

PUBLIC RECORD

Date: 05/07/2024

Medical Practitioner's name: Dr Çagil ÖZEN
GMC reference number: 6135730
Primary medical qualification: MD 1999 Universitatea De Medicina Si Farmacie

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

Summary of outcome
Suspension to expire

Tribunal:

Legally Qualified Chair	Mr Andrew Clemes
Medical Tribunal Member:	Dr Andy Cohen
Medical Tribunal Member:	Dr Joanne Topping
Tribunal Clerk:	Ms Angela Carney

Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Mr Dale Hughes, 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 - 05/07/2024

1. This determination will be read in private. However, as this case concerns Dr Özen's conviction and misconduct a redacted version will be published at the close of the hearing.
2. At this review hearing the Tribunal now 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 Özen's fitness to practise is impaired by reason of misconduct and conviction.

Background

3. Dr Özen qualified as a doctor in 1999 at the Universitatea De Medicina Si Farmacie, Romania.
4. On 14 July 2019 Dr Özen drove a motor vehicle after consuming alcohol. His sample of breath exceeded the legal limit of 35 microgrammes of alcohol in 100 millilitres of breath, his reading being 58 microgrammes. Whilst driving at speed, he collided with another vehicle. Dr Özen was convicted on 29 July 2019, at Croydon Magistrates' Court, of driving whilst over the prescribed limit. He was fined £946 and disqualified from holding or obtaining a driving licence for 12 months.
5. On 25 December 2021, Dr Özen drove a motor vehicle after consuming alcohol. On that occasion his breath sample reading was 104 microgrammes of alcohol in 100 millilitres of breath. When stopped by the police he smelt of alcohol, he could not stand or walk. On 31 December 2021, at Croydon Magistrates' Court, Dr Özen was convicted of driving whilst over the prescribed limit. He was made subject to a community order and disqualified from holding or obtaining a driving licence for four years.
6. On 4 January 2022 the Police notified the GMC that Dr Özen had been arrested for driving whilst over the prescribed limit and a fitness to practise investigation commenced.

Subsequent emails from the Police advised that Dr Özen had been charged with this offence. Further, that it was Dr Özen's second offence of this nature in as many years. Dr Özen failed to personally notify the GMC without delay that he had been charged and convicted.

7. XXX

The 2023 Tribunal

8. The facts found proved at Dr Özen's hearing which took place in June 2023 can be summarised that on 29 July 2019, at Croydon Magistrates' Court, Dr Özen was convicted of driving whilst over the prescribed limit, fined £946 and disqualified from holding or obtaining a driving licence for 12 months. The 2023 Tribunal also found proved that on 31 December 2021, at Croydon Magistrates' Court, Dr Özen was convicted of driving whilst over the prescribed limit, made subject to a community order and disqualified from holding or obtaining a driving licence for four years. The 2023 Tribunal found proved that Dr Özen had failed to notify the GMC without delay that he had been convicted of the offences in 2019 and 2021.

Conviction

9. The 2023 Tribunal found that Dr Özen second conviction represented an escalation of offending as he had significantly more alcohol in his system on the second occasion. Dr Özen had only had his driving licence back for around 6 months before his second offence. He had chosen to drive when only five minutes from his home. He was visibly affected by the alcohol such that police officers recorded that he could neither walk nor stand when his vehicle was stopped by them.

10. The 2023 Tribunal considered that Dr Özen's convictions amounted to a breach of fundamental tenets of the medical profession, namely the requirements to act within the law and to maintain the public's trust and confidence in the medical profession. This was serious criminal conduct on two separate occasions.

11. The 2023 Tribunal considered that Dr Özen's conviction was potentially remediable but had not been presented with evidence of remediation. The 2023 Tribunal found little evidence which demonstrated that Dr Özen had understood the gravity of his actions and that his insight was at a low level of insight. The 2023 Tribunal determined that there was a medium risk of repetition of similar behaviour from Dr Özen.

12. In relation to Dr Özen’s convictions, the 2023 Tribunal determined that a finding of impairment was necessary to promote and maintain public confidence in the medical profession, and to promote and to maintain proper professional standards of conduct for members of the profession.

Misconduct

13. The 2023 Tribunal considered that Dr Özen should have known that it was his mandatory duty to personally notify the GMC without delay that he had been charged and convicted. The 2023 Tribunal determined that his failure to do so was a serious departure from GMP and amounted to misconduct.

14. The 2023 Tribunal considered that the misconduct was remediable but found that Dr Özen had not grasped how serious his actions were until during that hearing. The 2023 Tribunal did not receive any evidence of remedial action and determined that there was a medium risk of repetition in regard to Dr Özen’s misconduct.

15. The 2023 Tribunal considered that public confidence in the profession would be undermined were there to be a finding of no impairment. Dr Özen had brought the reputation of the profession into disrepute and had breached one of the fundamental tenets of the profession. In the 2023 Tribunal’s view limbs b and c of the overarching objective were also engaged. The 2023 Tribunal has concluded that Dr Özen’s fitness to practise was impaired by reason of misconduct and a conviction for a criminal offence.

16. The 2023 Tribunal considered that Dr Özen’s lack of both insight and evidence of remediation indicated a moderate risk of repetition. However, it was of the view that Dr Özen was capable of engaging in a learning process and should be given the opportunity to grow his insight into his misconduct and the potential danger of driving whilst over the prescribed limit and the damage convictions of this nature cause the medical profession as a whole. The 2023 Tribunal considered that a period of suspension would give Dr Özen the chance to undertake the necessary CPD courses relating to the concerns raised by the Tribunal and provide evidence of remediation.

17. The 2023 Tribunal considered that the maximum period of suspension would mark the seriousness of Dr Özen’s conviction and misconduct and concluded that a period of 12-months suspension was the appropriate and proportionate sanction. The 2023 Tribunal considered that such a period would enable Dr Özen adequate time and opportunity to

complete a meaningful journey of insight and remediation, and to be able to attend a review hearing with substantial evidence of remediation.

18. The 2023 Tribunal determined to direct a review of Dr Özen’s case and considered that it may assist the reviewing Tribunal if Dr Özen provided:

- Reflective statement outlining his insight on his past actions, his misconduct and convictions, and the impact his actions have had upon public confidence in the medical profession.
- Targeted CPD courses in the matters raised by the Tribunal.
- Reflective piece(s) written following any professional courses. He may wish to provide the reviewing Tribunal the aims and objectives of each course with examples of lessons learned and demonstrate how he will apply that learning if allowed to resume practicing.
- Evidence to alleviate concerns of future alcohol misuse.

The Evidence

19. The Tribunal has taken into account all the evidence received, both oral and documentary.

20. The Tribunal received the following documentary evidence:

- Record of Determinations June 2023
- Letter from the GMC to Dr Özen requesting information suggested by the previous Tribunal, dated 2 April 2024.
- Dr Özen’s reflections, dated 6 June 2024
- XXX

Submissions

21. On behalf of the GMC, Mr Dale Hughes, Counsel, provided the background to the case. Mr Hughes submitted that in all the circumstances it is clear that Dr Özen has not undertaken any CPD or provided information suggested by the 2023 Tribunal. He submitted that Dr Özen remains impaired by reason of misconduct and conviction.

22. Dr Özen said that he is totally aware of his previous actions which had a lot of impact on himself, family, friends and especially on the public trust and confidence in the profession.

He said that he had made two ‘huge mistakes’ which impacted on the public’s trust in the profession. He said he was regretful and ashamed. He said that he suffered a lot during the past year as he couldn't find any jobs and due to financial constraints had to go back to Turkey on 5 January 2024 returning to the UK in May 2024.

23. Dr Özen explained that he required GMC registration as he had been working in clinical research which required GMC registration. He said he was responsible for running clinical trials and reviewing all the data.

24. Dr Özen said that he last worked in the NHS in 2010 in Oxford and did not need a license to practise in his research role as he was not seeing patients and only reviewing data. He said that without his registration he cannot apply for the same type of jobs although he has applied for research jobs. He said that he has no intention to return to clinical practice having given up his licence to practise over six years ago and had made this clear to the 2023 Tribunal.

25. Dr Özen explained that he had ‘shortlisted’ CPD courses but has been unable to complete any courses due to financial constraints and said that he had been focussing on XXX.

26. XXX

27. Dr Özen said that he has read Good Medical Practice (GMP) twice since the previous hearing in 2023. He confirmed that he is fully aware that he should inform the GMC without delay of any convictions. He said that in the future he would fully comply with GMP.

28. In relation to his fitness to practise Dr Özen submitted that he stopped drinking alcohol which led to his convictions and impacted on the public’s trust in the profession. He said he was ashamed of his actions which he is fully aware of and will never repeat. He said that he has learned a lot.

The Relevant Legal Principles

29. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal’s judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practice.

30. This Tribunal must determine whether Dr Özen’s fitness to practise is impaired today, taking into account his 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

Conviction and Misconduct

31. The Tribunal noted that the nature of Dr Özen’s impairment is narrow and relates to two convictions for drink driving and then misconduct in failing to declare those convictions to the GMC.

32. The Tribunal noted that Dr Özen admitted the Allegation in full at the 2023 hearing. He was not legally represented at that hearing and did not address that Tribunal.

33. The Tribunal noted that Dr Özen provided a written document of his reflections. The Tribunal heard submissions from Dr Özen and considered that he was honest and credible. Dr Özen expressed shame and remorse at the actions which led to his convictions and misconduct.

34. Dr Özen told the Tribunal that he had relinquished his licence to practise as he had previously worked in clinical research and did not treat patients.

35. The Tribunal agreed with Dr Özen that it was unclear what CPD would be appropriate in this circumstance and accepted that he struggled to find relevant courses. The Tribunal noted Dr Özen’s submissions that he was also unable to undertake CPD due to financial reasons and that he was focussing on XXX.

36. Prior to the hearing in 2023 Dr Özen was of previous good character. Dr Özen confirmed that he is abstinent from alcohol. The Tribunal had no reason to believe that this was untrue. Dr Özen was open and honest XXX.

37. The Tribunal was mindful that Dr Özen’s actions brought the profession into disrepute. However, it was agreed that there had been no repetition of Dr Özen’s misconduct and criminal offending. It considered that Dr Özen exhibited poor judgment on two occasions

whilst under the influence of alcohol. The Tribunal has no evidence that Dr Özen is alcohol dependent and was satisfied with his submission that he has chosen to be abstinent from alcohol. The Tribunal was satisfied that it is unlikely that Dr Özen will repeat the actions which led to his convictions and misconduct.

38. The Tribunal noted that there were no issues around patient safety in this case as Dr Özen is not in clinical practice. It is Dr Özen's intention to again seek work only in clinical research which is not patient facing.

39. The Tribunal was satisfied that the maintenance of public confidence in the medical profession, and the promotion and maintenance of proper professional standards and conduct for members of that profession has been served by the 12-month suspension imposed on Dr Özen's registration. The Tribunal considered that a finding of impairment would serve no useful purpose. Further, the public would be deprived of an otherwise able and competent doctor.

40. This Tribunal has therefore determined that Dr Özen's fitness to practise is not impaired by reason of misconduct and conviction.

41. The Tribunal noted that the order of suspension on Dr Özen's registration expires on 21 July 2024.

42. The Tribunal noted that Dr Özen's convictions and misconduct were serious. The 2023 Tribunal imposed the 12-month order of suspension to uphold proper standards within the profession, and of maintaining public confidence in the profession. The Tribunal considered that a reasonably informed member of the public, aware of these reasons, would expect the order of suspension to remain in place until it expired.

43. Accordingly, the Tribunal determined that the current order of suspension on Dr Özen's registration should be allowed to expire.

44. That concludes this case.