

PUBLIC RECORD

Date: 05/09/2024

Medical Practitioner's name: Dr Clare DAY

GMC reference number: 4703644
Primary medical qualification: MB ChB 2000 University of Birmingham

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

Summary of outcome
Conditions revoked**Tribunal:**

Legally Qualified Chair	Mrs Alison Storey
Medical Tribunal Member:	Dr Jeffrey Phillips
Medical Tribunal Member:	Dr Aamna Khan

Tribunal Clerk:	Mr Rowan Barrett
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Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Michael Rawlinson, Counsel, instructed by Weightmans
GMC Representative:	Mr Salek Ahmed

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 - 05/09/2024

1. This determination will be read in private. However, as this case concerns Dr Day's 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 Day's fitness to practise is impaired by reason of misconduct XXX.

The Outcome of Applications Made during the Impairment Stage

3. The Tribunal granted Mr Rawlinson's application, made pursuant to Rule 41XXX of the Rules that, the hearing be held entirely in private. The Tribunal considered Dr Day's misconduct was XXX and concluded that it would be necessary to hear her case in private.

Background

4. Dr Day qualified as a doctor in 2000 and subsequently became a General Practitioner. Between 15 January and 19 February 2020 Dr Day consulted with three patients and failed to record a clinical note of their consultations. Between 17 January and 7 February 2020, Dr Day failed to provide adequate care and treatment for two patients by not arranging onward referrals for further treatment or responding to and/or actioning reminders to complete the referrals.

5. XXX

September 2022 Tribunal

6. At Dr Day's substantive hearing, which concluded in September 2022 (the September 2022 Tribunal), she admitted all the facts of the Allegation. The September 2022 Tribunal found the misconduct matters to be serious and that Dr Day lacked full insight and there was a need for further remediation. XXX. However, it was concerned by Dr Day's insight, more generally, as to the need for GMC involvement in her case and was concerned her insight was only superficial in this regard.

7. The September 2022 Tribunal found Dr Day's fitness to practise to be impaired by reason of her misconduct XXX. It considered that all three limbs of the overarching objective

were engaged, and it was necessary to find current impairment in order to protect patient safety, to promote and maintain public confidence in the profession and to promote and maintain proper professional standards for members of the profession.

8. XXX

9. The September 2022 Tribunal considered that a reviewing Tribunal may be assisted if Dr Day provided:

- a. Evidence of compliance with her conditions XXX.
- b. Evidence of remediation around working as part of a team;
- c. XXX;
- d. Up to date testimonials from existing colleagues and appraisal documents;
- e. Any other evidence of insight and remediation she wishes to provide.

March 2024 Review on Paper

10. In agreement with the GMC and Dr Day her case was reviewed on the papers by a Legally Qualified Chair (LQC), in accordance with Rule 21B of the Rules.

11. The LQC took account that since the substantive order was imposed the circumstances had not changed and Dr Day's fitness to practise remained impaired by reason of misconduct XXX. The LQC was satisfied that an order of conditions remained proportionate and sufficient to protect the public and the public interest. The LQC determined that conditions for a further period of 6 months should be imposed on Dr Day's registration.

12. The LQC noted that although there had been challenges for Dr Day in relation to XXX and having conditions on her registration, she had engaged with XXX.

13. The LQC noted that Dr Day had recently secured a salaried GP post and that there were no concerns from her employer and concluded that a Tribunal in six months' time would be in a better position to review Dr Day's case as XXX, she should have had some months in employment and relevant reports can be provided.

Today's Hearing

The Evidence

14. The Tribunal has taken into account all the evidence received.

15. The Tribunal received the following documentary evidence, which included but was not limited to:

- Record of determinations September 2022 and March 2024
- XXX
- Emails to the GMC from Dr A, Workplace Reporter

- Workplace report from Dr A dated 3 July 2024
- XXX
- XXX
- XXX
- Email from Dr B dated 12 August 2024

16. The Tribunal also received documentation on behalf of Dr Day on the morning of the hearing, which included but was not limited to:

- A reflective document prepared by Dr Day in September 2024
- Recent appraisal documentation for Dr Day
- A number of testimonials from colleagues
- 360 feedback for Dr Day from August 2024
- XXX

Submissions

17. On behalf of the GMC, Mr Ahmed submitted that the GMC's position was neutral on whether Dr Day's fitness to practise remains impaired by reason of her misconduct XXX.

18. On behalf of Dr Day, Mr Rawlinson submitted that Dr Day's fitness to practise was no longer impaired. He submitted that the misconduct in this case was XXX and it occurred in the context of a 20 year unblemished history of practising medicine. He submitted that it follows that, once XXX, the risk of repetition of misconduct is negated.

19. Mr Rawlinson submitted that Dr Day's insight into XXX misconduct was now fully developed. He pointed the Tribunal to the fact that there have been no complaints or significant events whilst Dr Day had been working under conditions. He submitted that despite all the personal challenges she has dealt with over the past few years, Dr Day has XXX and has continued to engage with the GMC. He referred the Tribunal to positive testimonial evidence and appraisal documentation for Dr Day. He submitted that, while these documents were 'unvarnished' and reflective of some 'bumps in the road' in Dr Day's journey XXX, they did not indicate any patient safety concerns or any hint that she was not currently fit to practise. He submitted that it was a positive indicator of Dr Day's insight that she had taken a step back from her responsibilities when XXX. He submitted that, at this stage, it would be in the interest of patients to allow Dr Day to return to unrestricted practice.

20. Mr Rawlinson submitted that Dr Day's detailed and targeted reflective statement evidenced that Dr Day had developed full insight into her XXX misconduct. He said that the progress she had made with XXX has been 'transformative' for Dr Day. He submitted that the development of Dr Day's insight was further demonstrated by the fact that she took a step back from her responsibilities when XXX. He submitted that Dr Day is now able to regulate her own contact with patients due to this level of insight.

21. Mr Rawlinson submitted that the current conditions were having a disproportionate impact on Dr Day, in terms of her financial situation and in making it difficult for her to obtain work. He submitted that it would be beneficial to Dr Day to return to unrestricted practice as this would allow her to address her financial difficulties, which are having an adverse effect XXX.

22. Mr Rawlinson submitted that XXX. He submitted that the improvements in Dr Day's XXX had allowed her to completely develop insight into her misconduct such that she is no longer impaired by reason of misconduct. He further submitted that there is no public interest in extending the intervention of the regulator any further.

The Relevant Legal Principles

23. 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 she would be safe to return to unrestricted practice.

24. This Tribunal must determine whether Dr Day's fitness to practise is impaired today, taking into account Dr Day's 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

25. XXX

26. XXX

27. XXX

Misconduct

28. The Tribunal had regard to the evidence which the 2022 Tribunal had indicated may assist in reviewing Dr Day's case. The Tribunal noted that Dr Day has provided all of this evidence, including a thorough and insightful reflective statement, in which she addressed all of the areas of concern in respect of her misconduct and outlined her understanding of how and why these incidents had occurred and the steps she now takes to ensure that they are not repeated. The Tribunal considered that Dr Day has reflected, developed insight into her misconduct, and taken the appropriate steps toward remediation.

29. The Tribunal took into account the positive testimonials and feedback from colleagues, which demonstrate a marked improvement in all the areas of concern relating to

the misconduct, such as making full notes of consultations and making appropriate referrals for patients. The Tribunal also noted the large volume of very positive patient feedback provided for Dr Day. It considered it significant that there have been no complaints at all in the years that Dr Day has been working under conditions. The Tribunal also noted Dr Day's detailed reflections on the CPD courses she has undertaken. The Tribunal noted that Dr Day has a pending job offer which she is keen to undertake without the potential barrier of a conditions of practice order, and that she has faced difficulty in the past in finding and retaining work under the conditions.

30. The Tribunal accepted that XXX, the risk of repetition of her misconduct is significantly reduced. XXX.

31. In all the circumstances of this case, the Tribunal was satisfied that the risk of repetition of Dr Day's misconduct is now low.

32. This Tribunal has therefore determined that Dr Day's fitness to practise is not impaired by reason of misconduct XXX.

33. The Tribunal has noted that the current conditions on Dr Day's registration are due to expire on 5 October 2024. In the light of its findings on impairment, the Tribunal sees no reason why such restrictions should continue. Therefore, the Tribunal revokes the order of conditions with immediate effect.