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**WORLD RENOWNED DOCTOR WINS LANDMARK RACE DISCRIMINATION CLAIM
AGAINST THE GENERAL MEDICAL COUNCIL**

16th June 2021 - The Reading Employment Tribunal has upheld the complaints made by Consultant Urologist Mr Karim, that he was discriminated against by the GMC on the grounds of his race. Mr Karim is mixed race, Black African/European and is a Muslim.

This is a landmark decision. It is the first time that a race discrimination claim has succeeded in the Employment Tribunal against the GMC, the medical regulatory body for Doctors.

Shazia Cole, Founding Partner at Cole Khan Solicitors LLP, has represented Mr Karim since 2018. Mr Karim was represented at the Employment Tribunal by Karon Monaghan QC of Matrix Chambers.

Facts of the Case

Mr Karim worked as a consultant urological surgeon at Heatherwood and Wexham Park Hospitals NHS Foundation Trust, later the Frimley Health NHS Foundation Trust (“the Trust”). The events that span this case started in 2013, when the GMC received allegations of concern against Mr Karim. The complaints were deemed not to meet the required threshold and were closed, with no further action. In October 2014 the GMC received a copy of an external review commissioned by the Trust into the operation of the Urology Department. The Trust had excluded Mr Karim, among others, in July 2014, while that investigation was being carried out. Mr Karim was reinstated two weeks after its conclusion. But a further investigation was then commissioned after which Mr Karim was again suspended by the Trust in January 2015 and never returned to work at the Trust, having resigned on 22 May 2015. In the meantime, in 2014, the Trust had referred Mr Karim to the GMC. On 3 March 2015, the Interim Orders Panel of the MPTS (Medical Practitioners Tribunal Service) imposed restrictions on Mr Karim’s practice, pending the outcome of the GMC’s investigation. These restrictions had catastrophic life-changing consequences on Mr Karim’s surgical practice. It was not until August 2015 that the restrictions on Mr Karim’s practice were lifted. His case was then referred to a full hearing before the Medical Practitioners Tribunal but not until some three years later. None of the allegations put against Mr Karim related to his clinical performance or his competence. The FTP (Fitness to Practice) hearing took place in April 2018 at which Mr Karim’s evidence was accepted in full, and Mr Karim was found not to have committed any act of misconduct at all.

Throughout this process Mr Karim alleged that his treatment by the GMC was discriminatory. An adverse outcome could have signaled the end of his career, the loss of the means to earn a livelihood and damage to his international reputation of excellence.

The Tribunal came to the following conclusions:

- Though the GMC argued that Mr Karim lacked credibility, the Employment Tribunal rejected this offensive suggestion. As the Employment Tribunal found, Mr Karim was honest and credible.
- There was less favorable treatment of Dr Karim in the way that he was treated as compared to a white doctor.

- The GMC undertook an investigation into Mr Karim when the same allegation was made against a white doctor whom they decided not to investigate and looked for material to support allegations against Mr Karim, rather than fairly assessing matters presented.
- The GMC continued the investigation against Mr Karim where the investigation into the white doctor was terminated and referred back to the Trust.
- Taking into account all the evidence including the statistical evidence about race which shows a higher proportion of adverse outcomes for BME doctors the Tribunal found that the difference in treatment of Dr Karim in comparison with a white doctor and the significant delay in the investigation of him were on the grounds of his race.
- The Employment Tribunal stated that they were not able to accept the explanations provided by the GMC for the difference in treatment between Mr Karim and the white doctor such as to show that the Claimant's race did not form part of their considerations.
- The Employment Tribunal also expressed the fact that it was concerned about the level of complacency shown by the GMC about the possibility of the operation of discrimination in the referral made by the Trust to the GMC.
- There was a significant delay of some four years in the GMC's handling of Mr Karim's case, which was not necessary for justice to be done.
- The Employment Tribunal expressed the view that there was a level of complacency about the operation of discrimination in the work of the GMC and that there might be discrimination infecting the referral process. The Tribunal formed this view after considering the answers given to the questions around the Respondent's equal opportunity policy, training around equality and diversity issues and the failure of all the witnesses to express how if at all the awareness of the overrepresentation of BME doctors in complaints to the GMC was considered in the investigation process at any stage, or whether discrimination may have been a factor consciously or unconsciously in the allegations faced by the Claimant.
- BME doctors are 29% of all UK doctors but 42% of complaints by employers are made against BME doctors. UK graduate BME doctors are 50% more likely to get a sanction or warning than white doctors. Other evidence illustrated the adverse position of BME doctors when compared to white doctors. In carrying out its work in respect of the complaints about Dr Karim, the GMC should have been conscious and aware of this background.

Quote: Shazia Khan Founder of Cole Khan Solicitors LLP says:

"This is a landmark victory for my client. The GMC has longstanding documented form on discrimination.

The GMC's own statistics demonstrate that BME doctors referred to the GMC are more likely to be subject to a full investigation by the GMC. During 2014-17, 41.8% of BME doctors overall referred were subject to a full investigation as compared to 30.3% in the case of White doctors. In the same period, 45.5% of complaints against BME doctors overall were closed immediately

as compared to 58% of White doctors. BME doctors are also more likely to experience harsher outcomes.¹

The GMC's most recent report *State of Medical Practice 2020*² says:

"This is no longer a question of gathering evidence, but of committing to action. We know that the experiences of doctors from a BME background can be sharply different from those of their white colleagues. It is now a question of what we do about it."

We are calling for an urgent root and branch reform of the Fitness to Practice processes to address the over-prosecution of black and minority doctors.

Whilst my client is grateful to the Employment Tribunal for its judgment, it has taken a painful 4 years and significant time and resources to get to this place. My concern remains for those black and minority Doctors whose careers and livelihoods have ended due to the discriminatory investigations and prosecutions of them by their Regulator."

Quote: Mr Omer Karim, the Claimant says:

"I sincerely hope that this judgment helps all doctors and the families of those doctors who are unfairly referred to the regulator. I believe, that, the GMC has a callous disregard for the truth and honesty. The GMC knew that I was a whistleblower yet, the GMC falsely constructed a case to only included evidence that helped their agenda to prosecute me. Right from the outset, the GMC saw me as a guilty black doctor and withheld evidence that could have proven my innocence.

There is an unhealthy relationship between a dishonest NHS Trust and the GMC. We doctors need to work to change the system as, in its present form, it is corrupt and clearly unfit for purpose.

I would like to thank all my colleagues, family and friends who have supported me over the last six years. I would also like to thank my patients who still believed in me as a surgeon despite a sword of Damocles hanging over me and my career. I am incredibly grateful to my excellent legal team led by Shazia Khan of Cole Khan Solicitors LLP and Karon Monaghan QC of Matrix Chambers, who kept me focused throughout this case. They were superb. My thoughts are with those families of doctors who committed suicide while being unfairly prosecuted by the GMC."

NOTES TO EDITORS

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Cole Khan is dedicated to fighting discrimination in the workplace, in the belief that Equality at work is a right we are all entitled to.

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¹ GMC "The State of Medical Education and Practice in the UK: 2017".

² https://www.gmc-uk.org/-/media/documents/somep-2020_pdf-84684244.pdf?la=en&hash=F68243A899E21859AB1D31866CC54A0119E60291, p.4.