

27 February 2014

In reply please quote: RF/H1-837303407
GMC Reference No: 3444935

**Please address your reply to the Medical Practitioners
Tribunal Service**
Fax 0161 240 7199

Special Delivery
PRIVATE - ADDRESSEE ONLY

Mr Muftah Eljamel



Dear Mr Eljamel

Notification of Determination by the interim orders panel (IOP)

On 26 February 2014, the interim orders panel of the Medical Practitioners Tribunal Service considered whether it was necessary to make an order under Section 41A(1) of the Medical Act 1983 (the Act).

You were present at the hearing and were represented by Mr Douglas Jessiman of Brechin Tindall Oatts Solicitors. Mr Alan Taylor, Counsellor, instructed by GMC Legal represented the General Medical Council.

At the conclusion of the proceedings of the Interim Orders Panel in your case on 26 February 2014, the Chairman announced the Panel's determination as follows:

"1. Professor Eljamel: This matter was referred to the panel by a GMC Case Examiner as annexed to the notice of hearing dated 13 February 2014, due to concerns about your clinical practice, conduct and probity raised by NHS Tayside.

2. Dr Andrew Russell, Medical Director, NHS Tayside wrote to the GMC on 20 December 2013 stating that concerns had been raised about your probity and ongoing issues with wrong site surgery. Dr Russell stated that you had been suspended from the Trust following an external review carried out by the Royal College of Surgeons. He confirmed that they were reviewing your spinal surgery cases and stated that 150 patients in the cohort were believed to be at high risk. These are patients having spinal surgery who are also attending the local pain

service. He stated that this initial audit would be completed early in the New Year.

3. In his referral letter Dr Russell enclosed a copy of the Royal College of Surgeons (RCS) report dated 16-17 September 2013 along with all the documents that they had considered. That report found that there 'was a cause for concern with [your] clinical practice.' In particular the area of concern identified by the investigators was wrong site surgery in 4 of the 14 cases reviewed. This appeared to be down to your failure to appropriately mark the correct operative level. Additional comments were made about the excessively high volume of your surgical cases with the possibility that you might have "rushed through" some of them. Concerns were also identified in regard to your openness with colleagues, working with supervisees and observations made in relation to your not having discussed errors with colleagues at Multi-Disciplinary Meetings and Morbidity and Mortality Conferences (M&M), despite at least one case having been presented at an M&M event.

4. The investigator also stated that you 'appeared to have delegated a lot of [your] responsibilities to junior colleagues which may have been a contributory factor in a number of the complaints received.' They further identified that [your] ability to communicate with patients was seen 'by some of [your] colleagues as a weakness and there were accounts of [you] not being accessible enough to patients.'

5. The report made a number of recommendations both to you and your employing Trust, including a further review and audit of your cases.

6. The panel has considered the information before it, the submissions made by Mr Taylor on behalf of the GMC and those made by Mr Jessiman on your behalf.

7. Mr Taylor submitted that in view of the concerns about your clinical practice, conduct and probity, it is necessary for the protection of members of the public and in the public interest for your registration to be subject to an interim order of at least conditions whilst investigations continue. Mr Taylor qualified his submission for "at least conditions" on the basis that the panel may consider supervision unworkable in the circumstances the range of concerns identified by the RCS report and your apparent inability to sustain changes in your practice. Mr Taylor further submitted that this is a complex case, at an early stage of investigation and therefore an order should be imposed for a period of 18 months. He explained that this would allow the GMC adequate time to enquire into all the allegations and obtain any expert reports considered necessary.

8. Mr Jessiman submitted that you accept that the panel may consider that an interim order is necessary and that an order of conditions would be appropriate to meet the concerns in this case. He told the panel that you submitted a letter of resignation in February 2014 for personal reasons. This was accepted and you leave the Trust in May 2014. He referred to the RCS report, and stated that you are not currently undertaking any clinical work. However, you would like to do so in the future, as well as continue teaching and research. He submitted that restricting you from undertaking spinal surgery would be proportionate and sufficient, (in line with

the RCS report) alternatively, supervision may be considered. He referred the panel to the case examiners' observation that there were no fitness to practise concerns in relation to the 150 patient cases on whom the internal analysis was conducted. He asked the panel to consider the positive and supportive testimonials supplied on your behalf. Mr Jessiman submitted that an order of suspension would be disproportionate in this case.

9. In accordance with Section 41A of the Medical Act 1983, as amended, the panel has determined that it is necessary to impose an interim order of conditions for a period of 18 months as follows:

1. You must notify the GMC promptly of any professional appointment you accept for which registration with the GMC is required and provide the contact details of your employer.
2. You must allow the GMC to exchange information with your employer or any contracting body for which you provide medical services.
3. You must inform the GMC of any formal disciplinary proceedings taken against you, from the date of this determination.
4. You must inform the GMC if you apply for medical employment outside the UK.
5. You must confine your medical practice to posts within the National Health Service and not undertake any private practice.
6. You must not carry out any spinal surgery.
7. You must inform the following parties that your registration is subject to the conditions, listed at (1) to (6), above:
 - a. Any organisation or person employing or contracting with you to undertake medical work
 - b. Any locum agency or out-of-hours service you are registered with or apply to be registered with (at the time of application)
 - c. In the case of locum appointments, your immediate line manager at your place of work (at least 24 hours before starting work)
 - d. Any prospective employer or contracting body (at the time of application)

10. The panel has determined that there may be impairment of your fitness to practise which poses a real risk to members of the public and which may adversely affect the public interest. After balancing your interests and the interests of the public, the Panel has decided that an interim order is necessary to guard against the risks identified.

11. In reaching its decision, the panel has considered the serious concerns identified in relation to your clinical performance and conduct detailed in the RCS report. It has noted the RCS conclusion that you should be precluded from undertaking spinal surgery. In view of the nature of the criticisms made and concerns identified, the panel considers that patient safety may be at risk and that public confidence could be undermined if you were allowed to continue to practise without restriction while these matters are fully investigated.

12. The panel considers that an order of conditions is workable, proportionate and is sufficient to protect the public and address the wider public interest, while enabling you to continue to practise, subject to particular clinical restrictions. The panel is of the view that nothing less than the requirement for restriction to NHS practice and your exclusion from spinal surgery is sufficient to guard against the risks to the public and the public interest posed by the concerns in your case.

13. In deciding on the period of 18 months, the panel has accepted the reasons given in Mr Taylor's submission that this is the length of time required in view of the wide ranging matters being at an early stage of investigation, and that expert reports may be sought.

14. The order will take effect from today and will be reviewed within six months. Notification of this decision will be served upon you in accordance with the Medical Act 1983, as amended."

Your registration will therefore, be subject to the conditions specified above for a period of eighteen months, with effect from 26 February 2014. This order will be subject to review within six months, in accordance with section 41A(2) of the Act. You must comply with the conditions on your registration. Failure to do so may put your registration at risk.

During the period that the Conditions remain in place, as long as you comply with them, you will be entitled to hold a licence to practise.

The IOP will expect to receive information relating to your compliance with the Conditions at any subsequent review of the interim order.

A copy of this notification has been sent to your solicitors.

Under Section 41A(10) of the Act, the Court may revoke or vary any order made by the IOP. Copies of Section 41A(10) and Section 40(5) of the Act are attached. If you wish to apply to the Court for the order to be revoked or varied, you should seek legal advice or contact the Court without delay.

All orders imposed by the interim orders panel are disclosed on our website at www.mpts-uk.org and to any enquirer via the List of Registered Medical Practitioners (LRMP) on the GMC website at www.gmc-uk.org. Confidential information about a doctor's health will not be disclosed.

Good medical practice requires doctors to be honest and trustworthy at all times, in order to maintain public trust in the profession. You must respond appropriately, if asked for information about your fitness to practise history. This duty will continue to apply where an Interim Order is removed from LRMP, following case closure with no adverse finding.

Please sign and return the attached acknowledgement slip as confirmation that this has been received by you.

Yours sincerely

Ms Fiona McQueen
Assistant Registrar
Medical Practitioners Tribunal Service

Cc: CAT E
Mr Douglas Jessiman, Brechin Tindall Oatts, 48 Vincent Street, Glasgow, G2 5HS

Enc: [Appeals Provision](#)
[Appeal Note \(IOP\)](#)

I have received the letter from the Medical Practitioners Tribunal Service dated 27 February 2014 which confirms the outcome of the interim orders panel hearing which took place on 26 February 2014.

Signed.....

Date

Reference number: 3444935
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Doctor's surname: Eljamel