

COVID-denial Invites License Revocation in the UK

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ABSTRACT: This paper presents the case study of a British doctor who posted videos on social media platforms denying the existence of COVID-19. The case examines the approach taken by the UK’s medical regulator in dealing with doctors who espouse conspiratorial views at odds with accepted medical opinion. In such cases, there may be a conflict between the safety of patients and the public (which is the principal function of medical regulators) and the doctor’s freedom of expression (whether under the First Amendment, Article 10 of the European Convention on Human Rights, or another international human rights instrument).

During this protracted three-and-a-half-year case, the UK’s Medical Practitioners’ Tribunal, High Court and —latterly—Court of Appeal have each made it clear that doctors remain free to express views contrary to medical orthodoxy except where they lack any supporting evidentiary basis.

In September 2023, an order was made revoking the doctor’s licence. Rather than accept the Tribunal’s guidance following his initial suspension, he chose to continue promoting his conspiratorial views in a public forum.

Introduction

All democracies safeguard freedom of expression. In the US, this protection is afforded by the First Amendment to the Constitution.¹ In much of Europe, including the UK, freedom of expression is protected by the European Convention on Human Rights (ECHR), Article 10, of which states:

“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority...”

“The exercise of these freedoms ... may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society”.²

The extent to which freedom of expression is protected in a professional context has been tested in several medical discipline cases in the UK. These cases highlight the tension between a doctor’s right to freedom of expression and their obligation to observe standards of professional conduct. This tension has been most notably observed in the context of the COVID-19 pandemic.

The COVID-19 pandemic was the backdrop for an ideological battle, during which the public was bombarded with information from often unreliable sources. In this era of global peer-to-peer

communication, misinformation can be a powerfully destructive force, which allows dangerous, false ideas to spread instantly among vulnerable groups.³ Given the high esteem in which the medical profession is held and the importance of maintaining the public’s trust, it is especially important that the information disseminated by doctors has a sound scientific and logical basis. Here, we present the case of a senior consultant colorectal surgeon, Dr. Muhammad Iqbal Adil, who denied the existence of COVID-19 on YouTube. The case demonstrates the position of the UK’s medical regulator, the General Medical Council (GMC), and its independent tribunal, the Medical Practitioners’ Tribunal Service (the Tribunal) regarding the promotion of such misinformation on social media.

The disciplinary process for UK-registered doctors differs from its US equivalent, in that it focuses on the concept of “fitness to practice.” We have previously published overviews of this model of medical discipline, both in this journal and elsewhere,^{4,5} which those unfamiliar with the process of medical discipline in the UK may find a useful primer.

Facts in the Case

The allegations against Dr. Adil, made during a two-week tribunal hearing starting on June 13, 2022, were as follows. Between April and October

2020, he appeared in a series of YouTube videos in which he stated that:

- SARS-CoV-2 virus and COVID-19 did not exist;
- The COVID-19 pandemic was a conspiracy by the UK, Israel, and the US;
- The pandemic was a multibillion-dollar scam which was being manipulated for the benefit of Bill Gates, pharmaceutical companies, Johns Hopkins University, and the World Health Organization;
- The pandemic was being used to impose a new world order;
- SARS-CoV-2 was manufactured as part of a wider global conspiracy;
- Bill Gates infected the entire world with SARS-CoV-2 to sell vaccines; and
- COVID-19 vaccines would be forced on everyone, and they potentially contain microchips that affect the human body and “5G mobile phone technology” which could be used to control the world’s population.

In these videos, Dr. Adil would outline his credentials as a surgeon with more than 30 years’ experience.

Furthermore, it was alleged that Dr. Adil informed his line manager, Professor B, that he would remove the videos from sharing platforms in May 2020, but he subsequently failed to do so and, indeed, posted further videos after this.

Interim Suspension and Conditions

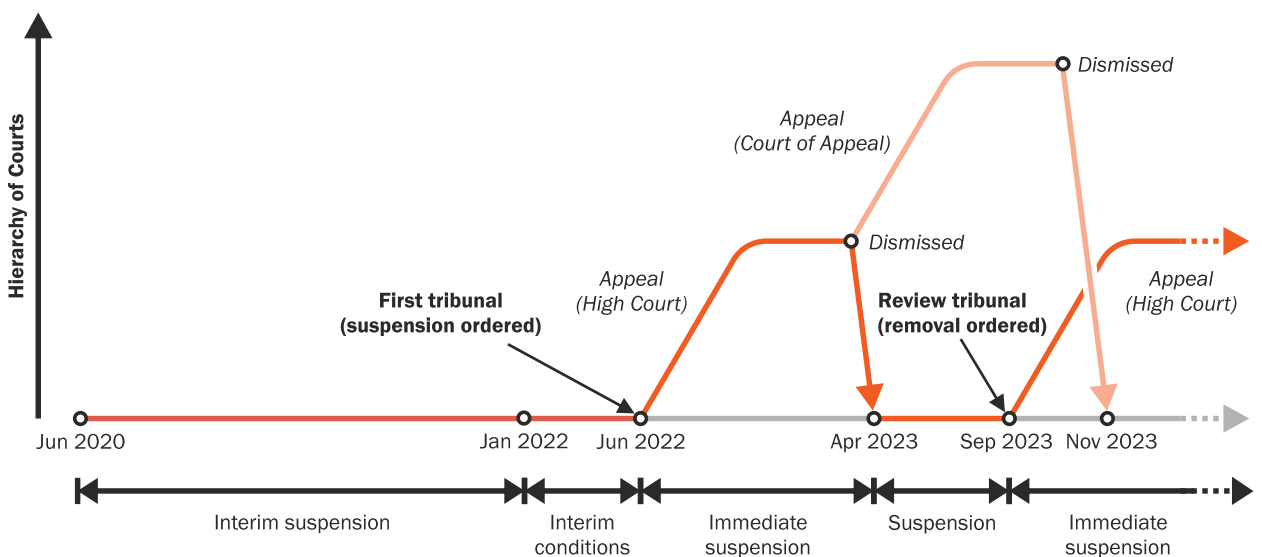
Previously, in June 2020, while waiting for his Tribunal hearing, Dr. Adil had had his right to practice suspended, because an interim suspension was considered necessary to protect the public (Figure 1).^{6(s.41A(1)), 4} At a review hearing in January 2022, the interim suspension was replaced with conditions including the requirement to be supervised in all of his posts by a clinical supervisor and to inform the GMC of any change in employer. This was deemed appropriate under the terms of the appropriate guidance, *Imposing Interim Conditions on a Doctor’s Registration*.^{7, 8}

Fitness to Practice

At the principal hearing in June 2022, the Tribunal found the key allegations listed above to be proven. Dr. Adil’s opinions were found to be contrary to widely accepted medical opinion, and to undermine public confidence in the medical profession.

Figure 1:

Timeline in the case of Dr. Muhammad Iqbal Adil. The continuous red line indicates the progression of the case. The gray line indicates periods when the Tribunal rested pending the outcome of an appeal. The pale red line follows the progress of Dr. Adil’s appeal against the dismissal of his High Court appeal, for which the Tribunal were not required to await an outcome. Note that since June 2020—just over a month from the time the GMC was first made aware of his online activities—Dr. Adil has been unable to practice medicine in the UK, save for a six-month period between January and June 2022, during which a series of restrictive conditions were placed on his right to practice.



The Tribunal then proceeded to consider Dr. Adil's fitness to practice. The GMC argued that "whilst [Dr. Adil's YouTube activity] was not akin to falsely shouting 'fire' in a crowded theatre, it was not far short of that." It argued that such statements in any context constituted misconduct but given the conditions of the pandemic at the time, it was abundantly clear that Dr. Adil's actions constituted serious misconduct.

As to the issue of whether Dr. Adil's fitness to practice was *currently* impaired (as required if a sanction is to be imposed),^{5,9} the GMC argued that while he had some insight into his conduct, Dr. Adil had failed to grasp the wider implications in terms of their effect in undermining public health and public confidence in the medical profession, and that this demonstrated such insight was limited. He had put himself forward as a doctor registered in the UK to bolster the strength of his opinions and in so doing had undermined public health efforts.

Dr. Adil submitted that he now understood the impact of his conduct in the videos, had reflected, and had taken steps to remediate the conduct complained of. Because of this, he submitted that further misconduct of this type was unlikely to be repeated, and that therefore his fitness to practice was not currently impaired. He argued that the current conditions on his practice should be withdrawn, and that no further restrictions were required. He drew the Tribunal's attention to the fact that, while unable to work in the UK due to his suspension, he had been working in Pakistan, unrestricted and without any complaints, for 2 years.

While the Tribunal considered Dr. Adil's misconduct difficult to remediate, it had regard to his evidence given under oath. He had explained that, while he was working overseas, he had educated his patients as to the dangers of COVID-19 and encouraged them to take up the vaccine.

The Tribunal acknowledged that the provisions of Article 10 of the ECHR provided broad freedom of expression rights to everyone, including doctors, but those rights are not absolute.² The exercise of these freedoms carries with it duties and responsibilities, which may be subject to restrictions *prescribed by law* and necessary in a democratic society. One such restriction specifically identified within Article 10, paragraph 2, is the legitimate aim of pursuing public safety and the protection of health.

Referring to the GMC guidance on *Good Medical Practice* and *Doctors' Use of Social Media*,^{10,11} the

Tribunal determined that such opinions could not fall within the domain of legitimate freedom of expression for a doctor in the context of the pandemic at that time; such statements breached the trust that the public had a right to expect of a doctor. Despite Dr. Adil's protestations that he was trying to help in a period of widespread confusion,

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his comments went far beyond helpful legitimate comments and into the realms of scaremongering conspiracy theories, which added to public confusion. The effect of these statements could have been that, believing Dr. Adil, members of the public failed to adhere to required restrictions or failed to get vaccinated when the vaccines became available.

The Tribunal was gravely concerned that the statements were made by Dr. Adil using his credentials as a doctor to promote his opinions and to engender trust in him on the part of those watching. Statements made by Dr. Adil that the virus was a hoax and did not exist promoted and perpetuated various conspiracy theories. Suggestions that vaccines were in development for the deliberate harm or manipulation of the public were made when using his credentials as a doctor to engender trust in him on the part of those listening. In the Tribunal's view, these could not fall within the domain of legitimate freedom of expression for a doctor in the context of the pandemic at the time. Rather, such statements breached the trust that the public had a right to expect of a doctor. Furthermore, it reflected poorly on the profession of medicine as expounded in paragraph 17 of the GMC's guidance on doctor's use of social media:

"Any material written by authors who represent themselves as doctors is likely to be taken on trust and may reasonably be taken to represent the views of the profession more widely."¹¹

When considering Dr. Adil's level of insight, the Tribunal noted that there was documentary evidence that he still denied having made the (recorded)

statements regarding COVID-19 as recently as May 2022, which it considered contradicted his submissions regarding his fully developed insight.

The Tribunal noted that Dr. Adil's preoccupation with the sanctions the Tribunal might impose was focussed on the effect they might have on himself and his family. It considered that this demonstrated a more fundamental lack of appreciation for the impact of his conduct on the public. It was concerned that he was telling the Tribunal what he believed it expedient to say, rather than demonstrating a proper appreciation for the impact of his

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conduct. For example, he merely went as far as conceding that his videos "might" have had an impact on public health and public confidence in the profession. For the Tribunal, this demonstrated that although he was starting genuinely to question and reflect on his conduct, he had not yet developed a full insight into the consequences of his actions.

The overall view of the Tribunal was that Dr. Adil had limited appreciation of what he had done, or its impact on the public. It determined that his fitness to practice was impaired by reason of his misconduct.

Sanction

The GMC's position was that Dr. Adil's misconduct fell short of being fundamentally incompatible with being a doctor and therefore it did not consider erasure from the Medical Register to be the appropriate sanction. In respect of mitigating factors, the GMC acknowledged Dr. Adil had developed some insight, but that it was partial, and had been demonstrated at a very late stage, and felt that a period of suspension would allow him to reflect further on his misconduct.

The Tribunal identified Dr. Adil's lack of any meaningful insight into the fundamental wider impact of his conduct as aggravating factors. Several mitigating factors were also identified and appropriately considered, including personal health issues.

As we have discussed in a previous *JMR* article, the Tribunal has a threefold remit, namely⁵:

1. To protect and promote the health, safety and wellbeing of the public;
2. To promote and maintain public confidence in the medical profession; and
3. To promote and maintain proper professional standards and conduct for the members of the profession.

Dr. Adil's statements, made by an experienced UK doctor, could have led to members of the public not taking up the vaccine or complying with restrictions. This clearly had the potential to cause harm, and the Tribunal determined that the first strand of its overarching objective—to protect patients and the public—was invoked in this case. Furthermore, the Tribunal took into consideration its finding that the statements being made by an otherwise upstanding medical practitioner undermined the confidence of the public in the profession and therefore the second limb was invoked. In the Tribunal's view, such conduct also undermined the maintenance and promotion of proper professional standards for doctors and, as such, the third limb was also relevant.

Because the Tribunal did not consider that Dr. Adil's conduct was incompatible with being a doctor, it did no more than suspend his registration for a period of 6 months.

It was determined that this timescale would mark the seriousness of the misconduct and send the appropriate signal to Dr. Adil, the public, and the profession about such conduct being unbecoming of a registered doctor. It would allow sufficient time for him to continue his remediation and to reflect carefully on his conduct, while not depriving patients of the services of a very capable surgeon for any longer that was necessary.

The Tribunal determined that an immediate order of suspension was necessary, which should remain in force during the statutory 28-day appeal window,^{12(s. 40)} and for the duration of any such appeal. It determined that the maintenance and promotion of public confidence in the profession could not be assured by Dr. Adil being permitted to return to unrestricted practice pending the conclusion of any appeal he may choose to lodge.

The Tribunal decided that there should be a hearing to review Dr. Adil's case before the end of the 6 months' suspension, at which point the onus would

be on Dr. Adil to demonstrate how he had further developed insight and reached the appropriate level of understanding about the impact of his actions, and that he was fit to practice.

Appeal to the High Court

Dr. Adil appealed against the Tribunal's decision to the High Court on several points of law in June 2022. The grounds for appeal focused on whether the Tribunal's decisions were consistent with his right to freedom of expression. He first argued that, since the allegations against him did not specifically refer to the GMC's published guidance on the use of social media, the restrictions in this guidance could not be classified as being "prescribed by law," which would have been necessary to take the YouTube videos out of the protection given by the ECHR to freedom of expression. This was dismissed by Justice Swift, who judged that The

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Medical Act 1983, which was the relevant law in this case, had to be read with reference to such guidance. Furthermore, although the charges against Dr. Adil had not been formulated expressly by reference to the guidance, they did not need to be, as it should have been reasonably foreseeable that his actions might conflict with the professional standards set by the GMC. Consequently, the legal requirement for the restrictions to meet qualitative standards of accessibility and foreseeability was met.¹³ (Justice Swift did advise that the GMC should, in the future, formulate their charges by express reference to its published standards and guidance, to eliminate any impression that it is creating the rules on what amounts to misconduct only after the event.)

Next, Dr. Adil argued that the conclusions on misconduct and fitness to practice were a disproportionate interference with Article 10 rights, and that the Tribunal was wrong to conclude that his actions had "undermined public confidence in the medical profession" without specific evidence of this. Jus-

tice Swift determined that maintaining the good standing of the medical profession is, for the purposes of Article 10, paragraph 2, pursuit of a legitimate objective. As a specialist adjudicative body for the medical profession, the courts would pay respect to its assessment, at least insofar as the Tribunal is dealing with matters squarely within the scope of its expertise,¹⁴ as it was in this case. Dr. Adil had used his position as a doctor to promote an opinion on a matter of medical importance and it was, thus, open to the Tribunal to conclude that such remarks were likely to diminish public trust in the medical profession. His conduct was not mitigated by the fact that he was "outside work". He had clearly identified himself as a doctor qualified in the UK in his social media posts, and so the Tribunal's decisions were not disproportionate in this case.

Finally, Dr. Adil argued that the Tribunal was wrong to apply a standard of whether his statements were "contrary to widely accepted medical opinion". Justice Swift conceded that doctors' opinions on medical matters may differ, and that even if an opinion is "widely accepted," it ought not justify professional discipline of those who hold a different opinion. However, he held that Dr. Adil's posts were so far removed from any conceivable notion of received medical opinion that the reference was not decisive in this case and did not breach his Article 10 rights.

Dr Adil's appeal was dismissed in its entirety in April 2023. He then further appealed that decision to the Court of Appeal, which listed the matter for hearing in November 2023.

Review

Following his unsuccessful appeal, the immediate order of suspension preventing Dr. Adil from working was lifted, and the 6-month suspension imposed as a sanction by the Tribunal in June 2022 commenced. Even though a further appeal to the English Court of Appeal was pending, the Tribunal conducted a review of Dr. Adil's case towards the end of the 6-month period.

Following the initial Tribunal sanction, Dr. Adil had posted further comments on social media. In November 2022 he made numerous posts on Twitter, including:

"You are sadly mistaken, COVID is only a flu virus. It has not killed people. People have been killed by lockdowns, fear created of

dying, heart attacks, cancers, lung diseases, strokes, lack of medical facilities, dehydration, isolation, depression due to financial hardship,” and

“Not a single trial has proved efficacy of mRNA vaccine to be safe and effective.”

These Tweets were interpreted by the Tribunal as evidence that he still held and was willing to publicly reiterate the views which were the subject of the original finding of misconduct. This was contrary to the regret and remorse Dr. Adil had expressed at his principal hearing. What Dr. Adil had said when giving evidence at the principal Tribunal hearing had not been genuine and was found by the Tribunal to have been said for reasons of expediency, rather than stemming from any genuine insight on his part.

In considering whether Dr. Adil’s fitness to practice remained impaired, the Tribunal thus considered that the overall position was worse in the present day than before the principal hearing. He had posted further similar comments on social media and was no longer expressing remorse or regret and the insight which was thought to be developing was exposed as disingenuous. The developing insight for which he had been given credit by the 2022 Tribunal was not, in fact, present.

The Tribunal determined that Dr. Adil’s behavior had the potential to put patients at risk of harm and had brought the medical profession into disrepute.

In determining a sanction, the Tribunal emphasised the following aggravating factors:

- No evidence of any insight into the misconduct;
- No attempt to remediate the misconduct;
- Repetition of the conduct; and
- Dr Adil’s witness statement, which confirmed that he still holds the same views that were the subject of the original misconduct; and
- A successful attempt to mislead the earlier Tribunal.

The Tribunal found that any previously identified mitigating factors were “no longer present,” and no new mitigating factors were introduced.

The GMC had published guidance on the sanctions to be applied in fitness to practice cases. The Tribunal noted paragraph 32 of the GMC’s *Sanctions Guidance*,⁹ which states “there are some cases where a doctor’s failings are irremediable. This is

because they are so serious or persistent that, despite steps subsequently taken, action is needed to maintain public confidence...” Given the circumstances, the Tribunal determined that a further period of suspension would serve no

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purpose. The Tribunal considered that Dr. Adil’s misconduct was so serious that action was required to protect members of the public and maintain public confidence in the profession. The Tribunal made further reference to its *Sanctions Guidance*, which states that erasure from the Medical Register may be appropriate where a doctor demonstrates “[p]ersistent lack of insight into the seriousness of their actions or the consequences.”^{9(para. 109(j))}

Furthermore, the Tribunal considered that Dr. Adil had unquestionably abused his position as a doctor. It found that, when considering the totality of the misconduct, including persistently espousing views that were contrary to widely accepted medical opinion, demonstrated a deliberate disregard of expected professional standards.

Given the significant incidents of serious professional misconduct and a lack of insight and remediation, and no inclination towards remediation, the Tribunal concluded that Dr. Adil’s conduct was fundamentally incompatible with continued registration and determined that erasure from the medical register was the only appropriate and proportionate sanction that would fulfil its threefold remit. Consequently, the Tribunal directed the GMC to remove Dr. Adil’s name from the Medical Register pending the outcome of any appeal,^{12(s. 40)} and that the interim suspension should remain in force until that time.

As before, Dr. Adil appealed to the High Court against the outcome of the Tribunal. This appeal is due to be heard in 2024. Until then, he remains unable to practice medicine. At time of writing, details of the grounds for this appeal are unavailable. However, given the outcome of the Court of

Appeal's judgment on his original appeal outlined in the following paragraphs, they are unlikely to include reference to freedom of speech or his Article 10 rights.

Court of Appeal

On November 3, 2023, 3 appeal court justices, Lord Justice Bean, Lord Justice Popplewell, and Lord Justice Dingemans, dismissed Dr. Adil's appeal and affirmed Justice Swift's High Court judgment.

Dr. Adil argued that it was an unlawful interference with his freedom of expression rights to sanction him for expressing views on matters of medical scientific or political significance, even if they are minority views which are contrary to widely accepted medical opinion. He further argued that such interference involved the Tribunal and the court impermissibly assessing the legitimate content of such views, thereby breaching its duty of neutrality.

The unanimous judgment addressed these arguments. Lord Justice Popplewell said:

"I cannot agree with such propositions expressed in such absolute terms or with the limited qualification ... By using his professional credentials, [Dr. Adil's] views on these matters were intended to, and likely to, engender more credence than if expressed by a layman ... [His] views were expressed in extreme terms ... and ... expressed as fact. For example, he said that coronavirus does not exist at all ..."

"Where statements are made by a doctor invoking his status to engender trust and support in them, the extent to which the views are capable of medical and scientific support is a matter of importance ... a doctor must make clear the limits of their knowledge and make reasonable checks to make sure any information given is accurate ..."

"... there is an important qualitative difference between a doctor's views which have some supporting scientific basis, even if not widely accepted, and views whose validity or accuracy is unconnected to any supporting evidential basis, in other words baseless."

"It might be a lawful exercise of freedom of expression for a member of the public to deny the existence of the virus or disease, but for a doctor to do so invoking his medical experience and expertise brings into play different

considerations, in a disciplinary context, when considering the effect, it may have in trust and confidence in the profession and on public health. If such views are not merely controversial but baseless—in the sense that they are insupportable from a scientific or medical point of view—that is an important consideration."

Conclusions

The Tribunal has made it abundantly clear in this case that denial by a doctor of the existence of SARS-CoV-2 or of the clinical reality of COVID-19 are "contrary to widely accepted medical opinion ... and ... undermine public confidence in the medical profession," as is the promotion of conspiracy theories, such as those involving "big pharma" and a "new world order."

It is not possible to know whether the outcome of Dr. Adil's case would have been different if he had not identified himself as a medical doctor in his YouTube posts. The Court of Appeal made it clear that doctors remain free to express views that may be contrary to medical orthodoxy, provided those views have some scientific basis. However, views that undermine public confidence in the medical profession lose the freedom of expression protections if they lack any supporting evidentiary basis.

Had Dr. Adil demonstrated the necessary level of insight during his suspension, he could have resumed practicing medicine. By failing to acknowledge and learn from the Tribunal's findings, his

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suspension was extended by 9 months (while the appeal was pending, and the immediate order of suspension was in force). By continuing to publish views that the Tribunal had already described as "a serious breach of Good Medical Practice" during a period of suspension set aside for him to develop and present evidence of "meaningful reflection and genuine insight," he left the Tribunal with little choice other than to find his behavior "fundamentally incompatible with continued registration [as a

doctor].” In so doing, Dr. Adil has seen a sanction totalling just 6 months extended to a minimum of 6-and-a-half years, as he cannot apply restoration to the Medical Register until December 2028 at the earliest.^{12(s. 41(2))} Much more likely, given his apparent inability to acknowledge the obvious imprudence of his actions, he has effectively ended his medical career in the UK.

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Funding/support: N/A

Other disclosures: N/A

Keywords: Fitness to practice, COVID-19 denial, Medical Practitioners Tribunal Service

Received: December 7, 2023; **revision received:** March 11, 2024; **accepted:** March 26, 2024