three years before the reclassification. In the light of the background material, the Panel has accepted Dr O's evidence that there was no evidence to justify the reclassification of this patient.

Paragraph 7(b)(ii) has been found proved. Patient EH did not fulfil the criteria for inclusion in the study in that he did not have RRMS.

Paragraphs 7(c)(i) and 7(c)(ii) have been found proved. You had Patient EH's history in the material dating back to 1998 and were aware of that history. You knew the criteria in the trial protocol. You deliberately reclassified this patient when you knew that Patient EH did not fulfil the criteria for inclusion on the trial.

Paragraph 8(a) has been found proved.

Paragraph 8(b) has been found proved.

Paragraph 8(c) (as amended) has been found proved.

Paragraph 8(d) has been found proved.

The Panel has judged that your actions in admitting Patient EH onto the Rebif/Avonex trial were inappropriate, were unprofessional, were not in the best interests of your patient and were dishonest.

Patient A

Paragraph 9(a) (as amended) has been found proved. You reported that there were a number of lesions (either 9 or 18) consistent with MS on the cranial MRI scan which you saw. Although the Panel accepted that the late Dr Q reported that there was one or two minute focal abnormalities on that MRI scan, it has accepted

the evidence from Professor K, Professor M and Dr N that the scan did not demonstrate any cranial lesions consistent with MS.

The Panel has not considered the earlier MRI scan used in the CORAL study, as you had not seen it and did not report on it.

Paragraphs 9(b)(i) and 9(b)(ii) have been found proved. You knew that Patient A did not fulfil the criteria for inclusion onto the Biogen Study.

Paragraph 10(a) (as amended) has been found proved.

Paragraph 10(b) (as amended) has been found proved.

Paragraph 10(c) (as amended) has been found proved.

Paragraph 10(d) (as amended) has been found proved.

The Panel judged that your actions in admitting Patient A onto the Biogen Study when you knew that Patient A did not fulfil the criteria for inclusion were inappropriate, were unprofessional, were not in the best interests of the patient and were dishonest.

Paragraph 9(d) has been found not proved. The Panel is not satisfied that your email correspondence amounts to a refusal to unblind Patient A.

As paragraph 9 has been found not proved paragraph 11 falls in its entirety.

Patient E

Paragraph 12(a) has been found proved.

Paragraphs 12(b)(i) and 12(b)(ii) have been found proved.

Paragraph 12(c) has been found proved.

Paragraph 12(d) has been found proved.

The Panel has noted that:

1. there is no evidence of Patient E's relapse in her GP records,
2. there is no evidence of Patient E's relapse in her hospital records,
3. there is no evidence of Patient E's relapse reported in her diaries, and
4. Patient E has no recollection of a relapse, although the Panel accepts that her memory has been affected by the disease.

When asked by Sister H about Patient E's lack of documented relapses you produced a letter that you said you had written to her GP following a telephone conversation you had with the GP about a relapse. This letter was dated 22 January 2001 although it has been accepted that this was an error and should be 22 January 2002. The letter was addressed to Dr L, who was not at that time Patient E's GP. Since April 2001 her GP had been Dr I. Dr I confirmed that there is nothing in Patient E's GP records to show:

1. that Patient E had either seen or spoken to Dr I,
2. that Dr I had telephoned you about Patient E, or
3. the letter you had sent to Patient E's GP.

The Panel did not believe your account of the telephone call you say you received before you claimed to have written the letter in January 2002.

Paragraph 13(a) has been found proved.

Paragraph 13(b) has been found proved.

Paragraph 13(c) (as amended) has been found proved.

Paragraph 13(d) has been found proved.

The Panel has found that you fabricated the letter, dated 22 January 2001, which purported to be to E's GP, Dr L, in which you falsely claimed to have spoken to E's GP. The letter contained false information about a relapse. Patient E did not, therefore, fulfil the criteria for inclusion in the Active Biotech study in that she had not suffered documented relapses within the last 12 months. You knew that she did not fulfil the criteria for inclusion on the trial. Your actions in this regard were inappropriate, were unprofessional, were not in the best interests of your patient and were dishonest.

Patient RYP

The stem of paragraph 14 has been found proved. The Panel found that on 18 November 2002 there was a screening visit for the BMS 188667 Trial in respect of Patient RYP at which you screened her as suitable for inclusion in the trial.

Paragraph 14(a)(i) has been found not proved. The Panel could not be sure that Patient RYP was not clinically stable on the date of inclusion, although there were clearly times during the previous two months at which she was not stable.

Paragraph 14(b)(i) has been found proved. You knew that Patient RYP did not fulfil the criteria for inclusion on the trial as you had seen her six days before you screened her and you knew that she was not clinically stable throughout the two month period prior to signing informed consent and that she had had a relapse in October which was clearly within that two month period.

Paragraph 15(a) has been found proved.

Paragraph 15(b) has been found proved.

Paragraph 15(c) (as amended) has been found proved.

Paragraph 15(d) has been found proved.

Your actions in screening Patient RYP as suitable for inclusion when you knew that she did not fulfil the criteria for inclusion on the trial were inappropriate, were unprofessional, were not in the best interests of your patient and were dishonest.

Patient MM

The stem of paragraph 16 has been found proved. The Panel found that, on 11 November 2002, there was a screening visit for the BMS 188667 Trial in respect of Patient MM at which you screened her as suitable for inclusion in the trial.

Paragraphs 16(c)(i) (as amended) and 16(d)(i) have been found proved. The Panel found that you knew that Patient MM was not clinically stable for the two months prior to informed consent and that she had had exacerbations during that period. On 8 November 2002 you knew that Patient MM had had intravenous steroids in early October, yet you screened MM as suitable on 11 November 2002. You knew that MM did not fulfil the inclusion criteria for the trial and you knew that MM fulfilled the criteria for exclusion from the trial.

Paragraph 16(f)(i) has been found proved. You knew the protocol had been updated as you signed the amendment to the protocol.

Paragraph 17(a) (as amended) has been found proved.

Paragraph 17(b) (as amended) has been found proved.

Paragraph 17(c) (as amended) has been found proved.

Paragraph 17(d) (as amended) has been found proved.

You knew that MM did not fulfil the inclusion criteria for the trial; you also knew that she did fulfil the criteria for exclusion and that the protocol had been updated. Your actions in screening Patient MM as being suitable for inclusion on the BMS-188667 trial were therefore inappropriate, unprofessional, not in the best interests of your patient and were dishonest.

Paragraph 18(a) has been found proved.

Paragraph 18(b) has been found proved.

Paragraph 18(c) has been found proved.

You deliberately sought to justify your actions to Professor F, the Head of your Department, by reference to an outdated trial protocol. That was misleading, unprofessional and dishonest.

Signing of the representations and warranties document

Paragraph 19 (as amended) has been found proved. The Panel has accepted Sister H's evidence that you nominated Dr G as Sub-Investigator. Sister H did not know Dr G and would not have had the authority to nominate him as Sub-Investigator. Also, you admitted during cross-examination that it was you who nominated him for this role. The Panel accepted her evidence that she spoke to you after recognising your handwriting on the document, and that you admitted to her that you had signed Dr G's name on the document because Dr G was out of the country.

Paragraph 20(a) has been found proved.

Paragraph 20(b) has been found proved.

Paragraph 20(c) has been found proved.

Your actions on or around 10 October 2001, in forging the signature of Dr G on the representations and warranties document were misleading, unprofessional and dishonest.

Request to Sister H to sign document of your behalf

Paragraph 21 has been found proved. The Panel has had regard to the email you sent to Sister H dated 18 April 2002 in which you asked her to sign on your behalf and stated "Any old scribble will do."

Paragraph 22(a) has been found proved.

Paragraph 22(b) has been found proved.

Paragraph 22(c) has been found proved.

Paragraph 22(d) has been found proved.

Your actions in asking Sister H to append a signature purporting to be your own on an internal King's College research grant form were misleading, were inappropriate, were unprofessional and were dishonest.

Having reached findings on the facts, the Panel will invite Mr Kitching to adduce further evidence and make any further submissions as to whether, on the basis of the facts found proved, your fitness to practise is impaired. Following Mr Kitching's submissions Mr Hockton will be given the opportunity to respond on your behalf and call any evidence if he so wishes.

Determination on impaired fitness to practise

Dr Sharief: The Panel has considered whether, on the basis of the facts found proved, your fitness to practise is impaired by reason of misconduct. Mr Kitching

has submitted on behalf of the General Medical Council (GMC) that your fitness to practise is impaired. Mr Hockton, on your behalf, stated that you admit, on the basis of the findings of fact, that your fitness to practise is impaired.

You were a Senior Lecturer in Neurology at King's College London and an Honorary Consultant Neurologist at St Thomas' Hospital, and were responsible for running the Multiple Sclerosis Research Clinic at Guy's Hospital. At the material times you were the Principal Investigator responsible for identifying and recruiting suitable eligible subjects for clinical trials at the research clinic.

In or around December 1999 you re-classified Patient CAG as suffering from relapsing remitting multiple sclerosis (RRMS) rather than secondary progressive multiple sclerosis (SPMS). There was no sufficient clinical evidence to justify the re-classification of CAG.

In or around February 2000 you classified Patient EH as having SPMS. In or around May or June 2000 you reclassified Patient EH as suffering from RRMS rather than SPMS. There was no sufficient clinical evidence to justify the re-classification of Patient EH. In or around June 2000 you admitted Patient EH onto a clinical trial, namely, the Rebif/Avonex trial. Patient EH did not fulfil the criteria for inclusion in the study in that he did not have RRMS. You knew and ought to have known that Patient EH did not fulfil the criteria for inclusion on the trial. Your actions in this regard were inappropriate, unprofessional, not in the best interests of your patient and dishonest.

In or around March or April 2002 you admitted Patient A onto a clinical study, namely, the Biogen Study. Patient A did not fulfil the criteria for inclusion in the study in that the cranial scan did not demonstrate cranial lesions consistent with MS. You knew and ought to have known that Patient A did not fulfil the criteria. Your actions in this regard were inappropriate, unprofessional, not in the best interests of your patient and dishonest.

In or around September 2002 you admitted Patient E onto a clinical trial, namely, the Active Biotech trial. Patient E did not fulfil the criteria for inclusion in the study in that Patient E had not suffered relapses within the last 12 months. You knew and ought to have known that Patient E did not fulfil the criteria for inclusion on the trial. You fabricated a letter, dated 22 January 2001 [sic], which purported to be to E's General Practitioner (GP) referring to relapses. In that letter you falsely claimed to have spoken to Patient E's GP. Your actions in these respects were inappropriate, unprofessional, not in the best interests of your patient and dishonest.

In or around November 2002 you screened Patient RYP as being suitable for inclusion on a clinical trial, namely, the BMS-188667 trial. Patient RYP did not fulfil the criteria for inclusion in the study in that shewas not free of exacerbations in the 2 month period prior to signing informed consent. You knew and ought to have known that Patient RYP did not fulfil the criteria for inclusion on the trial. Your actions in this regard were inappropriate, unprofessional, not in the best interests of your patient and dishonest.

In or around November 2002 you screened patient MM as being suitable for inclusion on a clinical trial, namely, the BMS-188667 trial. Patient MM did not fulfil the criteria for inclusion in the study in thatPatient MM did have exacerbations of MS, and was not clinically stable for two months prior to informed consent. Also, Patient MM fulfilled the criteria for exclusion from the trial in that she had received corticosteroids within three months prior to informed consent. You knew and ought to have known that Patient MM did not fulfil the inclusion criteria for the trial. You knew and ought to have known that Patient MM fulfilled the criteria for exclusion from the trial. Your actions in these respects were inappropriate, unprofessional, not in the best interests of your patients and dishonest.

You sought to justify your actions to Professor F, the head of your department, by

reference to an outdated trial protocol. You knew and ought to have known that the protocol had been updated. Your actions in this regard were misleading, unprofessional and dishonest.

On or around 10 October 2001 you forged the signature of Dr G on a representations and warranties document. This was misleading, unprofessional and dishonest.

On 18 April 2002 you sent an e-mail to Sister H, a research sister at the Multiple Sclerosis Research Clinic, in which you asked her to append a signature purporting to be your own on an internal King's College research grant form. Your actions in this regard were misleading, inappropriate, unprofessional and dishonest.

In determining whether your fitness to practise is impaired, the Panel considered the GMC's Indicative Sanctions Guidance (April 2005). In particular, at paragraph 11 of section 1, it states that:

> "Neither the Act nor the Rules define what is meant by impaired fitness to practise but for the reasons explained below, it is clear that the GMC's role in relation to fitness to practise is to consider concerns which are so serious as to raise the question whether the doctor concerned should continue to practise either with restrictions on registration or at all."

Good Medical Practice (1998) states at paragraph 57 under the title "Research"

> "You have an absolute duty to conduct all research with honesty and integrity: you must follow all aspects of the research protocol…".

Similarly, the later edition in 2001 has at paragraph 52

> "You must conduct all research with honesty and integrity."

Furthermore, Good Medical Practice (2001) states at paragraph 51 under the title "Writing reports, giving evidence and signing documents"

> "You must be honest and trustworthy when writing reports, completing or signing forms …This means that you must take reasonable steps to verify any statement before you sign a document."

You disregarded this guidance and the Panel takes a serious view of your dishonest behaviour.

The Panel is aware of its responsibility to protect the public interest, particularly with reference to maintaining public confidence in the profession and upholding proper standards of conduct and behaviour. Doctors occupy a position of privilege and trust in society and are expected to act with integrity and to uphold proper standards of conduct. The public is entitled to expect that doctors will be honest and trustworthy at all times. The Panel determines that your conduct fell seriously short of the standards of behaviour that the public is entitled to expect from doctors. Your conduct also undermines public confidence in the profession.

In all the circumstances, the Panel has, pursuant to Section 35C(2)(a) of the Medical Act 1983, as amended, concluded that your fitness to practise is impaired by reason of your misconduct.

Determination on sanction

Dr Sharief: Having made and announced its finding that your fitness to practise is

impaired by reason of your misconduct, the Panel has now considered what action, if any, it should take with regard to your registration.

The Panel has taken into account the submissions of Mr Kitching, on behalf of the General Medical Council (GMC), and those of Mr Hockton, on your behalf. Mr Kitching submitted that erasure is the only appropriate sanction in this case. Mr Hockton, on your behalf, submitted that erasure is not necessary.

The Panel has also taken into account all the evidence in this case, including the bundle of references from your professional colleagues and patients.

The Panel has had regard to the GMC's Indicative Sanctions Guidance (April 2005). It has borne in mind that any sanction must be proportionate and that its purpose is not to be punitive, though it may have a punitive effect. The Panel has balanced your interests with those of patients and the wider public. The public interest includes not only the protection of patients but also the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

Firstly, it considered whether to conclude your case and take no further action: however, in the light of your misconduct and dishonesty, the Panel concluded that to take no action on your registration would be wholly insufficient.

The Panel next considered whether it would be sufficient to impose conditions on your registration. It has determined that the imposition of conditions would not adequately reflect the gravity of your misconduct, uphold professional standards or maintain public confidence in the medical profession.

The Panel then went on to consider whether it would be sufficient to suspend your registration.

It has noted the Indicative Sanctions Guidance which states:

> *"Dishonesty, even where it does not result in direct harm to patients but is for example related to the doctor's private life, is particularly serious because it undermines the trust the public place in the profession. Examples of dishonesty in professional practice could include … failing to take reasonable steps to ensure that statements made in formal documents are accurate. The Privy Council has emphasised that:*
>
> *'…Health Authorities must be able to place complete reliance on the integrity of practitioners; and the Committee is entitled to regard conduct which undermines that confidence as calculated to reflect on the standards and reputation of the profession as a whole.'"*

It goes on to say:

> *"Research misconduct is a further example [of dishonesty].The term is used to describe a range of misconduct from presenting misleading information in publications to dishonesty in clinical drug trials. Such behaviour undermines the trust that both the public and profession have in medicine as a science, regardless of whether this leads to direct harm to patients. Because it has the potential to have far reaching consequences, this type of dishonesty is particularly serious."*

The Panel has taken into account the case of Bolton v Law Society [1994]1 WLR 512 quoted in the Privy Council case of Dr Gupta v the GMC [2002] ICR 785:

> *"The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession*

brings many benefits, but that is part of the price."

The Panel has also considered the words of Lord Hoffman in the case of Bijl (Privy Council Appeal No. 78 of 2000):

> *"The Committee was rightly concerned with public confidence in the profession and its procedures for dealing with doctors who lapse from professional standards. But this should not be carried out to the extent of feeling it necessary to sacrifice the career of an otherwise competent and useful doctor who presents no danger to the public in order to satisfy a demand for blame and punishment".*

It has noted the words of Mr Justice Collins in paragraph 29 of his judgment in Giele v the GMC [2005] EWHC 2143 (Admin):

> *"I do not doubt that the maintenance of public confidence in the profession must outweigh the interests of the individual doctor. But that confidence will surely be maintained by imposing such sanction as is in all the circumstances appropriate. Thus in considering the maintenance of confidence, the existence of a public interest in not ending the career of a competent doctor would play a part."*

The Panel has given consideration to the principle of proportionality, namely the weighing of the interests of the public with your interests.

The Panel has taken account of the circumstances and the situation you were in when your misconduct occurred. You were responsible for running the MS research clinic which according to evidence heard by the Panel was highly pressurised. The Panel's view is that you regarded the trials that you were involved in as presenting an opportunity for your MS patients to receive drugs that were otherwise unavailable on the NHS. The Panel takes the view that this is entirely unacceptable and could not be justified. However, at least part of the motive for your dishonesty in relation to these trials may have been a belief that you were benefiting your patients.

Although the Panel notes that your misconduct was not related to personal financial gain, it is extremely disapproving of your dishonest actions regardless of your motivation.

The Panel considers, taking into account all the evidence before it, that you are an outstanding doctor with a particular expertise in MS. It is impressed with not only the testimonial references submitted by 23 of your professional colleagues but also with the exceptional references from 11 of your patients, which describe you as compassionate, caring, considerate and empathic. Notably they describe you as always being prepared to give them your time. The Panel also notes that the patients who are the subject of the allegation have made no complaint against you.

The Panel has noted that your misconduct occurred between five and eight years ago and that there has been no evidence that you have repeated this type of behaviour since.

Taking into account all the evidence and circumstances of this case, the Panel has concluded that your actions, although serious, are not incompatible with your continuing to be a registered medical practitioner. The Panel is satisfied that it is appropriate, proportionate and sufficient to direct that your registration be suspended for a period of 12 months. It took the view that the public interest does not necessitate the erasure of your name from the register. The Panel has determined that the maximum period of 12 months is appropriate to indicate to you, the profession and the public the unacceptability of the behaviour found in

this case.

The decision that your registration be suspended means that, unless you exercise your right of appeal, this decision will take effect 28 days from when written notice is deemed to have been served on you. A note explaining your right of appeal will be supplied to you.

Shortly before the end of the period of suspended registration your case will be reviewed by a Fitness to Practise Panel which you will be expected to attend. You will be informed of the date of this hearing in due course.

To help it assess the level of insight you have into your actions, the next Panel would be assisted by your demonstrating how you have reflected on the findings against you. It would also be helpful for that Panel to receive evidence of your continuing professional development and how you have kept your medical knowledge up to date during your 12 months' suspension.

Finally, in advance of the next hearing, you should provide the GMC with the names and addresses of professional colleagues and other persons of standing in the community to whom the GMC may apply for information as to your conduct and probity during the period of suspension.

Having concluded that your name should be suspended from the Register, the Panel is minded to consider whether it would be appropriate to order the immediate suspension of your registration. The Panel will now hear submissions on this point.

Determination on immediate sanction

Dr Sharief: Having determined that your registration should be suspended for a period of 12 months, the Panel has now considered in accordance with Section 38(1) of the Medical Act 1983 as amended, whether your registration should be suspended immediately.

The Panel has noted that Mr Kitching, on behalf of the General Medical Council (GMC) made no submissions on this issue. Ms Ensor, on your behalf, submitted that an immediate order would be disproportionate, that you pose no risk to the public or to yourself and nor would it be in the interests of your own patients.

In view of the fact that your misconduct occurred between five and eight years ago and that you have been working in unrestricted practice since then, the Panel has determined that it is not necessary for the protection of members of the public, nor is it otherwise in the public interest or your own interests to impose an immediate order.

That concludes your case.

Confirmed

April 2008

Chairman

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