

PUBLIC RECORD

Dates: 01/06/2022 and 06/07/2022

Medical Practitioner's name: Dr Avni PATEL

GMC reference number: 4552233

Primary medical qualification: MB ChB 1998 University of Liverpool

Type of case	Outcome on impairment
Review - Conviction	Not Impaired
XXX	XXX

Summary of outcome

XXX

Tribunal:

Legally Qualified Chair	Mr Simon Bond
Lay Tribunal Member:	Mr Jonathan Storey
Medical Tribunal Member:	Dr Amir Zafar
Tribunal Clerk:	Mrs Anne Bhatti

Attendance and Representation:

Medical Practitioner:	Present and not represented
GMC Representative:	Ms Kyra Badman, Counsel

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.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Impairment - 06/07/2022

1. This determination will be read in private. However, as this case concerns Dr Patel's conviction, a redacted version will be published at the close of the hearing XXX.
2. At this review hearing the Tribunal has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Patel's fitness to practise is impaired by reason of XXX conviction.

The Outcome of Applications Made during the Impairment Stage

3. The Tribunal adjourned part-heard whilst in camera at the impairment stage. The existing period of Dr Patel's conditional registration was due to expire before the date of the reconvened hearing. As a result, the Tribunal invited the parties to make submissions on whether Dr Patel's current order of conditions should be extended. The Tribunal determined to extend the current order of conditions for three months. The Tribunal's full decision is included at Annex A.

Background

4. Dr Patel graduated from the University of Liverpool in 1999. Between 2001 to 2009 she completed her basic training in Psychiatry in East London, before undertaking higher training in Child and Adolescent Psychiatry on the Great Ormond Street rotation. Dr Patel then took up her first Consultant post in Child and Adolescent Psychiatry in Cambridge in 2009. Between 2009 to 2017 Dr Patel worked in various posts in Child and Adolescent Psychiatry, which included a post as an Outreach Adolescent Consultant at Pennine Care NHS Trust. Dr Patel had a career break in 2015, before taking on various locum posts, which included being a Substantive Consultant at Alder Hey NHS Trust. At the time of the events in question, Dr Patel was practising as a Locum Psychiatrist for the Regional Eating Disorders Unit.

5. At a Medical Practitioners Tribunal hearing which took place in November 2020 ('the 2020 Tribunal'), Dr Patel admitted, and the 2020 Tribunal found proved, that:
 - On 4 July 2018 Dr Patel attended at Cheshire and Wirral Partnership NHS Foundation Trust for a Care Programme Approach meeting in relation to a child and she had consumed alcohol prior to that meeting ('the July 2018 incident');
 - On 19 September 2018 at Sefton Magistrates' Court Dr Patel was:
 - convicted of:
 - driving a motor vehicle on 8 June 2018 after consuming so much alcohol that the proportion of it in her blood, namely 235 milligrams of alcohol in 100 millilitres of blood, exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;
 - being the driver of a mechanically propelled vehicle which, having been involved in an accident whereby damage was caused to another vehicle, failed to stop contrary to section 170(4) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;
 - sentenced to:
 - a curfew for 10 weeks with electronic monitoring, to remain at her home address every night between the hours of 7pm until 7am (from 19 September 2018 to 27 November 2018);
 - disqualification from holding or obtaining a driving licence for 24 months;
 - paying a victim surcharge of £85.00;
 - paying costs to the Crown Prosecution Service of £85.00.
 - XXX
 - XXX
6. Dr Patel referred herself to the GMC after the road traffic accident on 8 June 2018.
7. Dr Patel's case was referred to the 2020 Tribunal.

The 2020 Tribunal

8. The 2020 Tribunal determined that Dr Patel's fitness to practise was not impaired by reason of her conduct during the July 2018 incident.
9. XXX
10. The 2020 Tribunal was of the view that Dr Patel's convictions in 2018 amounted to serious misconduct as she had demonstrated a severe lack of judgement and her actions placed other road users at a significant risk. The 2020 Tribunal had regard to the severity of the penalty that was imposed on Dr Patel at Sefton Magistrates' Court. The November 2020 Tribunal had regard to the fact that Dr Patel was sentenced to a curfew order for 10 weeks and a two-year period of disqualification, which indicated how seriously the Magistrates Court regarded Dr Patel's actions. The 2020 Tribunal determined that proper professional standards would not be upheld, and public confidence in the medical profession would be undermined, if a finding of impairment was not made. Accordingly, the 2020 Tribunal determined that Dr Patel's fitness to practise was impaired by reason of her conviction.
11. The 2020 Tribunal was satisfied that Dr Patel had demonstrated good insight, that she was very likely to comply with conditions on her registration and that she would respond positively to remediation and supervision. The 2020 Tribunal determined that a period of conditional registration was sufficient to protect the public and the profession, XXX. The 2020 Tribunal therefore concluded that it was appropriate, necessary and proportionate to impose conditions on Dr Patel's registration for a period of 18 months. The 2020 Tribunal considered that this was the minimum period to allow Dr Patel to continue to address XXX, whilst giving her the time to demonstrate that she could return to work at the level expected of a medical practitioner.
12. The 2020 Tribunal directed a review hearing and suggested that a future Tribunal reviewing Dr Patel's case may be assisted by the following:
 - XXX
 - XXX
 - evidence from her clinical supervisors and mentors; and
 - evidence that Dr Patel has kept her clinical skills up to date.

This was not intended to be an exhaustive list, and the 2020 Tribunal stated that Dr Patel could provide such additional information as she considered would assist her at a review hearing.

This Review Hearing

The Evidence

13. The Tribunal has taken into account all the evidence received at this stage of the hearing.

14. The Tribunal received documentary evidence which included but was not limited to:

- XXX
- XXX
- XXX
- XXX
- Information letters to Dr Patel dated 9 February and 31 March 2022;
- XXX
- XXX; and
- Statement and documents relied on by Dr Patel at the 2020 Tribunal.

15. Whilst the Tribunal was in camera at the Impairment Stage, it was provided with further documentation from Dr Patel, comprising a statement from her headed, *'Update from July 2022 to present'* XXX.

Submissions

On behalf of the GMC

16. Ms Kyra Badman, Counsel for the GMC, submitted that XXX

17. XXX

18. XXX

19. XXX

20. Ms Badman confirmed that it was not contended by the GMC that Dr Patel’s fitness to practise is impaired by reason of her conviction.

Dr Patel

21. Dr Patel submitted that her fitness to practise was not impaired. She stated that she was not practising and had no plans to return to clinical practice. XXX

22. XXX

The Relevant Legal Principles

23. As noted above, the 2020 Tribunal set out the matters that a future Tribunal might be assisted by. This Tribunal reminded itself that it is for Dr Patel to satisfy it that she would be safe to return to unrestricted practise, albeit the decision of impairment is a matter for the Tribunal’s judgment alone.

24. The Tribunal must determine whether Dr Patel’s fitness to practise is impaired today, taking into account Dr Patel’s XXX conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal’s Determination on Impairment

XXX

XXX

25. XXX

26. XXX

27. XXX

Record of Determinations –
Medical Practitioners Tribunal

28. XXX

29. XXX

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XXX

50. XXX

51. XXX

Conviction or Caution

52. The Tribunal had regard to the determination of the 2020 Tribunal which stated that the matters for which Dr Patel was convicted were serious.

53. The Tribunal took into consideration that the GMC had not pursued Dr Patel's convictions as a ground of impairment at this hearing.

54. The Tribunal was of the view that Dr Patel's convictions were intrinsically linked to XXX. There was no evidence of any repetition of Dr Patel's criminal activity XXX.

55. Taking these factors into account, the Tribunal has determined that Dr Patel's fitness to practise is not impaired by reason of her convictions.

Conclusion on impairment

56. XXX

57. Dr Patel's fitness to practise is no longer impaired XXX by reason of her convictions.

XXX

ANNEX A – 01/06/2022

Adjournment and extension of conditional registration

1. The Tribunal, of its own volition, under Rule 29(2) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules'), determined to adjourn. This Rule states:

'Where a hearing of which notice has been served on the practitioner in accordance with these Rules has commenced, the Committee or Tribunal considering the matter may, at any stage in their proceedings, whether of their own motion or upon the application of a party to the proceedings, adjourn the hearing until such time and date as they think fit.'

2. The Tribunal was not in a position to hand down its determination on Impairment. The Tribunal considered that there was insufficient time to conclude this hearing. It considered that it would need a further day to conclude the hearing.
3. Neither Ms Kyra Badman, Counsel for the GMC nor Dr Patel opposed the adjournment.
4. The Tribunal will reconvene for a virtual hearing on 6 July 2022 for one day.
5. The current order of conditions imposed on Dr Patel's registration is due to expire on 23 June 2022. Due to the hearing being adjourned until after the date on which the conditions would otherwise expire, the Tribunal directed under section 35D (12)(c) of the Medical Act 1983 to extend the current order of conditions on Dr Patel's registration, for a period of three months. The MPTS will send Dr Patel a letter informing Dr Patel of her right of appeal.
6. The parties were asked to re-join the hearing at 4:55pm so that the Tribunal's determination could be handed down. MPTS staff tried to contact Dr Patel by telephone and email without success and by 5:20pm she had not re-joined the hearing. As a result, the Tribunal determined to hand down its determination in the absence of Dr Patel.