

## PUBLIC RECORD

Date: 30/10/2020

Medical Practitioner's name: Dr Georges MOUTON

GMC reference number: 4689715

Primary medical qualification: MD 1983 Universite de l'Etat a Liege

Type of case	Outcome on impairment
Review - Misconduct	Impaired

**Summary of outcome**Suspension, 9 months.  
Review hearing directed**Tribunal:**

Legally Qualified Chair	Mr Sean Ell
Lay Tribunal Member:	Mrs Ann Bishop
Medical Tribunal Member:	Mr Gulzar Mufti
Tribunal Clerk:	Ms Angela Carney

**Attendance and Representation:**

Medical Practitioner:	Not present and represented
Medical Practitioner's Representative:	Mr Surjitt Dubb of Hempsons Solicitors
GMC Representative:	Ms Zoe Dawson, 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 public.

## 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 - 30/10/2020

1. 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 Mouton's fitness to practise is impaired by reason of misconduct.

## Background

2. Dr Mouton qualified in 1983 from Liege University Medical School, Belgium and registered with the GMC in 2000. Prior to and during the time of the events that were the subject of his initial hearing which concluded in 2019, Dr Mouton was practising privately in the UK and abroad as a General Practitioner specialising in Functional Medicine, which is not a recognised specialty in the UK. Dr Mouton practised at the Hale Clinic, London.

## The 2019 Tribunal

3. The facts found proved at Dr Mouton's initial hearing, which took place across a number of dates in 2017 to 2019, related to his deficient professional performance arising from his clinical management of eight patients, A to H. Concerns were raised with the GMC by a number of general practitioners, initially on 17 February 2015 by Dr I, GP Partner at the practice at which Patients A and B were registered. The 2019 Tribunal considered allegations relating to Patients A to H.

4. The 2019 Tribunal noted that there were a number of findings with common features. Dr Mouton used testing for urinary thyroid hormones, thyroid ultrasound scans, and DIO2 and CTLA4 genotype testing for certain patients when not clinically indicated. These tests were carried out by Dr Mouton with a view to prescribing thyroid hormones.

5. The 2019 Tribunal found in respect of a number of patients that Dr Mouton's assessment and prescribing of thyroid hormones was serious misconduct. The 2019 Tribunal considered that Dr Mouton used the tests set out above to justify his over-prescription of thyroid hormones. It noted the evidence of Dr J that his concern with urinary thyroid tests was that they tended to over diagnose thyroid disease. Furthermore, Dr Mouton relied on thyroid ultrasound scans even though the evidence before the 2019 Tribunal was that such scans did not provide any information about thyroid function. The 2019 Tribunal concluded that the use of these tests, although not individually constituting serious misconduct, did

cumulatively amount to serious misconduct when considered in the context of the many other findings of serious professional misconduct in this case.

6. The 2019 Tribunal concluded that Dr Mouton had not remediated in full the clinical failings that have been demonstrated and found proved in this case. The 2019 Tribunal considered that there was a risk of repetition and that a finding of impairment was necessary to safeguard patient safety. It also considered that Dr Mouton's serious professional misconduct and his persistent non-compliance with guidelines had an impact, not only on his practice, but on public confidence in the profession. The Tribunal concluded that for this reason, and in order to uphold proper standards within the profession, a finding of impairment was necessary.

7. The 2019 Tribunal determined that a period of nine months suspension would be appropriate. It considered that nine months would allow Dr Mouton time to remediate the outstanding concerns, particularly in relation to mental health, his prescribing of thyroid hormones in breach of the relevant guidelines, his use of tests that were not clinically indicated, and his practice in relation to paediatric patients and genomic testing. It also considered that nine months should allow Dr Mouton time to demonstrate evidence of remediation and to establish himself in a group practice that is able to provide strong foundations in governance and quality assurance, thereby enabling Dr Mouton to look to returning to work in a more supervised environment.

### **The August 2020 Tribunal**

8. The August 2020 Tribunal bore in mind that Dr Mouton was '...not an NHS doctor and instead practises functional medicine, which is not recognised in the UK'. It considered the extent to which Dr Mouton had remediated and developed insight. It noted that Dr Mouton put a lot of emphasis on attending clinical attachments to assist with his remediation but that this had been difficult for him to arrange due to the current pandemic. The August 2020 Tribunal was under the impression that Dr Mouton saw official guidelines, such as GMP as optional which raised concerns as to whether Dr Mouton would ever comply with them and fully understand the extent of his misconduct.

9. With regard to insight, the August 2020 Tribunal noted that, during his submissions, Dr Mouton attempted to undermine the findings of the 2019 Tribunal and disagreed with the depth of the training it recommended. The August 2020 Tribunal found this to be a cause for concern and demonstrated a lack of insight.

10. The August 2020 Tribunal were further concerned with Dr Mouton's attitude towards the issues raised at the 2019 hearing. He said he felt as though he could address these issues by arguing with them as opposed to accepting them. The August 2020 Tribunal found the 2019 Tribunal's findings to have been well-founded and based on fundamental tenets of the medical profession. The August 2020 Tribunal considered that, despite the restrictions caused by the current pandemic, Dr Mouton is required to re-address how he wishes to demonstrate his insight and to remediate his misconduct.

11. The August 2020 Tribunal was of the view that Dr Mouton had difficulty in accepting the issues raised at these proceedings. It noted that Dr Mouton ‘...had not provided any reflective evidence to demonstrate remediation’. This led the August 2020 Tribunal to conclude that he may never develop insight into his misconduct. The August 2020 Tribunal noted it needed to make Dr Mouton aware that the onus was on him to prove that his fitness to practise is no longer impaired which was not solely dependent on clinical attachments. The August 2020 Tribunal also noted that Dr Mouton needed to focus on the recommendations of the 2019 Tribunal.

12. The August 2020 Tribunal bore in mind that Dr Mouton had recognised that working in collaboration with mainstream medicine can have its benefits which indicated that he was seeing medicine from a different perspective, despite practising functional medicine for over 30 years. However, the August 2020 Tribunal found that Dr Mouton had failed to provide evidence of training in the three fields recommended by the 2019 Tribunal and that this failure had the potential to put patients at risk. The August 2020 Tribunal bore in mind Dr Mouton’s lack of insight, lack of remediation and the consequent potential to put patients at risk and concluded that it had no choice but to find that his fitness to practise remained impaired by reason of misconduct.

13. The August 2020 Tribunal determined that in view of the serious nature of its findings on impairment, it was neither sufficient, proportionate nor in the public interest to conclude Dr Mouton’s case by taking no action.

14. The August 2020 Tribunal considered that Dr Mouton had made some progress towards gaining insight and remediating his misconduct and that he had practised safely abroad, including during the coronavirus pandemic. Whilst the August 2020 Tribunal noted that Dr Mouton’s working environment, including his association with the private medical facility in London, allowed him to work safely under a set of conditions, it found that remediation in relation to Mental Health and Endocrinology lacking. The August 2020 Tribunal found that it was not satisfied that Dr Mouton was able to practise safely and therefore could not formulate a set of conditions that would negate the risk to patients. The August 2020 Tribunal determined that it would not be sufficient to impose conditions on Dr Mouton’s registration.

15. The August 2020 Tribunal considered whether suspending Dr Mouton’s registration would be appropriate and proportionate. It found that Dr Mouton continued to show that he had not remediated his misconduct and gained full insight into his actions. The August 2020 Tribunal did not determine that Dr Mouton’s misconduct and subsequent conduct was incompatible with continued registration and viewed erasure to be a disproportionate sanction.

16. The August 2020 Tribunal determined that suspending Dr Mouton’s registration for a further period of time would be an appropriate sanction that protected patients and would uphold public confidence in the profession, whilst still allowing Dr Mouton time to remediate

and gain insight. It determined that a period of 3 months suspension would allow Dr Mouton to arrange additional opportunities to add to his Continuing Professional Development (CPD).

17. The August 2020 Tribunal determined that a future reviewing Tribunal would be assisted if Dr Mouton provided the following:

- Evidence of the practice he has undertaken whilst in Luxembourg including details of how he has treated patients safely and met the requirements of GMP;
- Testimonial evidence from patients and colleagues during his practise in Luxembourg;
- A developmental plan demonstrating how he continues to remediate and gain insight, taking the obstacles to this posed by the coronavirus pandemic into account and how these will be overcome;
- A full statement of reflection on his current level of insight;
- Evidence from those willing to supervise him, indicating the extent of the supervision that could be provided and the areas of medicine they may be able to supervise him in.

18. In relation to the development plan mentioned above, the August 2020 Tribunal suggested this to be a plan of how Dr Mouton might work under supervision, so as to allow him to develop further insight and remediation through supervised work, which could be a form of training. The August 2020 Tribunal suggested that the development plan should be detailed and clear as to what level of supervision could be achieved by whom, to what extent, and in what areas. The August 2020 Tribunal suggested that Dr Mouton could read paragraphs 18 to 35 of the 2019 Tribunal's determination on sanction, to remind him of the areas of concern.

### The Evidence

19. This Tribunal has taken into account all the documentary evidence as follows:

- Record of determinations dated September 2019 and August 2020
- Dr Mouton's email dated 6 October 2020 regarding Voluntary Erasure
- Dr Mouton's email dated 8 October 2020 regarding extending his current suspension

### Submissions

20. On behalf of the GMC, Ms Dawson told the Tribunal that Dr Mouton's Voluntary Erasure application is still pending. She said that the GMC is awaiting information from overseas regulators and there is also an outstanding matter currently under investigation. Therefore, no decision has been made regarding the application.

21. Ms Dawson reminded the Tribunal of paragraph 74 of the August 2020 Tribunal's determination on impairment, which stated:

*'74. The Tribunal considered the extent to which Dr Mouton has remediated and developed his insight. It noted that Dr Mouton put a lot of emphasis on attending clinical attachments to assist with his remediation but that this has been difficult for him due to the current pandemic. The Tribunal was under the impression that Dr Mouton sees official guidelines, such as GMP as optional. This raised concerns as to if Dr Mouton would ever comply with them and fully understand the extent of his misconduct.'*

22. Ms Dawson stated that there is no evidence before the Tribunal that Dr Mouton has remediated the concerns raised by the August 2020 Tribunal and reminded it that his current suspension is due to expire on 3 November 2020.

23. Ms Dawson submitted, given that Dr Mouton's lack of insight continues, it therefore follows that there is a continued risk to the safety and wellbeing of patients. She submitted that Dr Mouton's fitness to practise remains impaired by reason of misconduct.

24. On behalf of Dr Mouton, Mr Dubb told the Tribunal that due to the pandemic Dr Mouton has returned home to Belgium and as a result was unable to complete the remediation courses he had intended to undertake. Mr Dubb told the Tribunal that Dr Mouton has self-funded his legal defence which demonstrates that he takes these matters very seriously. He told the Tribunal that prior to the substantive hearing Dr Mouton was subject to an interim order of conditions with which he had fully complied.

25. Mr Dubb told the Tribunal that Dr Mouton made the decision that he would not return to practise in the UK and therefore made the Voluntary Erasure application. He explained the reason why Dr Mouton has not provided any documentary evidence of his remediation was because of this application. He reminded the Tribunal that Dr Mouton has fully engaged with the fitness to practise process and submitted that the lack of evidence of his remediation does not indicate a lack of insight on Dr Mouton's part.

26. Mr Dubb did not oppose a finding of impairment and accepted that due to the lack of any evidence of remediation, the Tribunal may make a finding of impairment. In relation to public safety, Mr Dubb further stated that Dr Mouton has no objection to the Tribunal making a further order of suspension, whilst the Voluntary Erasure application is being considered by the GMC.

### **The Relevant Legal Principles**

27. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

28. The Tribunal must determine whether Dr Mouton'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

29. The Tribunal noted the suggestions made to Dr Mouton by the 2019 Tribunal and the August 2020 reviewing Tribunal as to what may assist a future Tribunal. The Tribunal took into account Dr Mouton's pending application for Voluntary Erasure, which is under consideration by the GMC.

30. The Tribunal noted that there is no evidence before it regarding Dr Mouton's current insight and remediation. The Tribunal considered that there has been no change since the hearing in August 2020 save for Dr Mouton's Voluntary Erasure application. The Tribunal accepted that as Dr Mouton's lack of insight continues, it follows that there is a continued risk to the safety and wellbeing of patients.

31. The Tribunal has therefore determined that Dr Mouton's fitness to practice is impaired by reason of misconduct.

### Determination on Sanction - 30/10/2020

31. Having determined that Dr Mouton's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules on the appropriate sanction, if any, to impose.

### The Evidence

32. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.

### Submissions

33. On behalf of the GMC, Ms Dawson submitted that a further period of suspension is appropriate and proportionate in this case. Ms Dawson referred the Tribunal to the following paragraphs of the Sanctions Guidance (November 2019) (the SG), which state:

*'97. Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.*

*a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any*

*sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.*

*b In cases involving deficient performance where there is a risk to patient safety if the doctor's registration is not suspended and where the doctor demonstrates potential for remediation or retraining.*

*c In cases that relate to the doctor's health, where the doctor's judgement may be impaired and where there is a risk to patient safety if the doctor were allowed to continue to practise even under conditions, or the doctor has failed to comply with restrictions or requirements.*

*d In cases that relate to knowledge of English, where the doctor's language skills affect their ability to practise and there is a risk to patient safety if the doctor were allowed to continue to practise even under conditions.*

*e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.*

*f No evidence of repetition of similar behaviour since incident.*

*g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.'*

34. Ms Dawson stated that the August 2020 Tribunal considered that Dr Mouton's insight was developing but in other areas, such as the willingness to abide with guidelines, it was lacking. She stated that, given this Tribunal found in essence that there was no change in the circumstances since August 2020 hearing, it is relevant that it considers the lack of documentary evidence, such as, testimonials from colleagues in Luxembourg where he was practising at the time and whether or not he was practising safely. She submitted that this information was desired by the August 2020 Tribunal. It may also be relevant that Dr Mouton no longer holds a position at the clinic in London and it is unclear going forward, what support he would have in place in the UK if conditions were imposed.

35. Ms Dawson stated that since Dr Mouton has been suspended there is no evidence of reoffending. In terms of evidence of reflection there was very little provided by Dr Mouton as to how he has kept his knowledge and skills up to date. Ms Dawson stated that there may be insufficient evidence before it that Dr Mouton has been maintaining his skills and knowledge.

36. Ms Dawson reminded the Tribunal that the August 2020 Tribunal found there were ongoing concerns in relation to mental health and endocrinology which impacts patient

safety and therefore that Tribunal could not formulate conditions that would negate that risk. She also reminded the Tribunal of Mr Dubb's submission that a further period of suspension would not be opposed. She submitted that the Tribunal may feel that it is appropriate to put the matter of Voluntary Erasure out of its mind when considering the period of suspension. She reminded the Tribunal that Dr Mouton's defence is self-funded and in order to avoid a further review a short period of suspension may not be appropriate, until the application for Voluntary Erasure is decided.

37. On behalf of Dr Mouton, Mr Dubb reminded the Tribunal that neither the 2019 Tribunal nor the 2020 Tribunal considered Dr Mouton's misconduct to be fundamentally incompatible with continued registration. He reminded the Tribunal that Dr Mouton has made an application for Voluntary Erasure and Dr Mouton is very clear that it would not be appropriate for him to be allowed to practise. Mr Dubb stated that Dr Mouton fully accepts that a further period of suspension is therefore appropriate. He suggested that a period of three to four months would be sufficient whilst the Voluntary Erasure application is being considered.

### **The Tribunal's Determination on Sanction**

38. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken account of the SG. It has borne in mind that the purpose of the sanctions is not to be punitive, but to protect patients and the wider public interest, although they may have a punitive effect.

39. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Mouton's interests with the public interest. The public interest includes, amongst other things, the protection of patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour.

40. The Tribunal has already given a detailed determination on impairment and it has taken those matters into account during its deliberations on sanction.

### **No Action**

41. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Mouton's case, the Tribunal first considered whether to conclude the case by taking no action.

42. The Tribunal considered that there are no exceptional circumstances in which it might be justified in taking no action against Dr Mouton's registration. The Tribunal determined that in view of its findings on impairment, it would be neither sufficient, proportionate nor in the public interest, to conclude this case by taking no action.

## Conditions

43. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Mouton's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable. The Tribunal noted paragraph 82 of the Sg, which states:

*'82 Conditions are likely to be workable where:*

*a the doctor has insight*

*b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*

*c the tribunal is satisfied the doctor will comply with them*

*d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.*

44. The Tribunal considers that all of the criteria in paragraph 82 are relevant in this case and it is not satisfied that conditions could be devised that would address the concerns raised or protect the public interest and maintain public confidence in the medical profession. The Tribunal has, therefore, determined that it would not be sufficient to direct the imposition of conditions on Dr Mouton's registration.

## Suspension

45. The Tribunal then went on to consider whether suspending Dr Mouton's registration would be appropriate and proportionate.

46. The Tribunal noted that Dr Mouton has not provided any documentary evidence suggested by the August 2020 Tribunal. Mr Dubb explained that Dr Mouton has not provided this because of his Voluntary Erasure application. This Tribunal also noted that the August 2020 Tribunal found that Dr Mouton had begun to develop insight into his misconduct.

47. In considering the history of this case, the Tribunal was satisfied that an order is required to protect the public. Given Dr Mouton's failure to demonstrate that he has developed any further insight and remediated his misconduct, the appropriate and proportionate sanction in this case is suspension.

18. The Tribunal considered that a period of 9 months suspension would give Dr Mouton the opportunity to demonstrate that he has addressed the concerns regarding his clinical practise, his insight and remediated his misconduct. It would also allow for the Voluntary Erasure application to be concluded.

## Review Hearing

19. The Tribunal noted that Dr Mouton has applied for Voluntary Erasure from the register. That may or may not be granted or indeed Dr Mouton may change his mind. The Tribunal has therefore determined to direct a review of Dr Mouton’s case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. At the review hearing, the onus will be on Dr Mouton to demonstrate how he has remediated the concerns about his practice. It therefore may assist the reviewing Tribunal if Dr Mouton provided:

- Evidence of training to improve his skills in mental health medicine;
- Evidence of training to improve his skills in endocrine medicine;
- Recent testimonial evidence from colleagues and feedback from patients;
- A developmental plan demonstrating how he continues to remediate and gain insight, taking the obstacles to this posed by the coronavirus pandemic into account and how these will be overcome;
- A reflective statement;

20. The effect of this direction is that, unless Dr Mouton exercises his right of appeal, this decision will take effect 28 days from when written notice of this determination is deemed to have been served upon him. The current order of suspension will remain in place during the appeal period. A note explaining his right of appeal will be provided to him.

21. That concludes this case.

**Confirmed**

**Date** 30 October 2020

Mr Sean Ell, Chair