

PUBLIC RECORD

Dates: 07/04/2021 - 09/04/2021

Medical Practitioner's name: Dr Frederick BAANAH-JONES
GMC reference number: 6076498
Primary medical qualification: MB BS 2003 University of London

Type of case

Restoration following administrative erasure

Summary of outcome

Restoration application refused. No further applications for 24 months.

Tribunal:

Legally Qualified Chair	Mr Sean Ell
Lay Tribunal Member:	Mr Andrew Gell
Medical Tribunal Member:	Dr Nagarajah Theva
Tribunal Clerk:	Ms Evelyn Kramer

Attendance and Representation:

Medical Practitioner:	Present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Mr Robin Kitching, 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 Restoration - 09/04/2021

1. This Tribunal has convened to consider Dr Baanah-Jones's application for his name to be restored to the Medical Register following his administrative erasure in October 2017 in accordance with Section 32 of the Medical Act 1983 (as amended), the General Medical Council (Restoration following Administrative Erasure) Regulations Order of Council 2004, and Rule 24 of the General Medical Council (GMC) (Fitness to Practise) Rules 2004 as amended ('the Rules'). This is Dr Baanah-Jones's first application for restoration.
2. This determination will be read in private as it contains information that is confidential, XXX. This is in accordance with Rule 41 of the Rules. However, as this case concerns Dr Baanah-Jones's restoration and alleged misconduct, a redacted version will be published following the conclusion of this hearing, XXX.

Background

3. Dr Baanah-Jones qualified in 2003 from the University of London.
4. On 21 March 2011, Dr Baanah-Jones was convicted at Stratford Magistrates' Court of driving with excess alcohol. Dr Baanah-Jones pleaded guilty, was fined and disqualified from driving for 24 months (reduced to 18 months following the completion of a course approved by the Secretary of State). On 13 September 2011, following his conviction, Dr Baanah-Jones accepted a warning from the GMC. The warning on Dr Baanah-Jones's registration expired on 12 September 2016.
5. On 27 July 2017, Dr Baanah-Jones's licence to practise was withdrawn as he had not completed the revalidation process as required. Prior to his licence to practise being withdrawn, Dr Baanah-Jones had been training at Homerton University Hospital between April 2014 and April 2016 in Geriatric Medicine.
6. Dr Baanah-Jones's name was erased from the Medical Register for administrative reasons on 9 October 2017, due to non-payment of his GMC Annual Retention Fee (ARF).

7. Dr Baanah-Jones applied for restoration on 10 April 2020. In his application, he answered ‘Yes’ to the question ‘Are you aware of any proceedings, act or omission on your part which might render you liable to be referred to the General Medical Council for investigation or consideration of your fitness to practise?’. In the ‘Final Declaration – Further Information’ box on the Application for Restoration Form, Dr Baanah-Jones referred to being convicted for a driving offence for driving whilst banned. Subsequently, the GMC opened an investigation into the discrepancies in the information that Dr Baanah-Jones had provided about his work history and his convictions.

8. In response to Dr Baanah-Jones’s application for restoration, following its investigations, the GMC identified two convictions and a caution that had been issued to Dr Baanah-Jones while he was not registered. The matters were considered serious enough to require consideration of impaired fitness to practise by this Tribunal.

The Outcome of Applications Made during the hearing

9. At the outset of these proceedings, Mr Robin Kitching, Counsel, on behalf of the GMC drew to the Tribunal’s attention a minor difference in the wording of sub-paragraph 1a of the Allegation and the wording on the certificate of conviction. However, Mr Kitching on behalf of the GMC did not make a formal application to amend the allegation. Dr Baanah-Jones had no objection to the wording of paragraph 1a and confirmed that he was content with the wording of the allegation, knowing what it related to. The Tribunal considered it was unnecessary to amend the wording of sub-paragraph 1a. It was satisfied that sub-paragraph 1a included the relevant details of Dr Baanah-Jones’s conviction, forming the basis of the charge. The Tribunal determined that there would be no unfairness to Dr Baanah-Jones or to the GMC in leaving the Allegation unamended and was satisfied that the specific terms of the June 2019 conviction were clear from the certificate of conviction.

The Allegation

10. The grounds on which the GMC considered Dr Baanah-Jones’ fitness to practise may be impaired were set out in a ‘Notice of Allegations’ document and are as follows:

‘1. On 14 June 2019 at North East London Magistrates’ Court you were:

a. convicted of failing to provide a specimen for analysis (driving or attempting to drive), contrary to section 7(6) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;

Admitted and found proved

b. sentenced to disqualification from driving for 3 years;

Admitted and found proved

c. fined £250.

Admitted and found proved

2. On 16 January 2020 at Basildon Magistrates' Court you were:

a. convicted of:

i. driving a motor vehicle while disqualified from holding or obtaining a driving licence, contrary to section 103(1)(b) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;

Admitted and found proved

ii. using a motor vehicle on a road, or other public place, when there was not in force in relation to that use a policy of insurance or such a security in respect of third party risks as complied with the requirements of Part VI of the Road Traffic Act 1988, contrary to section 143 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;

Admitted and found proved

b. sentenced to:

i. prison for 12 weeks;

Admitted and found proved

ii. disqualification from driving for 23 months.

Admitted and found proved

3. On 10 April 2020 you submitted an application to the General Medical Council seeking restoration to the Register in which you:

a. answered 'Yes' to the question 'Are you aware of any proceedings, act or omission on your part which might render you liable to be referred to the General Medical Council for investigation or consideration of your fitness to

practise’;

Admitted and found proved

b. failed to provide details of the conviction described in paragraph 1 above;

To be determined

c. entered ‘Y’ for the final declaration, which stated ‘The information I have provided in my application is correct and true’.

Admitted and found proved

4. At the time of your actions as described in paragraph 3, you knew:

a. you had been convicted as described at paragraph 1;

To be determined

b. the information you provided with your application did not refer to the conviction described in paragraph 1.

Admitted and found proved

5. Your actions as described at paragraph 3 were dishonest by reason of paragraph 4.

To be determined

6. On 10 May 2020 you accepted a caution from Herefordshire Police for the offence of destroying or damaging property, contrary to section 1 of the Criminal Damage Act 1971.

Admitted and found proved

7. You failed to notify the GMC without delay that you had accepted the caution described at paragraph 6.

Admitted and found proved’

11. At the outset of these proceedings, Dr Baanah-Jones admitted a number of paragraphs and sub-paragraphs of the Allegation, as set out above.

12. The Tribunal is required to determine the outstanding paragraphs of the Allegation.

The Evidence

13. The GMC called no witnesses to give oral evidence and relied on the documentary evidence provided to the Tribunal.

14. Dr Baanah-Jones gave oral evidence at the hearing and relied on his previous statements made in correspondence with the GMC.

15. In his oral evidence, Dr Baanah-Jones apologised for his actions and sought to explain how both convictions and his caution had occurred. Dr Baanah-Jones explained to the Tribunal that his personal circumstances, XXX, had impacted on his behaviour and his actions throughout the period prior to and since his administrative erasure. Dr Baanah-Jones told the Tribunal that he had made a number of positive changes in his life recently and planned to make enquiries about re-engaging with clinical practice once he was restored to the Register. He hoped that by restoring his name to the register he would set a good example to his son, who wants to become a doctor.

Documentary Evidence

16. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included, but was not limited, to:

- Certificate of Conviction from Stratford Magistrates' Court for driving with excess alcohol, dated 21 March 2011;
- Letter from GMC to Dr Baanah-Jones confirming the warning issued following his 2011 conviction;
- Correspondence from the GMC sent to Dr Baanah-Jones regarding requirements for revalidation, his licence to practise being withdrawn and the withdrawal of his registration following his non-payment of the ARF, various 2017 dates.
- Certificate of Conviction from Barkingside Magistrates' Court for failure to provide a specimen, 14 June 2019;
- Certificate of Conviction from Basildon Magistrates' Court for driving whilst disqualified and without insurance, dated 16 January 2020;
- Dr Baanah-Jones's Application for Restoration Form, dated 10 April 2020;
- Correspondence from Health Education England ('HEE') regarding Dr Baanah-Jones's training post, various dates;
- Email from Essex Police disclosing Dr Baanah-Jones's previous convictions and caution, dated 11 February 2021;

- Correspondence between the GMC and Dr Baanah-Jones following his restoration application, various dates;
- Letter from Dr Baanah-Jones to the Tribunal, undated.

Submissions

Submissions on behalf of the GMC

17. Mr Kitching rehearsed the background of this case and referred the Tribunal to the *'Guidance for medical practitioners tribunals following voluntary or administrative erasure'* (March 2020) ('the Guidance'). Mr Kitching informed the Tribunal that this was the first time concerns about Dr Baanah-Jones's fitness to practise had been raised before a Tribunal. He reminded the Tribunal that English was not Dr Baanah-Jones's first language, which would be relevant to its consideration of the oral evidence and written communications, including the restoration application form. Mr Kitching submitted that Dr Baanah-Jones's fitness to practice was impaired and that the application for restoration should be refused.

18. Mr Kitching submitted that Dr Baanah-Jones had not been honest in his evidence to the Tribunal about the circumstances of his conviction on 14 June 2019. It was inconceivable that the police had requested Dr Baanah-Jones provide a specimen for a breathalyser test after he had entered his house and drank wine while cooking in the way he had described. Mr Kitching invited the Tribunal to reject Dr Baanah-Jones's explanation of this conviction.

19. In relation to his conviction on 16 January 2020, Mr Kitching reminded the Tribunal that Dr Baanah-Jones had been found by the police on 4 July 2019, weeks after his conviction at the North East London Magistrates' Court, driving whilst disqualified and without insurance. Mr Kitching invited the Tribunal to reject Dr Baanah-Jones's explanation that he had not been aware of when his disqualification had come into force. He submitted that were Dr Baanah-Jones in any doubt, he could have checked with his friend who attended court with him, the duty solicitor who represented him or with the Court itself to confirm when the disqualification commenced. Mr Kitching submitted that Dr Baanah-Jones had done none of those because he already knew that he should not have been driving. Mr Kitching reminded the Tribunal that Dr Baanah-Jones had given the same explanation to the Basildon Magistrates' Court, and this had been rejected.

20. Mr Kitching submitted that, in relation to the restoration application form, submitted 6-7 weeks after Dr Baanah-Jones's release from prison, the Tribunal should consider the application form as a whole. He submitted that Dr Baanah-Jones had dishonestly omitted any reference to his June 2019 conviction. He also submitted that while Dr Baanah-Jones had referred to his January 2020 conviction and his disqualification from driving at the time, he

had made no reference to when he had been disqualified, how seriously the Court had viewed his actions and did not declare his period of imprisonment. Mr Kitching submitted that Dr Baanah-Jones's references to having 12 points on his licence (given the terms of both his convictions) and that as a doctor he had to drive to get to work on time (as he had not held a licence to practise as a doctor since 2017) were plainly untrue. Mr Kitching submitted that Dr Baanah-Jones had made a clear and deliberate attempt to deceive the GMC on his restoration application form.

21. Mr Kitching submitted that Dr Baanah-Jones had not taken proper responsibility for his conduct. Seeking to minimise it and explain it away untruthfully. Mr Kitching submitted that any expressions of remorse by Dr Baanah-Jones are hollow. Further, he submitted that there is no good evidence of insight or steps towards remediation taken by Dr Baanah-Jones. Mr Kitching also submitted that while his previous GMC warning for a driving conviction should not be attributed too much weight, the previous conviction was more than mere background and formed part of a pattern of serious motoring offences committed by Dr Baanah-Jones.

22. Mr Kitching invited the Tribunal to find all the outstanding factual matters proved. He submitted that even if Dr Baanah-Jones's actions were not found to be dishonest, his fitness to practise should be found impaired given the serious convictions and caution in this case and given the lack of evidence that Dr Baanah-Jones had successfully kept his clinical skills and knowledge up to date since he stopped working in 2016.

23. Mr Kitching submitted that it would not be in the public interest to restore Dr Baanah-Jones's name to the Medical Register, it would neither uphold public confidence in the profession nor uphold proper professional standards.

Submissions from Dr Baanah-Jones

24. Dr Baanah-Jones again apologised to the Tribunal and accepted that, whilst he had been reading medical publications and internet articles, he could have taken further steps to improve his clinical knowledge and skills since being removed from the Register in 2017. He accepted that he could have challenged his June 2019 conviction instead of pleading guilty and accepted that he had a duty to inform the GMC about his caution and provide full details about his convictions. He '*deeply regretted*' not discharging this duty and described his behaviour as '*naïve*'.

25. Dr Baanah-Jones accepted that he was on a ‘*learning curve*’ and that his behaviour had been uncalled for and unprofessional. He told the Tribunal that these events had led him to become more self-aware.

26. Dr Baanah-Jones told the Tribunal that he regretted his mistakes and that it had been difficult to cope with his personal circumstances in the past. He said he had reflected on what had happened and that his learnings were making him a better person. Dr Baanah-Jones invited the Tribunal to be lenient and grant his application for restoration.

The Tribunal’s Approach

27. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the concerns raised. Dr Baanah-Jones does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.

28. In respect of the allegation that Dr Baanah-Jones acted dishonestly, the Tribunal applied the test laid down by the Supreme Court in *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67 (*‘Ivey’*), namely that the Tribunal should first ascertain subjectively the actual state of Dr Baanah-Jones’s knowledge or belief as to the facts. Whether the belief is reasonable may be a matter of evidence, but reasonableness is not an additional requirement when considering whether the belief was genuinely held. The Tribunal should then ascertain whether his conduct was dishonest applying the objective standards of ordinary decent people.

29. Throughout its consideration of Dr Baanah-Jones’s application for restoration, the Tribunal was guided by the approach laid out in the Guidance. The Guidance sets out at B1 that the test for the Tribunal to apply when considering restoration is:

Having considered all the relevant information presented, is the doctor fit to practise having regard to each of the three elements of the overarching objective?

30. Given Dr Baanah-Jones’s admissions, the Tribunal is required to consider whether Dr Baanah-Jones’s fitness to practise is currently impaired by reason of convictions and caution and whether or not his restoration would uphold the overarching objective.

31. If the Tribunal was to find that Dr Baanah-Jones acted dishonestly, in considering impairment, the Tribunal must first consider whether Dr Baanah-Jones actions constitute

serious misconduct and then whether Dr Baanah-Jones's fitness to practise is currently impaired by reason of misconduct, conviction and/or caution. The Tribunal reminded itself that, in considering impairment, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgment alone.

32. The Tribunal must determine whether Dr Baanah-Jones'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.

33. In considering restoration, the Tribunal reminded itself it should step back and balance its findings against whether restoration meets the overarching objective, carefully considering each of the three elements and acting in a way which:

- protects, promotes and maintains the health, safety, and well-being of the public;
- promotes and maintains public confidence in the profession; and
- promotes and maintains proper professional standards and conduct for members of the profession.

34. In considering these matters, the Tribunal has taken account of all the evidence before it, both oral and documentary. It has also considered the submissions made by Mr Kitching on behalf of the GMC and those made by Dr Baanah-Jones.

Facts

The Tribunal's Analysis of the Evidence and Findings

35. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

Sub-paragraph 3b

36. The Tribunal was required to determine whether, on 10 April 2020, Dr Baanah-Jones had failed to provide details of his June 2019 conviction in the Application for Restoration Form he submitted.

37. On the application form, Dr Baanah-Jones had written the following:

I WAS CONVICTED FOR DRIVING OFFENCE. ON THE 26TH OF JANUARY 2020. I WAS CONVICTED FOR DRIVING WHEN BAND. [sic]...

38. It was Dr Baanah-Jones’s case that the full-stops between each sentence separated out the references he was making to his convictions. Dr Baanah-Jones did accept that what he had written was confusing and inaccurate. The GMC’s case was that Dr Baanah-Jones had clearly failed to disclose details on his June 2019 conviction.

39. The Tribunal took into account that English is not Dr Baanah-Jones’s first language. However, it was of the view that even taking this into account, the details of Dr Baanah-Jones’s June 2019 conviction are clearly omitted from the Application for Restoration Form he submitted. There is no reference to ‘2019’ in Dr Baanah-Jones’s entry on the form. While there is reference to having previously been banned from driving, Dr Baanah-Jones provided no details about when or why he had previously been disqualified. Dr Baanah-Jones in his evidence to the Tribunal accepted that he should have written “offences” rather than “offence”. The Tribunal also noted that there is also no reference to the sentence that Dr Baanah-Jones received from the Magistrates’ Court in 2019. Anybody reading what Dr Baanah-Jones had written on the form, would be unaware of his conviction in 2019.

40. Accordingly, the Tribunal found sub-paragraph 3b of the Allegation proved.

Sub-paragraph 4a

41. The Tribunal went onto consider whether Dr Baanah-Jones knew the details of his June 2019 conviction when he completed the application for restoration in April 2020.

42. It was the GMC’s case that Dr Baanah-Jones had deliberately omitted details of his June 2019 conviction in his restoration application, which, the GMC contended he had knowledge of as the restoration application was within 12 months of both convictions. Dr Baanah-Jones told the Tribunal that he was unclear about the exact details of his convictions when he was completing the restoration application.

43. The Tribunal noted that in his oral evidence Dr Baanah-Jones had given a clear account of his experience of Court on 14 June 2019. Yet he also gave evidence that he did not recall the details of his conviction despite being required to pay a fine and being disqualified from driving for three years.

44. The Tribunal was not persuaded by Dr Baanah-Jones's inconsistent account of his understanding of the details of his June 2019 conviction for failing to provide a specimen. The Tribunal found Dr Baanah-Jones's account to be implausible. It did not accept that Dr Baanah-Jones was not aware of the details of his June 2019 conviction, including his disqualification from driving, particularly given his latest conviction was for breaching the ban imposed upon him.

45. Given the relatively short time between his two motoring convictions, his release from prison and his submission of the application for restoration, the Tribunal was not persuaded that Dr Baanah-Jones was unclear on the details of his convictions due to the passage of time when he was prompted by the restoration application to include all relevant details of his convictions.

46. The Tribunal concluded that Dr Baanah-Jones knew about the June 2019 conviction when he completed his Application for Restoration Form in April 2020. Accordingly, the Tribunal found sub-paragraph 4a of the Allegation proved.

Paragraph 5

47. The Tribunal considered whether Dr Baanah-Jones had acted dishonestly in knowingly omitting details about his conviction of 14 June 2019 in his application for restoration form. On the form, submitted on 10 April 2020, Dr Baanah-Jones wrote the following:

I WAS CONVICTED FOR DRIVING OFFENCE. ON THE 26TH OF JANUARY 2020. I WAS CONVICTED FOR DRIVING WHEN BAND. BECAUSE OF POINTS ON MY LICENCE IS TOP UP TO 12 POINTS . AM A DOCTOR AND MOST TIMES I NEEDED TO DRIVE TO GET TO WORK ON TIME.. I did not mean for my points to top up to 12 points. I plead guilty and am sorry then and am sorry now. Just wanted to get to work on time.

48. Dr Baanah-Jones told the Tribunal that he had not acted dishonestly because he could not fully recall all the details of his convictions when he completed the form. Dr Baanah-Jones explained to the Tribunal that while he could have given more details to the GMC about his convictions on the form, he knew the GMC could collect all the relevant information itself. It would have therefore been pointless him intentionally trying to hide anything from the GMC. In relation to referring to having '12 points' on his licence, a matter relevant to neither of his convictions, Dr Baanah-Jones told the Tribunal that he did not know why he had written that.

49. In applying the first stage of the *Ivey* test, the Tribunal considered Dr Baanah-Jones state of knowledge and belief. The Tribunal had already determined that Dr Baanah-Jones

had full knowledge of his June 2019 conviction when he completed the restoration application. The Tribunal was of the view that Dr Baanah-Jones was fully aware of the details he was required to, and should have, disclosed on the restoration application form. In completing the form, Dr Baanah-Jones confirmed that he was aware of the information that needed to be provided and also that the information he was providing was truthful.

50. The Tribunal accepted the GMC's submission that Dr Baanah-Jones had sought to minimise the seriousness of his convictions in completing the restoration application form. Further, the Tribunal concluded that Dr Baanah-Jones had failed to provide any coherent explanation for his actions and had sought wherever possible to deflect responsibility from himself. It noted that on multiple occasions in his evidence, Dr Baanah-Jones sought to minimise his convictions and caution and invited the Tribunal to go behind the facts of them, provided excuses for his actions to try and persuade the Tribunal that he was not really culpable. The Tribunal note that he had pleaded guilty in the criminal proceedings brought against him and had been legally represented.

51. The Tribunal did not accept that it was plausible that Dr Baanah-Jones, only weeks after completing his prison sentence for a second serious motoring offence within less than a year, did not understand what he was required to disclose in the restoration application. Nor did it accept that he was simply confused or could not remember. The Tribunal found that, at the time of completing the form, Dr Baanah-Jones had purposefully omitted relevant information about the seriousness of his January 2020 conviction, specific details about his June 2019 conviction and had included information that was not relevant or accurate (in relation to his job and having 12 points on his licence) in an attempt to underplay his convictions. The Tribunal was not persuaded that Dr Baanah-Jones believed the lack of detail he provided in the form was acceptable because he knew the GMC would check such matters itself. Dr Baanah-Jones had a clear duty to make a full and complete declaration.

52. The Tribunal concluded that Dr Baanah-Jones had acted deliberately to minimise the seriousness of his convictions in order to improve his chances of being restored to the Medical Register.

53. Taking all of the above into account, and the Tribunal applied the second stage of the test set out in *Ivey*, and considered whether, Dr Baanah-Jones's actions would be considered dishonest by the standards of ordinary decent people.

54. The Tribunal concluded that Dr Baanah-Jones's actions, in purposefully completing and submitting a form to his regulator in the hopes of being restored to the Register which

he knew omitted information pertaining to the number and seriousness of his convictions, would be considered dishonest by the standards of ordinary decent people.

55. Therefore, the Tribunal found paragraph 5 of the Allegation proved.

56. The Tribunal has determined the facts as follows:

‘1. On 14 June 2019 at North East London Magistrates’ Court you were:

a. convicted of failing to provide a specimen for analysis (driving or attempting to drive), contrary to section 7(6) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;

Admitted and found proved

b. sentenced to disqualification from driving for 3 years;

Admitted and found proved

c. fined £250.

Admitted and found proved

2. On 16 January 2020 at Basildon Magistrates’ Court you were:

a. convicted of:

i. driving a motor vehicle while disqualified from holding or obtaining a driving licence, contrary to section 103(1)(b) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;

Admitted and found proved

ii. using a motor vehicle on a road, or other public place, when there was not in force in relation to that use a policy of insurance or such a security in respect of third party risks as complied with the requirements of Part VI of the Road Traffic Act 1988, contrary to section 143 of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;

Admitted and found proved

b. sentenced to:

i. prison for 12 weeks;

Admitted and found proved

ii. disqualification from driving for 23 months.

Admitted and found proved

3. On 10 April 2020 you submitted an application to the General Medical Council seeking restoration to the Register in which you:

a. answered 'Yes' to the question 'Are you aware of any proceedings, act or omission on your part which might render you liable to be referred to the General Medical Council for investigation or consideration of your fitness to practise';

Admitted and found proved

b. failed to provide details of the conviction described in paragraph 1 above;

Determined and found proved

c. entered 'Y' for the final declaration, which stated 'The information I have provided in my application is correct and true'.

Admitted and found proved

4. At the time of your actions as described in paragraph 3, you knew:

a. you had been convicted as described at paragraph 1;

Determined and found proved

b. the information you provided with your application did not refer to the conviction described in paragraph 1.

Admitted and found proved

5. Your actions as described at paragraph 3 were dishonest by reason of paragraph 4.

Determined and found proved

6. On 10 May 2020 you accepted a caution from Herefordshire Police for the offence of destroying or damaging property, contrary to section 1 of the Criminal Damage Act 1971.

Admitted and found proved

7. You failed to notify the GMC without delay that you had accepted the caution described at paragraph 6.

Admitted and found proved

And that by reason of the matters set out above your fitness to practise is impaired because of your:

a. convictions in respect of paragraphs 1 to 2;

To be determined

b. misconduct in respect of paragraphs 3, 4, 5 and 7;

To be determined

c. caution in respect of paragraph 6.

To be determined'

57. Having found all the paragraphs and sub-paragraphs of the Allegation proved, the Tribunal went onto consider whether Dr Baanah-Jones's fitness to practise was currently impaired.

Misconduct

58. The Tribunal was first required to decide whether Dr Baanah-Jones's actions in dishonestly completing the restoration application and in failing to notify the GMC without delay about his caution for criminal damage amounted to misconduct that was serious.

59. The Tribunal reminded itself that it is a rare case where a finding of dishonesty is not considered to amount to misconduct.

60. Further, in considering Dr Baanah-Jones's duty to notify the GMC of his caution without delay, it noted that the Application for Restoration Form clearly states '*If your personal circumstances change in a way that may affect this declaration, you must tell us immediately.*' Dr Baanah-Jones did not inform the GMC about the caution he accepted a month after he had submitted his restoration application.

61. Taking the seriousness of Dr Baanah-Jones's dishonesty and his failure to disclose another interaction with the police that resulted in a caution to the GMC, the Tribunal concluded that Dr Baanah-Jones's actions would undoubtedly be considered deplorable by

other medical practitioners. The Tribunal concluded that Dr Baanah-Jones's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct that was serious.

Impairment

62. Having found that Dr Baanah-Jones's actions amounted to misconduct, the Tribunal went on to consider whether Dr Baanah-Jones's fitness to practise was currently impaired by reason of his misconduct, and/or convictions, and/or caution.

Misconduct

63. While the Tribunal accepted that dishonesty is difficult to remediate, it is not impossible to do so. However, the Tribunal accepted, having not admitted to having acted dishonestly, Dr Baanah-Jones had shown no insight into this aspect of his misconduct, nor had he demonstrated any remedial steps he had taken or would be willing to take in this regard.

64. Further, Dr Baanah-Jones had offered no clear response when asked how he would ensure that he would not repeat his misconduct (or his criminal behaviour) again. Dr Baanah-Jones had acted dishonestly and had failed to disclose details of a further criminal act to the GMC. He has not developed insight into either of these matters, nor has he taken any genuine steps towards remediation. The Tribunal was also concerned that Dr Baanah-Jones appeared not to have considered the impact of his actions on the wider public or profession. The Tribunal concluded therefore that there remains a genuine risk that Dr Baanah-Jones could repeat his misconduct in the future.

65. Taking the above into account, the Tribunal concluded that Dr Baanah-Jones's fitness to practise was currently impaired by reason of his dishonesty and other misconduct. Further, the Tribunal concluded that a finding of impairment was required to uphold public confidence in the profession and declare and uphold proper professional standards.

Convictions and Caution

66. The Tribunal then considered whether Dr Baanah-Jones's fitness to practise was currently impaired by reason of his convictions and/or caution.

67. Despite admitting his convictions and caution, the Tribunal reminded itself that Dr Baanah-Jones had sought to go behind the facts of his convictions and caution at this hearing.

He had provided implausible explanations and excuses for each, some of which had already been discounted by the Court.

68. The Tribunal was of the view that Dr Baanah-Jones had demonstrated no real insight into his convictions or caution. While the Tribunal accepted that Dr Baanah-Jones had made apologies for his actions, such apologies were negated by his lack of insight into the behaviour that led to these repeated convictions. Having been in prison for his most recent motoring offence, having not declared that to the GMC and having demonstrated no insight into how the public would view a doctor having recently served a custodial sentence being restored to the Medical Register without restriction, the Tribunal remained concerned that Dr Baanah-Jones has yet to acknowledge the seriousness of his behaviour.

69. The Tribunal received no objective evidence of any remediation Dr Baanah-Jones had undertaken in respect of his convictions or caution. It received no evidence of how Dr Baanah-Jones intends to prevent any repetition of such criminal behaviour, particularly in relation to his serious motoring offences, of which he had been convicted of three times in ten years. As such, the Tribunal concluded that there remained a genuine risk of repetition in this case.

70. Dr Baanah-Jones told the Tribunal that challenging personal circumstances had affected his behaviour at all the times relevant to his convictions and caution. XXX The Tribunal took Dr Baanah-Jones's evidence on these matters into account, however, it was not persuaded that such evidence could mitigate the genuine risk of repetition it had identified given Dr Baanah-Jones's lack of insight or remediation.

71. Taking all of the above into account, the Tribunal concluded that Dr Baanah-Jones's current fitness to practise is impaired by reason of his convictions and his caution. Further, it again concluded that it would not uphold the overarching objective, were such a finding not made particularly given the serious nature of Dr Baanah-Jones's multiple convictions, his caution and his imprisonment.

Restoration

72. The Tribunal noted that Dr Baanah-Jones has not practised medicine in five years. He has not provided any documentary evidence of how he has kept his clinical skills and knowledge up to date and he has accepted that he has not completed any relevant courses. Dr Baanah-Jones accepted that he has yet to explore his options in terms of gaining a clinical attachment and he has not kept in touch with his previous postgraduate Dean. The Tribunal

concluded that, in any event, Dr Baanah-Jones's clinical skills and knowledge are clearly not at a sufficient standard that would allow him to return to unrestricted practice.

73. Having found Dr Baanah-Jones's fitness to practise to be impaired on three separate grounds, the Tribunal concluded that, in balancing its findings against the overarching objective, it would not promote or maintain public confidence in the profession, nor would it promote and maintain proper professional standards of conduct were Dr Baanah-Jones to be re-admitted to the Medical Register at this time.

74. The Tribunal therefore determined to refuse Dr Baanah-Jones's application for restoration.

75. The Tribunal determined that, in the circumstances, it was appropriate to extend the period before Dr Baanah-Jones can apply for restoration again.

76. The Tribunal considered the seriousness with which it has viewed Dr Baanah-Jones's dishonest conduct, his convictions and his caution. The Tribunal was of the view that in order to properly uphold the overarching objective, it was in the public interest to impose and extend the period of time before Dr Baanah-Jones can reapply for restoration. Particularly given Dr Baanah-Jones's recent custodial sentence, his repeated criminal actions and his lack of insight into any of the matters found proved.

77. The Tribunal determined that a period of 24 months was appropriate and proportionate to mark the seriousness of Dr Baanah-Jones's actions and impairment.

78. Should Dr Baanah-Jones make another application for restoration in the future, it may assist a future Tribunal if he provides evidence to demonstrate that his clinical knowledge and skills are up to date. Further he will be required to demonstrate that:

- He has developed sufficient insight into his misconduct, convictions and caution;
- He has undertaken appropriate remediation; and
- His fitness to practise is no longer impaired.

79. Dr Baanah-Jones's application for restoration to the Medical Register is refused. Dr Baanah-Jones will be unable to apply for restoration again for a period of 24 months from the date this determination is deemed served.

80. That concludes this case.

Confirmed

Date 09 April 2021

Mr Sean Ell, Chair