

Dates: 02/11/2018 & XXX

Medical Practitioner's name: Dr Ashley Wilkinson

GMC reference number: 7436760

Primary medical qualification: MB BS 2014 University of Newcastle upon Tyne

Type of case

XXX
Review - Conviction / Caution

Outcome on impairment

XXX
Not Impaired

Summary of outcome

XXX
XXX

Tribunal:

Legally Qualified Chair	Mr Neil Dalton
Lay Tribunal Member:	Ms Jacqueline Telfer
Medical Tribunal Member:	Mr Ghulzar Mufti
Tribunal Clerk:	Miss Jan Smith (2 November 2018) Ms Jean Gleeson (29 November 2018)

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr David Morris, Counsel, instructed by BLM Law (2 November 2018) Ms Clare Chapman, BLM Law (29 November 2018)
GMC Representative:	Mr David Birrell, Counsel (2 November 2018) Mr Kevin Slack (29 November 2018)

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Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held partly in public and partly in private.

Determination on Impairment - 02/11/2018

1. At the commencement of this hearing the Tribunal agreed, in accordance with Rule 41 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 (“the Rules”), that the entire hearing should be held in private as the matters under consideration involving XXX inextricably linked to the conviction matters in this case.

Background

2. This Tribunal does not intend to rehearse the full background to Dr Wilkinson’s case, which has been set out in a previous determination, but it can be summarised as follows.

3. Dr Wilkinson’s case was first considered by a Medical Practitioners Tribunal in September 2017 (‘the 2017 Tribunal’). At that hearing, Dr Wilkinson admitted the entirety of the allegation and the 2017 Tribunal found proved that, on 27 April 2016, at the Lincolnshire Magistrates’ Court, Dr Wilkinson was convicted of theft and of the possession of a controlled drug of Class C, namely 551 tablets of tramadol. As a result, Dr Wilkinson was sentenced to 12 months imprisonment, suspended for 24 months in respect of each offence, to be served concurrently.

4. In August 2014, prior to his conviction, Dr Wilkinson had commenced his Foundation Year 1 (FY1) training at Chesterfield Royal Hospital. Concerns were raised about his performance and he was required to repeat his first Foundation Year, part of which he undertook at Boston Pilgrim Hospital in Lincolnshire. XXX.

5. XXX

6. XXX

7. XXX

8. In relation to Dr Wilkinson’s conviction, the 2017 Tribunal considered that his actions represented a serious breach of trust and had the potential to put patients at serious risk of harm in that his theft of medications could potentially have denied patients access to them. Given the nature of his offences, and the impact on the wider public interest, the 2017 Tribunal concluded that Dr Wilkinson’s fitness to practise was impaired by reason of his conviction.

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9. XXX

10. XXX

11. Dr Wilkinson told the 2017 Tribunal that medicine was his passion and that he was deeply ashamed of what he had done. He accepted that he had let down his family, patients and colleagues by his selfish actions.

12. The 2017 Tribunal took into account the mitigating factors of Dr Wilkinson's case, including the strain he was under in his first year of training as a doctor, XXX. It also bore in mind the aggravating factors which included:

- His actions were dishonest and illegal and resulted in a conviction and custodial sentence, albeit suspended;
- He abused his position as a doctor in order to obtain controlled drugs;
- His actions breached his employer's and the public's trust in him as a doctor;
- He stole medications intended for patients;
- His conduct was repeated over a period of several months;
- XXX.

13. The 2017 Tribunal acknowledged that the mitigating circumstances in Dr Wilkinson's case were significant and accepted that the motivation for his criminal offences was inextricably linked XXX. Whilst it also accepted that Dr Wilkinson had demonstrated some insight and remorse into his actions, the 2017 Tribunal did not consider that his insight was fully developed.

14. The 2017 Tribunal determined to suspend Dr Wilkinson's registration for a period of 12 months. It considered that this period of time would allow Dr Wilkinson sufficient time to reflect further on his behaviour and conviction and to fully develop his insight.

15. The 2017 Tribunal directed that, before the end of the period of suspension, Dr Wilkinson's case should be reviewed by a Medical Practitioners Tribunal. It considered that a future Tribunal would be assisted by the provision of the following:

- XXX;
- XXX;
- XXX;
- A written statement evidencing further reflection on his conviction as well as the impact on public confidence in the profession;
- Evidence that he has kept his medical knowledge and skills up to date, such as studying relevant journals, online learning, attending lectures or seminars;

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- Any other information that he feels would assist the reviewing Tribunal in assessing his fitness to practise.

Today's Review Hearing

16. This Tribunal has today reviewed the case of Dr Wilkinson and has considered, in accordance with Rule 22(1)(f) of the Rules, whether his fitness to practise is impaired. In doing so it has considered the submissions made by Mr Birrell, Counsel, on behalf of the GMC and the submissions made by Mr David Morris, Counsel, on behalf of Dr Wilkinson.

Evidence

17. The Tribunal has considered all the evidence provided by the GMC which includes:

- Record of Determinations of the MPT hearing dated 6 – 8 September 2017;
- Correspondence between the GMC and Dr Wilkinson and the MPTS and Dr Wilkinson;
- XXX.

18. The Tribunal also considered all the evidence provided by Dr Wilkinson. This included:

- A reflective statement from Dr Wilkinson on his conviction and the events of the past year;
- XXX;
- An email to Dr Wilkinson, dated 31 October 2018 from Dr A, Director of Foundation Training East Midlands, regarding a return to training;
- Dr Wilkinson's Learning Reflection;
- Feedback from FY1 post in General Surgery/Breast at Pilgrim Hospital (August 2015 – December 2015);
- CPD Certificates.

19. Dr Wilkinson gave his oral evidence to the Tribunal. He said that if he returns to practise as a doctor, it will be as a Foundation Year 1. He said that he would not feel entirely confident without an initial period of clinical attachment. Dr Wilkinson confirmed that, even though he had been studying for 12 months, he had only documented his learning since September 2018. XXX.

20. XXX

21. XXX

22. XXX

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23. XXX

24. XXX

25. XXX

26. XXX

27. XXX

28. XXX

29. XXX

30. XXX

GMC Submissions

31. Mr Birrell submitted that, in relation to the matters relating to his conviction, Dr Wilkinson's fitness to practise is no longer impaired by reason of that conviction.

32. XXX

33. XXX

34. XXX

Submissions of Mr Morris, on behalf of Dr Wilkinson

35. Mr Morris submitted that Dr Wilkinson's fitness to practise is no longer impaired by reason of his conviction. He reminded the Tribunal that Dr Wilkinson's registration has been suspended for more than 12 months which has sent the appropriate signal of the seriousness of his offending to the doctor, the medical profession and the public. Mr Morris submitted that all requirements of the public interest have been met, namely the protection of the public, public confidence and upholding proper professional standards and conduct. He submitted that Dr Wilkinson's fitness to practise is no longer impaired by reason of his conviction.

36. XXX

The Relevant Legal Principles

37. The Tribunal reminded itself that, at this stage of the proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

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38. Throughout its deliberations, the Tribunal bore in mind the need to protect the public. This is the Tribunal's statutory overarching objective, which includes:

- protecting, promoting and maintaining the health, safety and well-being of the public;
- promoting and maintaining public confidence in the medical profession; and
- promoting and maintaining proper professional standards and conduct for members of the profession.

39. The Tribunal must determine whether Dr Wilkinson's fitness to practise is impaired today, taking into account his conviction XXX. It must determine whether those matters are remediable, have been remedied and are highly unlikely to be repeated.

40. The Tribunal has borne in mind that, at a review hearing, the onus is on the practitioner to demonstrate that the concerns of the previous Tribunal have been sufficiently addressed and it has taken account of paragraph 163 of the Sanctions Guidance (February 2018 edition) (SG) which states:

***163.** It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so."*

Conviction

41. The Tribunal has taken account of the evidence which demonstrates that Dr Wilkinson has reflected on his conviction and on its impact on public confidence in the profession. It also noted XXX that Dr Wilkinson's risk of re-offending was low. The Tribunal has determined that the overarching objective in relation to his conviction has been met by the finding of impairment made by the 2017 Tribunal and the subsequent 12 month suspension.

42. The Tribunal has therefore determined that Dr Wilkinson's fitness to practise is no longer impaired by reason of his conviction.

Confirmed

Date 29 November 2018

Mr Neil Dalton, Chair