

Dates: 22/07/2019 - 25/07/2019

Medical Practitioner's name: Dr Isaac BAIDOO

GMC reference number: 6085223

Primary medical qualification: MB ChB 2002 University of Ghana

Type of case
New - Misconduct

Outcome on impairment
Impaired

Summary of outcome

Erasure

Immediate order imposed

Tribunal:

Legally Qualified Chair	Mrs Claire Sharp
Lay Tribunal Member:	Mr Andrew Gell
Medical Tribunal Member:	Mrs Deborah McInerny

Tribunal Clerk:	Mr Matt O'Reilly
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Christopher Geering, Counsel, instructed by CMS Law
GMC Representative:	Mr David Birrell, 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.

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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 Facts and Impairment - 24/07/2019

1. Dr Baidoo qualified in 2002 and completed his General Practitioner (GP) training in August 2015. In October 2015, Dr Baidoo took up a locum post at the Abbey Medical Practice ('The Practice'), and later became a salaried GP there. He also worked ad hoc out of hours locum shifts at Corby Urgent Care Centre ('CUCC'). Dr Baidoo gave three months' notice of his resignation on 6 March 2017; his application to take annual leave between 1-5 June 2017 was refused on the basis that another doctor had already booked leave over that period.
2. The Allegation that has led to Dr Baidoo's hearing initially related to concerns that he had undertaken shifts at CUCC on 20, 23, 24, 27, 28, 30 May and 1 June 2017, whilst signed off sick from his position at the Practice and receiving sick pay. On or around 18 May 2017, Dr Baidoo submitted a sick note to the Practice, which covered the period 18 May – 1 June 2017. However, CUCC sent a letter to the Practice about a mutual patient which disclosed that Dr Baidoo had been working at CUCC on 28 May 2017.
3. The initial concerns were raised by Dr E, GP Partner at the Practice to NHS England on 27 June 2019. Ms A, of NHS England, wrote to Dr Baidoo on 26 July 2017 outlining its concerns and inviting Dr Baidoo to make any comments. It is alleged that Dr Baidoo responded, in an email dated 29 July 2017, stating "By the end of the first week I was feeling a lot better and decided that perhaps it was time to return to work. I had this shift at CUCC on 28th June [sic] which I attended to with the hope that I would contact Abbey to return to work the day after. I was wrong. I felt so achy afterwards and thought it was not a good idea to return so soon." And, "I was in no mood physically and mentally to return to work at Abbey at the end of the 2 weeks and I was happy to have unpaid leave even to get my full strength back." It is alleged that these statements contained information that was untrue.
4. It is further alleged that in a meeting with Ms A and Dr B, a Clinical Advisor with NHS England, on 11 September 2017, Dr Baidoo stated that, 'for the first four days of the First Period he was bed bound and suffering the side effects of the medication he had been taking', 'he had only worked one out of hours shift during the First Period'; and that he was not fit to work and should have requested a further sick note after the First Period because he was not ready to return to work'

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or words to that effect. It is alleged that these statements contained information that was untrue.

5. It is also alleged that on 15 September 2017, Dr Baidoo provided Ms A and Dr B with a copy of a sick note, post-dated 12 September 2017, which covered the period 2 June – 6 June 2017 and a statement within which he said he had 'worked a shift while signed off sick and receiving sick pay'. It is alleged that this statement contained information that was untrue. It is alleged that Dr Baidoo worked at CUCC on 2, 3, 4 and 6 June 2017, whilst signed off sick.

6. It is alleged that on 6 October 2017, Dr Baidoo asked Ms C, a manager at CUCC, to write a letter to NHS England saying that he had only worked one shift at CUCC on 28 May 2018 between the period of 18 May and 2 June 2017. It is further alleged that on the same day Dr Baidoo emailed Ms D, HR Co-ordinator at CUCC, and provided her with suggested wording for the letter and then amended it himself. Dr Baidoo then sent an email to Ms A attaching the letter as amended by himself and signed by Ms D on Ms C's behalf. It is alleged that Dr Baidoo knew that the letter contained information which was untrue as he had worked more than one shift between 18 May and 2 June 2017 at CUCC.

7. It is further alleged that Dr Baidoo knew that he was on sick leave so should not have been working at CUCC on 20, 23, 24, 27, 28, 30 May, and 1 June 2017 (the first period), and 2, 3, 4 and 6 June 2017 (the second period).

8. It is alleged that Dr Baidoo knew that he had worked at the CUCC on more than one date during the first and second Periods. It is alleged Dr Baidoo's conduct as set out in the Allegation amounts to dishonesty.

Witness Evidence

9. The Tribunal received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Ms C, Director, Lakeside+ Limited, dated 6 June 2018;
- Ms D, HR Co-ordinator, CUCC, dated 12 June 2018;
- Dr E, GP Partner, the Practice, 30 July 2018;
- Ms A, Senior Project Officer, Practitioner Performance Team, NHS England – Midlands and East (Central Midlands), dated 30 August 2018.

Oral Evidence

10. Dr Baidoo provided the Tribunal with a witness statement dated 24 June 2019 and also gave oral evidence.

11. In his oral evidence, when questioned by Mr Geering, Dr Baidoo confirmed that he had been practising as a doctor for about 17 years. He confirmed that he

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had a 3 day commitment when employed at the Practice by May 2017 and that he had health concerns which had started around January 2017. He said that in May 2017, he was diagnosed with XXX and was referred to a consultant. Dr Baidoo confirmed that his health improved towards the end of July 2017.

12. When questioned by Mr Geering about how much his condition affected his work at the Practice, Dr Baidoo stated that by May 2017, he had already resigned his post at the Practice, had felt stressed and was extremely unhappy with working there. He said that he felt like he XXX.

13. When asked if he thought he was fit to work at CUCC, Dr Baidoo said 'no' and acknowledged that he did not consider his health to be an excuse for his dishonesty. He confirmed that his condition was now under control and had been so by the time he was dishonest to NHS England.

14. Dr Baidoo stated that he felt terrible with regard to the cancelled session at the Practice and the impact that it may have had on patients. He stated that if he was well enough to work at CUCC, then he was well enough to work at the Practice.

15. Mr Geering asked Dr Baidoo to explain his lies to NHS England. Dr Baidoo stated that he was angry and vulnerable, and that he did not want anyone to know the truth. In a bid to find his own way out, he said that it was easier to tell a lie. Dr Baidoo stated that once he had told the first lie, he felt like he had to tell another lie to cover it up. He acknowledged that he had brought the profession into disrepute, felt shameful and was sad when talking about these matters.

16. Dr Baidoo accepted that his actions had potentially compromised patient safety, that he was extremely sorry for his actions and was seeking the opportunity for a new start. When asked by Mr Geering why the Tribunal should believe him, he stated that he had taken an in-depth look into his actions and the reasons why they had happened. He said that he had taken steps to identify the reasons he took the actions that he did and he reflected daily. Dr Baidoo accepted that he is currently impaired because his own actions fell short of what is expected of a doctor.

17. Mr Birrell in cross examination asked Dr Baidoo if he was fit to practise between 18 May and 6 June 2017 when he took shifts at CUCC; Dr Baidoo confirmed that he was not then fit to practise. Dr Baidoo stated that it was difficult for him to reconcile not being fit to work, and he had not asked for a sick note. He denied that he was financially motivated to work at CUCC and stated that his motivation for working at CUCC was because he did not want to lose his job there as he had already resigned from the Practice. However, Dr Baidoo accepted that if he had provided a sick note to CUCC, it would not have jeopardised his role there.

18. Dr Baidoo acknowledged that he had been receiving sick pay from the Practice and confirmed he had offered to pay it back or work shifts to work off what

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he owed. He stated that he was motivated by anger for the first period of sick leave as he felt he had not been listened to by the Practice as they did not give him the time off he had requested.

19. Mr Birrell asked Dr Baidoo about his letter dated 13 June 2017 to the Practice, following their enquiry to CUCC enquiring as to the shift dates he had worked, in which he expressed his disappointment and suggested defamation had occurred. He said he felt that the Practice should have spoken to him first and he felt angry and arrogant.

20. Dr Baidoo accepted that he did not genuinely mean the apologies he had expressed previously to the Practice or NHS England at the time as he was still being dishonest.

21. Dr Baidoo said that he had taken measures to maintain the reputation of the medical profession through improving his communication skills and in being open with his colleagues.

Documentary Evidence

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

- Correspondence by email and letter between the Practice, CUCC, NHS England and Dr Baidoo;
- Certificate of Attendance for 'The Fourth Day: Maintaining Professionalism' on 18 July 2019;
- Appraisal 2019/20;
- Testimonial evidence;
- Evidence of courses and learning undertaken by Dr Baidoo including a 'Maintaining Professional Ethics' course with the Clinic for Boundary Studies.

The Outcome of Application(s) made during the Facts Stage

23. At the outset of the hearing, Mr Geering on behalf of Dr Baidoo, made an application for the proceedings to be held in private where matters related to Dr Baidoo's health. Mr Birrell, on behalf of the GMC, made no objection to this application. The Tribunal granted the application, pursuant to Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 ('the Rules').

24. Mr Geering made an application to submit additional evidence on behalf of Dr Baidoo. He submitted that Dr Baidoo's Appraisal 2019/20 and a Certificate of Attendance for 'The Fourth Day: Maintaining Professionalism' on 18 July 2019, were not available to disclose prior to the disclosure deadline. He submitted that the documents had been shown to the GMC and that they were relevant to Dr Baidoo's

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insight. Mr Birrell made no objection to the application. The Tribunal determined that there would be no injustice to either party in allowing the additional evidence and that it was fair and relevant to do so. It therefore determined to grant the application.

The Allegation and the Doctor's Response

25. The Allegation made against Dr Baidoo are as follows:

1. On or around 18 May 2017 you submitted a sick note to your employer, Abbey Medical Practice, which covered the period 18 May – 1 June 2017 ('the First Period'). **Admitted and found proved**
2. On the dates set out in Schedule 1 you worked at Corby Urgent Care Centre ('the Centre') during the First Period. **Admitted and found proved**
3. In response to NHS England raising concerns about you working at the Centre during the First Period, you wrote an e-mail to Ms A on 29 July 2017 which included the comments set out in Schedule 2. **Admitted and found proved**
4. On 11 September 2017, you attended a meeting with Ms A and Dr B, during which you stated that:
 - a. 'for the first four days of the First Period you were XXX suffering the side effects of the medication you were taking'; **Admitted and found proved**
 - b. 'you had only worked one out of hours shift during the First Period'; **Admitted and found proved**
 - c. 'you were not fit to work and should have requested a further sick note after the First Period because you were not ready to return to work';

or words to that effect. **Admitted and found proved**
5. On 15 September 2017 you provided Ms A and Dr B with a:
 - a. copy sick note dated 12 September 2017, which covered the period 2 June – 6 June 2017 ('the Second Period'); **Admitted and found proved**

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- b. statement within which you said 'I worked a shift while signed off sick and receiving sick pay'. **Admitted and found proved**
6. On the dates set out in Schedule 3 you worked at the Centre during the Second Period. **Admitted and found proved**
7. On 6 October 2017:
 - a. you asked Ms C to 'write you a letter confirming you had worked on a particular date' ('the Letter'), or words to that effect; **Admitted and found proved**
 - b. at 11.33 you emailed Ms D and provided her with suggested wording for the Letter; **Admitted and found proved**
 - c. you amended the Letter that Ms D had sent to you at 15.14; **Admitted and found proved**
 - d. at 16.05 you sent an e-mail to Ms A attaching the Letter as amended by you and signed by Ms D. **Admitted and found proved**
8. You knew that:
 - a. you were on sick leave so should not have been working at the Centre on the dates set out in Schedules 1 and 3; **Admitted and found proved**
 - b. the statements referred to at paragraphs 3, 4 and 5b contained information which was untrue; **Admitted and found proved**
 - c. the purpose of the Letter was to provide NHS England with evidence of the number of shifts that you had worked at the Centre during the First and Second Periods; **Admitted and found proved**
 - d. you had worked at the Centre on more than one date during the First and Second Periods; **Admitted and found proved**
 - e. the Letter contained information which was untrue. **Admitted and found proved**
9. Your actions as described at paragraphs 2 and 6 were dishonest by reason of paragraph 8a. **Admitted and found proved**

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10. Your actions as described at paragraphs 3, 4 and 5b were dishonest by reason of paragraph 8b. **Admitted and found proved**
11. Your actions as described at paragraph 7a were dishonest by reason of paragraphs 8c and d; **Admitted and found proved**
12. Your actions as described at paragraphs 7b-d were dishonest by reason of paragraphs 8c to e. **Admitted and found proved**

The Admitted Facts

26. At the outset of these proceedings, through his counsel, Mr Geering, Dr Baidoo admitted the entirety of the Allegation, as set out above, in accordance with Rule 17(2)(d) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended (the Rules). In accordance with Rule 17(2)(e) of the Rules, the Tribunal announced these paragraphs and sub-paragraphs of the Allegation as admitted and found proved.

The Tribunal's Determination on Impairment

27. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts admitted and found proved as set out above, Dr Baidoo's fitness to practise is impaired by reason of misconduct.

Submissions on behalf of the GMC

28. On behalf of the GMC, Mr Birrell referred the Tribunal to Dame Janet Smith's Fifth Shipman Report and submitted that Dr Baidoo's dishonest conduct had breached a fundamental tenet of the medical profession, brought the profession into disrepute and indicated to the Tribunal relevant paragraphs of Good Medical Practice (2013 as amended) ('GMP'), which he suggested had been breached. Mr Birrell submitted that Dr Baidoo's integrity could no longer be relied upon, given his persistent and sustained dishonesty to a public body, namely NHS England, and his being dishonest while at the same time expressing remorse for previous dishonesty.

29. Mr Birrell submitted that he had identified seven areas of dishonesty:
- i) The initial dishonesty which was repeated on 11 occasions over 2.5 weeks which was premeditated and calculated - Dr Baidoo went into work for CUCC knowing that he should not as he had told the Practice he was too unwell to work;
 - ii) Dr Baidoo must have been financially motivated as he had made clear in his email to the Practice dated 13 June 2017 – he went to work for money

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and to pay bills. Mr Birrell submitted that there was an element of greed too as Dr Baidoo was also receiving sick pay from the Practice;

iii) Dr Baidoo's dishonesty in working whilst signed off sick had the potential to put patients at risk if he was not fit for work (as Dr Baidoo accepted in his oral evidence);

iv) Dr Baidoo sought to cover up his dishonesty in its entirety and made veiled threats to the Practice in an email of 13 June 2017 to try to persuade it to take no further action;

v) Even after these matters were brought to NHS England, Dr Baidoo continued to act dishonestly as he was repeatedly dishonest with NHS England on about four occasions in an attempt to cover up the extent of his conduct;

vi) Dr Baidoo implicated Ms C and Ms D in his dishonesty, misled them, and could have led others to cast suspicion on them;

vii) Dr Baidoo continued to act dishonestly whilst simultaneously purporting to feel regret, which Mr Birrell said showed a deep seated attitudinal issue. Mr Birrell submitted that because Dr Baidoo's previous apologies and expressions of insight are tainted with dishonesty, this Tribunal should be careful in weighing any such apology and expression of insight he now makes. He submitted that there is limited insight at best.

30. Mr Birrell submitted that references to Dr Baidoo's health condition at the time of events were a 'red herring' as such a condition does not make anyone act dishonestly, which he submitted Dr Baidoo accepted in his oral evidence. He further submitted that Ms A stated in her witness statement that, "The outcome of the [occupational health] assessment was that there was nothing to suggest that Dr Baidoo's ill health contributed to his decision making." Mr Birrell said that Dr Baidoo said in his evidence that his health was much improved from late July / early August 2017, which suggested his health was not relevant to his dishonesty.

31. Mr Birrell submitted that there is a clear risk of repetition in cases of dishonesty and a greater one in this case where in one breath Dr Baidoo expresses apology, regret and insight and then in the next breath lies. He submitted that in evidence Dr Baidoo referenced communication skills as being part of the problem but that Dr Baidoo had entirely missed the point as this case had nothing to do with communication skills, but dishonesty.

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Submissions on behalf of Dr Baidoo

32. In summary, Mr Geering submitted that Dr Baidoo's dishonesty was an appalling act that other medical professionals would find deplorable and that Dr Baidoo himself conceded that his fitness to practise is currently impaired.

33. Mr Geering submitted that Dr Baidoo's conduct must be put in context not only of these matters, but also with what the Tribunal knows about him. He submitted that Dr Baidoo is of good character, working with colleagues who support him and who have come forward to support him. Mr Geering referred the Tribunal to the testimonial evidence.

34. Mr Geering submitted that Dr Baidoo's dishonesty fell into two areas; the first being his working whilst signed off on sick leave; the second being the cover up. He submitted that Dr Baidoo rationalised his behaviour as he was angry, frustrated and undervalued by the Practice. He submitted that Dr Baidoo enjoyed working for CUCC and saw it as his future.

35. Mr Geering submitted that financial motivation was not specifically set out within the Allegation. He highlighted that for the dates as set out in Schedule 3, Dr Baidoo did not receive sick pay. He submitted that there is scant evidence that Dr Baidoo was trying to get the 'double bubble' of being paid by the Practice and working shifts for CUCC; there was only one shift where Dr Baidoo worked at CUCC and also received sick pay.

36. Mr Geering submitted that when considering health, it was the first time in seventeen years as a doctor that Dr Baidoo acted in this manner when he was experiencing tiredness, stress and exhaustion. This impacted the way in which he dealt with the Practice stresses. He referred the Tribunal to the occupational health report of Dr F dated 8 January 2018, which she stated, "I can make no specific comment about his actions last May/June 2017 at a time when I did not see him or assess him. I would note that XXX and it is possible that Dr Baidoo's behaviour at that time may have been influenced by his ill health". Mr Geering submitted that Dr Baidoo's health condition formed part of the tapestry as to why he did what he did, though it was not an excuse for his actions. He submitted that it was a moral weakness that Dr Baidoo failed to face up to his dishonesty and the more he lied the harder it was to 'come clean'.

37. Mr Geering submitted that Dr Baidoo has shown considerable insight. He submitted that Dr Baidoo accepted the Allegation in full without equivocation or trying to minimise it and accepted that a finding of impairment was inevitable. Mr Geering submitted that the cycle of dishonesty is now broken and Dr Baidoo is able to reflect, look back and realise what an extraordinary situation he was in. He submitted that Dr Baidoo has engaged with the GMC process fully and appropriately, which to his credit, is a rare thing with doctors facing such serious allegations. He

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submitted that Dr Baidoo had not buried his head in the sand but has shown strength of character to face questions by the GMC.

38. Mr Geering submitted that Dr Baidoo has shown openness with his colleagues in discussing his poor decision making, as shown by volunteering a copy of the Allegation in his appraisal. He submitted that his colleagues were happy to discuss his dishonesty with him and support him and that his employer was aware. Mr Geering submitted that Dr Baidoo, so far from hiding, is exhibiting his shame to the world and had attended this hearing 'stripped of all pride' to discuss the most shameful period of his life.

39. Mr Geering submitted that there had been references to communication skills, openness with colleagues and the impact these proceedings have had on him. He submitted that Dr Baidoo had spent two years reliving the worst period of his life which has had the salutatory effect of addressing the risk of repetition. He submitted that Dr Baidoo's shame was palpable when giving evidence. Mr Geering submitted that in the two years since these incidents Dr Baidoo has been practicing without restriction and there had been no indication he exhibited attitudinal problems or put his interests before those of patients. Mr Geering submitted that Dr Baidoo held the profession in high regard and accepted that this is a serious case of dishonesty that brought the profession into disrepute and that impairment must be found on public interest grounds to mark his dishonesty, but that there was no risk to patient safety.

The Relevant Legal Principles

40. 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 judgment alone.

41. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct which was serious, and then secondly whether that could lead to a finding of current impairment.

42. The Tribunal must determine whether Dr Baidoo's fitness to practise is impaired today, taking into account Dr Baidoo'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

Misconduct

43. The Tribunal considered whether there was a potential risk to patient safety, whether there had been a breach of a fundamental tenet of the medical profession,

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whether the doctor's integrity could be relied upon, and whether there was a risk of repetition to determine if the admitted conduct in the Allegation was serious misconduct.

44. The Tribunal went on to consider the relevant paragraphs of GMP, in particular paragraph 28, which states:

"28. If you know or suspect that you have a serious condition that you could pass on to patients, or if your judgement or performance could be affected by a condition or its treatment, you must consult a suitably qualified colleague. You must follow their advice about any changes to your practice they consider necessary. You must not rely on your own assessment of the risk to patients."

45. The Tribunal considered that if Dr Baidoo was too unwell to work, it could affect his judgement and therefore potentially place patients at risk of harm. The Tribunal noted that his 'sick note' indicates that he was not fit to work and it was issued by his GP, who was ideally placed to make such a judgement. Dr Baidoo did not follow that advice from a suitably qualified colleague and worked at CUCC. It also considered that the shift in which Dr Baidoo took off as sick (1 June 2017) led to the cancellation of that session with the Practice, and could potentially have led to patient harm where a patient who needed to receive medical attention on that date did not. Whilst there is no evidence to suggest a patient was placed at harm, there was the potential of harm.

46. The Tribunal considered Dr Baidoo's health concerns to be unrelated to his dishonesty. It was satisfied that he was acting in a calculated and deliberately dishonest manner in declaring himself unable to work at the Practice, while working at CUCC. It also noted that his dishonesty continued after his health improved. Dr Baidoo's own oral evidence was that he knew he had been and was being dishonest.

47. The Tribunal went on to consider paragraphs 65 and 77 of GMP, which state:

"65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession."

"77. You must be honest in financial and commercial dealings with patients, employers, insurers and other organisations or individuals."

48. The Tribunal considered Dr Baidoo's evidence in which he stated his motivation was not financial, but it had been due to feeling underappreciated and frustrated with his colleagues at the Practice. It also noted correspondence from Dr Baidoo to the Practice, dated 13 June 2017, in which he stated:

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“...I did indeed work with Corby Urgent care on the 28th of May-which was a weekend despite being on sick leave because as you note, my salary for the month of May was short by about a 1000, I was paid 2245.93 and even though I was not well, I needed to pay the bills...”

49. The Tribunal noted Dr Baidoo’s oral evidence, under cross examination by Mr Birrell, that at that stage he was not thinking clearly when he sent that letter, but felt that when he worked hard, he should be rewarded. He stated that his motivation was to work at CUCC and maintain the same amount of shifts as he had previously worked. He conceded though that CUCC would have accepted the sick note if he had supplied it and that doing so would not have adversely impacted future sessions.

50. The Tribunal considered that receiving sick pay from the Practice and then undertaking paid work at CUCC could not be seen as anything other than financially motivated. The Tribunal considered that Dr Baidoo’s correspondence to the Practice (dated 13 June 2017) demonstrates this. It also considered it relevant that Dr Baidoo had originally wanted to take 1-5 June 2017 off from the Practice as annual leave, but his request had been refused. The Tribunal considered this event as likely to form part of Dr Baidoo’s rationalisation for his dishonesty as indicated in his oral evidence.

51. The Tribunal went on to consider that Dr Baidoo had repeatedly lied to cover up his actions. He lied to the Practice, NHS England and that through his dishonesty he had implicated others, bringing their integrity into question.

52. The Tribunal considered correspondence from Ms G, Practice Manager at the Practice, dated 12 June 2017, in which she stated:

“I note from correspondence received via SystemOne that you were working at the Corby Urgent Care Centre on 28th May 2017. I was very surprised to see this as you were signed off unfit to work from 18th May to 1st June 2017...

...

The Partners are fully aware of this and are very concerned about potential fraud and dishonesty and will consider taking further action if we have not heard from you by Friday 23rd June 2017.”

53. The Tribunal noted Dr Baidoo’s response, dated 13 June 2017, in which he stated:

“I extremely disappointed with you and the practice for your actions of going behind me to make enquiries about my activities when you could have contacted me first. What happened to your sense of confidentiality?”

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...

You talk about me being potential fraudulent and lacking honesty in your letter, I beg your pardon, this is character defamation. If you had contacted me first, this issue would not have got to this. I am extremely disappointed in you.”

54. The Tribunal accepted the submission by Mr Birrell that Dr Baidoo’s response demonstrated indignation, was an effort to try to cover up his actions and an attempt to prevent matters being taken forward.

55. The Tribunal noted that even after these matters were brought to the attention of NHS England, Dr Baidoo continued to act dishonestly in an attempt to cover up his actions. He misled Ms C to confirm he had worked only one shift, when in fact that was not the case as he had worked on 20, 23 24, 27, 28, 30, 31 of May and 1, 2, 3 4 and 6 June 2017 at CUCC, when he had been signed off sick. The Tribunal considered that this disregard for the impact on Ms C when misleading her, calling into question her integrity, to be a particularly aggravating feature of his dishonesty.

56. The Tribunal noted the email from Dr Baidoo to Ms A at NHS England dated 29 July 2017, which stated:

“To begin with I must say that I am truly and sincerely sorry that this issue has arisen as it does not in any way reflect me as a person and my character...

...I had this shift at Corby Urgent care on 28th of June which I attended to with the hope that I would contact Abbey to return to work the day after...”

57. The Tribunal also noted the email from Dr Baidoo in his reflection following the meeting with NHS England from 11 September 2017, in which he stated:

“...I worked a shift while signed off sick and receiving sick pay...

...I start by saying how truly sorry I am for issues to have turned out this way. I have never in the past 13 years of my working life with the NHS been involved in any activity of such much manner and I am confident that this will be an isolated case...

...I must say here that I have written to apologise to Abbey Medical Practice during this time. I provide you with a copy of the apology letter...”

58. The Tribunal also noted Dr Baidoo’s letter to Dr H at the Practice, dated 17 August 2017, in which he stated:

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“I write to you as my mentor and also to officially apologise for my actions toward the end of my contract and having reflected on events, I deem it appropriate to do so now. I am happy for you to share my apology with other members of the team.”

59. In cross examination by Mr Birrell, Dr Baidoo confirmed that he was not genuinely expressing remorse for his actions in these documents. The Tribunal accepted the submission of Mr Birrell that these are examples where Dr Baidoo continued to try and cover up his misconduct and dishonesty, whilst simultaneously purporting regret and apology. The Tribunal noted that Dr Baidoo only admitted to working 11 shifts when signed off sick once NHS England confronted him with the evidence.

60. The Tribunal considered that Dr Baidoo had put patients’ safety at risk by working when declared unfit, breached a fundamental tenet of the medical profession through repeated dishonesty, and had demonstrated that his integrity could not be relied upon. The Tribunal determined that given his integrity could not be relied on and his persistent and premeditated dishonesty, there was a real risk of repetition. The Tribunal concluded that Dr Baidoo had brought the profession into disrepute and that fellow medical professionals would find his actions deplorable.

61. The Tribunal therefore determined that Dr Baidoo’s misconduct amounted to misconduct that was serious.

Impairment

62. The Tribunal then went on to consider whether Dr Baidoo’s serious misconduct amounted to his fitness to practise being currently impaired.

63. The Tribunal considered that whilst dishonesty is difficult to remediate, there is evidence to demonstrate attempts made at remediation. It considered Dr Baidoo’s Appraisal 2019/20 in which he brought the Allegations against him to discuss with his appraiser to be an indication of transparency. He provided a Certificate of Attendance for ‘The Fourth Day: Maintaining Professionalism’ on 18 July 2019 (amongst evidence of attendance on other relevant courses and learning) and also testimonials which demonstrate he is open in discussing his dishonesty with colleagues who support him in the knowledge of the matters before this Tribunal. The Tribunal noted that Dr Baidoo admitted the Allegation in its entirety and has engaged with the GMC and this process. It bore in mind his oral evidence and reflections about why he had acted as he had.

64. The Tribunal acknowledged Dr Baidoo’s expressions of apology and regret. However, it noted that he has expressed apology and regret on a number of occasions in the past to colleagues at the Practice and NHS England but, by his own

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admission, these were not genuine; he had continued in his dishonesty. The Tribunal considered that any expression of apology or remorse at this stage should be weighed with this knowledge and could not be accepted at face value. The Tribunal judged that Dr Baidoo's misconduct and dishonesty had not been sufficiently remediated, but thought that he had shown limited insight into his actions as he understood and accepted some of the motivations behind his dishonesty and had tried to address them.

65. The Tribunal considered that as Dr Baidoo only has limited insight, it follows that there is a real risk of repetition. It considered that there is a risk to patient safety, given he has taken shifts in the past when he was not well enough to work for financial gain. It also considered that Dr Baidoo's later dishonesty was undertaken to cover up his previous dishonesty and that there is a risk he would do so again. Improved communication skills alone, in the view of the Tribunal, will not sufficiently address and remediate his dishonesty.

66. The Tribunal considered that the evidence was indicative that Dr Baidoo had attitudinal issues regarding honesty. It determined that for all the above reasons and to uphold all three limbs of the overarching objective, it finds Dr Baidoo's fitness to practise currently impaired by reason of his misconduct.

Determination on Sanction - 25/07/2019

1. Having determined that Dr Baidoo's fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

2. The Tribunal had regard to all of the evidence both oral and documentary adduced during the course of these proceedings.

Submissions on behalf of the GMC

3. In summary, Mr Birrell submitted that the appropriate sanction is one of erasure. He submitted that erasure was the necessary sanction to achieve the statutory overarching objective in this case.

4. Mr Birrell referred the Tribunal to the relevant legal principles. He submitted that medical tribunals as well as the courts take a dim view of dishonesty in general.

5. Mr Birrell went on to refer the Tribunal to the relevant paragraphs of the Sanctions Guidance (February 2018) ('SG'), which he submitted indicated that dishonesty, if persistent and /or covered up, is likely to result in erasure. He

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submitted that in this particular case, dishonesty was both persistent and covered up.

6. Mr Birrell reminded the Tribunal of its decision at the impairment stage in which it determined that there was a real risk of repetition and had considered this to be a particularly serious case of repeated dishonesty. He submitted that Dr Baidoo sustained his dishonesty for about 7 months until he finally 'came clean' to NHS England.

7. Mr Birrell submitted that Dr Baidoo's dishonesty included: arranging for CUCC to send two inaccurate letters to NHS England to assist with his cover up and which implicated Ms C and Ms D in his dishonesty; financial gain, which was particularly egregious; a breach of the trust Ms C and Ms D had in him; misleading a quasi-regulatory body, NHS England, about the extent of his activities and only admitting the truth once confronted.

8. Mr Birrell submitted that no action was inappropriate as there were no exceptional circumstances in this case. He submitted that imposing conditions on Dr Baidoo's registration would not be appropriate as this is a case of dishonesty and that workable conditions could not be formulated to address the concerns.

9. Mr Birrell asked the Tribunal to consider the relevant paragraphs of the SG indicating when suspension may be appropriate; for example, where there may have been an acknowledgment of fault and where the Tribunal is satisfied that the behavior or incident is unlikely to be repeated. He submitted that suspension would not be an appropriate sanction in this case as Dr Baidoo has limited insight, presented a real risk of repetition and had attitudinal issues regarding honesty as determined by the Tribunal.

10. Mr Birrell then referred the Tribunal to the relevant paragraphs of the SG in relation to erasure. He submitted that Dr Baidoo had shown a blatant disregard for his duty of candour as a doctor. He reminded the Tribunal that it had already found there to be a serious departure from the principles set out in GMP and, in his submission Dr Baidoo's actions were fundamentally incompatible with continued registration. Dr Baidoo had a deliberate disregard for the principles set out in GMP and he had abused the trust put in him by Ms C and Ms D. Dr Baidoo's dishonesty was both persistent and covered up and he had put his own interests before that of patients, particularly his own financial interests. Mr Birrell suggested that Dr Baidoo had a lack of insight into the seriousness of his actions, though it was for the Tribunal to determine whether that was persistent.

Submissions on behalf of Dr Baidoo

11. In summary, Mr Geering submitted that the appropriate sanction was one of 12 months' suspension with a review. He submitted that this was the least restrictive

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sanction that could be imposed to address the public interest in this case. He submitted that a stringent sanction was necessary, but suspension would allow Dr Baidoo to return to practice in the future. He submitted that there is evidence before the Tribunal to suggest that Dr Baidoo is a good doctor, such as the testimonial and appraisal evidence.

12. Mr Geering submitted that a good and conscientious doctor should not be 'thrown away' lightly. He submitted that a suspension would cause significant hardship to any practitioner and would have a devastating effect reputationally and professionally. Mr Geering said that if this Tribunal imposed a suspension, it would act as a deterrent to the medical profession and mark how seriously the Tribunal viewed dishonesty, but would also serve the public interest in allowing the potential for a competent doctor to return to practice in the future.

13. Mr Geering submitted that Dr Baidoo had been working in a clinical practice for 2 years since these events without any probity concerns arising and with the support from his colleagues. He considered that it would not be appropriate to simply suspend Dr Baidoo from practice and then allow him to return to unrestricted practice; a review would be required. This would also give Dr Baidoo time to further develop his insight. He submitted that should Dr Baidoo not develop full insight in this period of suspension, then a future Tribunal could impose the ultimate sanction upon Dr Baidoo's medical registration.

Tribunal's Approach

14. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgment.

15. In reaching its decision, the Tribunal has referred to the SG. It has borne in mind that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest, although sanctions may have a punitive effect.

16. Throughout its deliberations, the Tribunal has applied the principle of proportionality, balancing Dr Baidoo's interests with the public interest. It has taken account of the statutory overarching objective.

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

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The Tribunal’s Determination on Sanction

Mitigating and Aggravating Features

18. Prior to considering what action, if any, to take in this case, the Tribunal considered the mitigating and aggravating features. It considered the following factors in mitigation:

- The appraisal 2019/20 evidence and testimonials suggest that Dr Baidoo is a good doctor;
- No concerns in relation to his clinical practice have been raised;
- He has been open about his dishonesty during his appraisal 2019/20 and to colleagues;
- He has the support of colleagues who have full knowledge of his dishonesty;
- He has undertaken some remediation and further learning;
- He has demonstrated some insight, evidenced by his engagement with this process and his full admissions;
- He identified some of his motivations and has tried to take steps to address these;
- Dr Baidoo has expressed remorse and apologised to some of those involved in this matter and to the Tribunal, though this is weighed against the knowledge that these expressions could not necessarily be accepted at face value as Dr Baidoo has admitted to making such declarations previously when he did not truly mean them.

19. The Tribunal went on to consider the aggravating factors relevant in this case:

- Dr Baidoo misled and implicated Ms C and Ms D in his dishonesty;
- He abused the trust Ms C and Ms D placed in him;
- Dr Baidoo misled a public body, NHS England, in its investigation;
- Dr Baidoo has not apologised to all of those he involved or implicated in his dishonesty;
- The potential risk to patient safety identified by the Tribunal previously;
- Dr Baidoo’s dishonesty had been persistent, calculated, deliberate and repeated;
- Repeated attempts to cover up his serious misconduct and dishonesty were made by Dr Baidoo;
- Financial gain.

20. The Tribunal found the aggravating factors to be of more weight in this case. They were more serious and substantial, and the involvement of innocent third parties was particularly concerning. The Tribunal bore in mind the guidance from the appeal courts and the SG that remediation and clinical competency may have less weight and cannot mitigate serious and / or persistent dishonesty. The Tribunal also bore in mind Dr Baidoo’s explanation of his personal circumstances.

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The Tribunal’s Decision

21. In deciding what sanction, if any, to impose, the Tribunal reminded itself that it must consider each of the sanctions available, starting with the least restrictive, to establish which, if any, is appropriate and proportionate in this case.

No action

22. The Tribunal considered whether to conclude the case by taking no action. It has already determined that Dr Baidoo’s fitness to practise is impaired by reason of his serious misconduct. It considered that given the seriousness of its findings of dishonesty, taking no action would neither protect patients nor send a message to the profession regarding conduct which it would find deplorable. It determined that taking no action would undermine the overarching objective of protecting the public, and in the absence of any exceptional circumstances, it would be inappropriate to conclude this case by taking no action.

Conditions

23. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Baidoo’s registration. Any conditions imposed would need to be appropriate, proportionate, workable and measurable.

24. The Tribunal determined that conditions were neither appropriate nor sufficient in upholding professional standards and public confidence in the profession given its finding of dishonesty. It determined that workable conditions could not be formulated to address its findings of dishonesty as accepted by both parties.

Suspension

25. The Tribunal was therefore left with the choice of suspension or erasure. It carefully considered suspension first.

26. The Tribunal considered it noteworthy that Mr Geering, Dr Baidoo’s representative, accepted that this case was sufficiently grave that the least restrictive sanction he suggested was 12 months’ suspension with a review. This supported its view of the gravity of Dr Baidoo’s serious misconduct, but left the issue as to whether suspension was the least restrictive sanction possible in the circumstances of this case to be determined by the Tribunal.

27. The Tribunal noted the relevant paragraphs of the SG in relation to suspension and in particular paragraph 97a, which states:

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

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- 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."

28. The Tribunal concluded that there had been a number of serious breaches of GMP in this case and that Dr Baidoo only had limited insight into his serious misconduct; there was a real risk of repetition. It was satisfied that the breach was serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in the profession.

29. The Tribunal noted that a period of suspension would prevent Dr Baidoo from practising and therefore he would not be able to repeat the serious misconduct. It considered that a period of suspension could have the effect of sending a message to the profession, to the public and in marking the seriousness of his dishonesty. It also noted that suspension might allow Dr Baidoo to return in the future to continue to provide his services to patients and to the public. The Tribunal bore in mind that suspension may also have the effect of reducing the impact on Dr Baidoo's personal circumstances in that he had the hope of returning to unrestricted practice.

30. The Tribunal then went on to consider the relevant paragraphs of the SG in relation to dishonesty, and in particular paragraphs 124 and 128 of the SG, which state:

"124 Although it may not result in direct harm to patients, dishonesty related to matters outside the doctor's clinical responsibility (eg providing false statements or fraudulent claims for monies) is particularly serious. This is because it can undermine the trust the public place in the medical profession. Health authorities should be able to trust the integrity of doctors, and where a doctor undermines that trust there is a risk to public confidence in the profession. Evidence of clinical competence cannot mitigate serious and/or persistent dishonesty."

"128 Dishonesty, if persistent and/or covered up, is likely to result in erasure..."

31. The Tribunal was satisfied that there were no clinical competence issues. However, it has already determined that Dr Baidoo's dishonesty was both persistent and covered up, and judged that his clinical competence could not sufficiently mitigate his serious and persistent dishonesty.

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Erasure

32. The Tribunal next considered the relevant paragraphs in relation to erasure, in particular paragraph 109a, b, d, h, and i of the SG, which states:

- “109 Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).
- a A particularly serious departure from the principles set out in Good medical practice where the behaviour is fundamentally incompatible with being a doctor.
 - b A deliberate or reckless disregard for the principles set out in Good medical practice and/or patient safety.
 - ...
 - d Abuse of position/trust (see Good medical practice, paragraph 65: ‘You must make sure that your conduct justifies your patients’ trust in you and the public’s trust in the profession’).
 - h Dishonesty, especially where persistent and/or covered up...
 - i Putting their own interests before those of their patients ...”

33. The Tribunal has already set out that there has been a number of serious breaches from the principles set out in GMP, as detailed in its impairment determination.

34. The Tribunal considered that Dr Baidoo’s actions in misleading and implicating Ms C and Ms D in his dishonesty was an abuse of the trust that they had put in him in an attempt cover up his dishonesty. It considered this to be a particularly aggravating feature in this case. The Tribunal considered that in putting his own financial interests before that of patient interests, and through his persistent, deliberate, and repeated dishonesty, Dr Baidoo had breached a fundamental tenet of the profession. The sustained cover up attempt was extremely serious, involving third parties and dishonesty to NHS England, who gave Dr Baidoo a number of opportunities to ‘come clean’. The Tribunal determined that paragraph 109a, b, d, h, and i of the SG were engaged.

35. The Tribunal determined that an order of suspension with a review would not be appropriate given Dr Baidoo lied repeatedly and only admitted the truth when faced with the facts by NHS England. It concluded that the evidence supported the view that Dr Baidoo had deep seated attitudinal issues in relation to honesty. The Tribunal determined the overarching objective would not be upheld if an order of suspension was imposed.

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36. Bearing in mind both the mitigating and the aggregating factors in this case and the seriousness of Dr Baidoo's dishonesty, the Tribunal determined that his actions were fundamentally incompatible with continued registration. It determined that an order of erasure was the most appropriate and proportionate sanction in this case.

37. The Tribunal has therefore determined to erase Dr Baidoo from the medical register.

Determination on Immediate Order - 25/07/2019

1. Having determined to erase Dr Baidoo from the medical register, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Baidoo's registration should be subject to an immediate order of suspension.

Submissions on behalf of the GMC

2. Mr Birrell referred the Tribunal to the relevant paragraphs of the SG. He submitted that an immediate order was in the public interest, especially given the Tribunal's determination that there is a real risk of repetition. He also noted the acknowledged potential risk to patients previously identified and that he had deep seated attitudinal issues with honesty. He submitted that allowing Dr Baidoo time to get his affairs in order was not a good reason for not making an immediate order as set out in the SG.

Submissions on behalf of Dr Baidoo

3. Mr Geering submitted that there was no necessity to impose an immediate order for the protection of the public. He said the public interest and confidence in the profession was met by the substantive order of erasure. He submitted that there has been no restrictions in place for the last two years and that the public interest did not require an immediate order. He noted that Dr Baidoo did not need time to put his affairs in order as he had deliberately not agreed to undertake any shifts until after these proceedings had been resolved.

The Tribunal's Determination

4. The Tribunal determined that given the seriousness of its previous findings and substantive order of erasure, it was necessary for the protection of the public and otherwise in the public interest to impose an immediate order of suspension. It determined that the public and the profession would be appalled if a doctor who was subjected to a substantive order of erasure, in the circumstances of this case, was allowed to practice unrestricted during the appeal period. In addition, it bore in mind

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its earlier finding that Dr Baidoo's actions had posed a potential risk to patient safety.

5. The substantive direction for suspension, as already announced, will take effect 28 days from today, unless an appeal is lodged in the interim. This order of immediate suspension takes effect from today. The immediate suspension will remain in force until the substantive sanction takes effect, or until such time as the outcome of any appeal is decided.

6. That concludes this case.

Confirmed

Date 25 July 2019

Mrs Claire Sharp, Chair

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SCHEDULE 1

Date

20 May 2017

23 May 2017

24 May 2017

27 May 2017

28 May 2017

30 May 2017

01 June 2017

SCHEDULE 2

'By the end of the first week I was feeling a lot better and decided that perhaps it was time to return to work. I had this shift at Corby Urgent Care on 28th June which I attended to with the hope that I would contact Abbey to return to work the day after. I was wrong. I felt XXX and thought it was not a good idea to return so soon.'

'I was in no mood XXX to return to work at Abbey at the end of the 2 weeks and I was happy to have unpaid leave even to get my full strength back.'

SCHEDULE 3

Date

02 June 2017

03 June 2017

04 June 2017

06 June 2017