

PUBLIC RECORD

Dates: 18/01/2021 - 19/01/2021

Medical Practitioner's name: Dr Brendan SWEENEY

GMC reference number: 6147279

Primary medical qualification: MB ChB 2006 University of Manchester

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

Summary of outcome
XXX

Tribunal:

Legally Qualified Chair	Mr Nicholas Flanagan
Medical Tribunal Member:	Dr Ann Wolton
Medical Tribunal Member:	Dr Shehleen Khan
Tribunal Clerk:	Miss Evelyn Kramer

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Philip Newman, Counsel, instructed by RadcliffesLeBrasseur
GMC Representative:	Ms Kathryn Johnson, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held 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 - 18/01/2021

1. In accordance with Rule 41 of the Rules, the Tribunal, of its own volition determined to proceed to hear this case entirely in private XXX. Both parties indicated agreement that the hearing should proceed in private and it would be impractical to vary between private and public sessions. As such, this determination will be read in private but as this case also concerns Dr Sweeney’s misconduct, a redacted version of this determination will be published following the conclusion of this hearing XXX.

Background

2. The Tribunal had regard to the background to Dr Sweeney’s case which was first considered by a Medical Practitioners Tribunal XXX in January 2019 (‘the 2019 Tribunal’). The details of Dr Sweeney’s previous hearings are a matter of record and the Tribunal does not propose to rehearse them in full here, beyond the following summary.

XXX

3. In 2010, Dr Sweeney was fined and disqualified from driving for 12 months for failing/refusing to undergo breath analysis at the Local Court of New South Wales, Australia. In 2012, he was found guilty of driving over the prescribed limit, fined and disqualified from driving for 12 months at the Glasgow Justice of the Peace Court. Dr Sweeney reported his conviction to the GMC and agreed to a schedule of undertakings XXX In July 2015, Dr Sweeney reported for work when he was unfit to do so, as a result of his excessive alcohol consumption the previous evening. Dr Sweeney was dismissed from his post.

4. XXX.

5. XXX.

6. XXX.

XXX

7. XXX.

8. XXX.

9. XXX.

10. XXX.

11. XXX.

12. XXX.

2019 Tribunal

13. XXX. At the outset of those proceedings, Dr Sweeney admitted, and the 2019 Tribunal found proved, the entirety of the allegation, as follows:

‘On 27 February 2018 at Manchester and Salford Magistrates Court, you were made the subject of an order for conditional discharge for a period of eighteen months in respect of the following:

- a. possession of a controlled drug of class A namely cocaine contrary to section 5(1) of the Misuse of Drugs Act 1971;
- b. whilst in a public place disorderly behaviour whilst drunk contrary to section 91(1) of the Criminal Justice Act 1967;
- c. possession of a controlled drug of class B namely ketamine contrary to section 5(1) of the Misuse of Drugs Act 1971;
- d. possession of a controlled drug of class C namely diazepam contrary to section 5(1) of the Misuse of Drugs Act 1971.’

14. On 30 October 2017 police attended a restaurant in Manchester city centre. They had received a report of a male who was being aggressive to staff and customers within the establishment. The male was identified as Dr Sweeney. Dr Sweeney's eyes were glazed over and he was shouting, slurring his words and swearing at staff members. A staff member stated that Dr Sweeney had "consumed at least 5/6 pints of beer and had been shouting about taking drugs." PC A noted that Dr Sweeney had white powder stuck to the septum area of his nose and suspected that he had used a controlled drug. Dr Sweeney was verbally abusive and physically aggressive towards the attending officers and refused to leave the premises. This continued when he was escorted to the police van. Dr Sweeney was cautioned and arrested for being drunk and disorderly and replied to officers "I'm not drunk".

15. Dr Sweeney was searched whilst in custody at Longsight Police Station. He was found to be in possession of 4 'snap bags of white powder' and a blister pack of tablets. Forensic analysis revealed that these bags contained 0.19g and 0.32g of cocaine, 0.31g and 0.78g of ketamine, and 5 tablets amounting to 0.84g of diazepam. Dr Sweeney was further arrested for possession of Class A drugs.

16. On 27 February 2018 at Manchester and Salford Magistrates' Court, Dr Sweeney pleaded guilty to all four charges and was made subject to the conditional discharge as set out in the allegation above.

17. In his oral evidence before the 2019 Tribunal, Dr Sweeney apologised for his conduct on 30 October 2017. He stated that he was anxious XXX earlier that day XXX. Dr Sweeney stated that he was in an "emotionally charged" state and decided to consume some Prosecco on the journey from Leeds to Manchester. He told the 2019 Tribunal that XXX he does "stupid things" when intoxicated. Dr Sweeney's opinion was that XXX when intoxicated, he is prone to poor decision-making and more likely to accept an offer of drugs. XXX.

18. Dr Sweeney's conduct on 30 October 2017 was witnessed by several members of the public and included him acting in an abusive manner towards police officers. The 2019 Tribunal was satisfied that Dr Sweeney's behaviour damaged public trust in the profession. It concluded that Dr Sweeney's behaviour fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

19. The 2019 Tribunal considered that Dr Sweeney's actions have in the past brought the medical profession into disrepute and have breached one of the fundamental tenets of the medical profession. It noted that Dr Sweeney remained subject to the conditional discharge.

The 2019 Tribunal concluded that a finding of impaired fitness to practise was required in order to maintain public confidence in the medical profession and maintain proper professional standards and conduct for members of the profession. Accordingly, it determined that Dr Sweeney’s fitness to practise was impaired by reason of his misconduct.

20. XXX.

21. XXX.

22. The 2019 Tribunal took into account that it had been some 14 months since the last incident on 30 October 2017 and there had been no repeat of such behaviour since then. The 2019 Tribunal acknowledged that Dr Sweeney’s serious misconduct on 30 October 2017 could not be viewed in isolation, but must be viewed in the context of XXX. During the course of the hearing, Dr Sweeney had demonstrated an openness and willingness to engage XXX.

23. The 2019 Tribunal determined that a period of conditional registration would be appropriate and proportionate and sufficient to protect patients and the wider public interest. It considered that a period of suspension would be disproportionate and counterproductive.

24. The 2019 Tribunal determined to impose conditions on Dr Sweeney’s registration for a period of 24 months XXX.

Today’s Review Hearing

25. The Tribunal has to decide in accordance with Rule 22(1)(f) of the Rules whether Dr Sweeney’s fitness to practise remains impaired by reason of his misconduct XXX.

The Evidence

26. The Tribunal has taken into account all of the documentary evidence adduced at this hearing as summarised below:

- XXX;
- XXX;
- MPT Record of Determinations from the XXX hearing on 21 January 2019;
- XXX;

- XXX;
- XXX;
- Report from Dr Sweeney’s workplace reporter – Dr C;
- XXX;
- XXX;
- XXX;
- Testimonials provided on behalf of Dr Sweeney;
- XXX.

27. Dr Sweeney provided a witness statement for these proceedings, dated 15 January 2021. The Tribunal was also provided with Dr Sweeney’s previous witness statement provided to the 2019 Tribunal.

28. XXX.

29. In August 2019, Dr Sweeney informed the GMC that he was going travelling for six months and would be returning to work in the same role as before in February 2020. XXX.

30. XXX.

31. XXX.

32. XXX.

33. XXX.

Submissions

34. XXX.

35. XXX.

The Relevant Legal Principles

36. 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.

37. The Tribunal must determine whether Dr Sweeney’s fitness to practise is currently impaired by reason of misconduct XXX, taking into account his conduct at the time of the events in question and any relevant factors such as whether the matters are remediable, have been remedied, any development of insight and any likelihood of repetition.

The Tribunal’s Determination on Impairment

Misconduct

38. The Tribunal did not receive specific submissions from either party as to whether Dr Sweeney’s fitness to practise remained impaired by reason of misconduct. The Tribunal considered that Dr Sweeney had now completed his conditional discharge for the events relating to his misconduct. There was no evidence before the Tribunal of any further convictions or other incidents that could amount to a finding of misconduct that is serious. Accordingly, the Tribunal concluded that it was not appropriate to maintain that Dr Sweeney’s fitness to practise remains impaired by reason of misconduct.

XXX

39. XXX.

40. XXX.

41. XXX.

42. XXX.

43. The Tribunal noted that there are no concerns about Dr Sweeney’s clinical practice and the testimonials before it demonstrate that he is a good clinician for whom there are no reported workplace issues.

44. XXX.

Record of Determinations –
Medical Practitioners Tribunal

45. XXX.

46. XXX.

XXX

Confirmed
Date 19 January 2021

Mr Nicholas Flanagan, Chair