

PUBLIC RECORD

Dates: 24/11/2023
12/01/2024

Medical Practitioner's name: Dr Jacqueline CONWAY

GMC reference number: 3261088

Primary medical qualification: MB BS 1987 University of London

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

Summary of outcome

Suspension revoked

Tribunal:

Legally Qualified Chair	Miss Gill Batts
Lay Tribunal Member:	Mr John Elliott
Medical Tribunal Member:	Dr Farah Yusuf

Tribunal Clerk:	Mrs Rachel Horkin
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Attendance and Representation:

Medical Practitioner:	Not present, not represented
GMC Representative:	Ms Laura Kaye, 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 private.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Impairment - 12/01/2024

1. This determination will be read in private. However, as this case concerns Dr Conway's misconduct, a redacted version will be published at the close of the hearing XXX.

The Outcome of Applications Made during the Impairment Stage

2. The Tribunal accepted the submissions of Ms Laura Kaye, Counsel on behalf of the GMC, made pursuant to Rules 20 and 40 of the Rules, that notice of this hearing had properly been served on Dr Conway, and granted the application, made pursuant to Rule 31 of the Rules, that this hearing should proceed in her absence. The Tribunal's full decision on these applications is included at Annex A.

Background

3. Dr Conway qualified in 1987 and became a member of the Royal College of Psychiatrists in 1992. Prior to the events which are the subject of the hearing, Dr Conway was working as a General Psychiatrist. XXX.

4. Dr Conway's case was first considered at a hearing which took place in October 2019. At that hearing, Dr Conway admitted, and the Tribunal found proved that:

- Between 15 October 2015 and 3 November 2015, she worked as a Specialty Doctor in Psychiatry at South Westminster Assessment and Brief Team when she did not hold a licence to practise in the UK;
- At 16:38 on 27 September 2016, she sent an email to Dr A which contained inappropriate and offensive comments;
- XXX
- XXX
- XXX

5. The October 2019 Tribunal found that Dr Conway's actions in working whilst not licensed to practise amounted to serious misconduct and that her approach to her licence to practise was '*cavalier*'. It considered that Dr Conway did not fully recognise the potential ramifications for patient care of treating patients while not licensed to practise. The October 2019 Tribunal also considered that Dr Conway's conduct, in sending the email to Dr A at 16:38 on 27 September 2016 which contained inappropriate and offensive comments, amounted to serious misconduct. Accordingly, the October 2019 Tribunal determined that Dr Conway's fitness to practise was impaired by reason of misconduct.

6. XXX

The Review on the Papers 27 October 2020

7. Dr Conway's case was reviewed, on the papers, by a Legally Qualified Chair ('LQC') on 27 October 2020. Dr Conway and the GMC agreed that her registration should be subject to a further period of conditions for 12 months. The LQC was satisfied that the proposed conditions would be proportionate and sufficient to protect the public and the public interest.

8. XXX. The LQC was also satisfied that Dr Conway's fitness to practise remained impaired by reason of misconduct. The LQC concluded that, whilst Dr Conway had developed some insight into her misconduct, her insight was not fully developed. There was also little evidence of attempts by Dr Conway at remediation.

9. The LQC determined that Dr Conway's period of conditional registration should be extended for a further period of 12 months.

The 4 November 2021 Review

10. Dr Conway's case was reviewed again on 4 November 2021. The 2021 Tribunal determined that Dr Conway's fitness to practise remained impaired by reason of misconduct XXX.

11. As Dr Conway had relinquished her licence to practise and therefore could not work as a doctor, the 2021 Tribunal decided it would not be possible to formulate workable conditions to address all of the concerns regarding Dr Conway's fitness to practise.

12. Therefore, the 2021 Tribunal suspended Dr Conway's registration for 12 months. It considered that this would allow time for Dr Conway to consider her options in terms of whether she wishes to apply for voluntary erasure or the possibility of returning to practice. The Tribunal noted that, should Dr Conway wish to return to practise in the future and

restore her licence to practise, it would be open to her to seek an early review. The 2021 Tribunal determined to direct a review of Dr Conway's case.

The 18 November 2022 Review

13. The 2022 Tribunal concluded that, whilst Dr Conway had shown signs of developing insight within her reflective statement, the Tribunal did not consider the statement to go far enough in this regard. The Tribunal determined that Dr Conway's fitness to practise remained impaired by reason of misconduct.

14. XXX

15. The 2022 Tribunal decided that conditional registration was not appropriate and erasure was disproportionate. In light of its findings on impairment, the 2022 Tribunal was satisfied that suspending Dr Conway's registration would be the appropriate and proportionate action to take. Her registration was suspended for a further 12 months.

16. The 2022 Tribunal directed a review and determined that it would assist the reviewing Tribunal if Dr Conway provided an update confirming whether she intends to return to practise and, if so, to provide:

- A further reflective statement addressing her misconduct;
- Evidence of any ongoing CPD;
- XXX

Today's hearing

17. At today's review hearing 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 Conway's fitness to practise is impaired by reason of misconduct XXX.

The Evidence

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

19. XXX

20. XXX

21. XXX

22. XXX

23. XXX

XXX

24. XXX

25. XXX

26. XXX

27. XXX

28. XXX

29. XXX

30. XXX

31. XXX

32. XXX

Submissions

33. Ms Kaye submitted that, in terms of misconduct, Dr Conway has provided an updated reflective statement which confirms that she has retired and relinquished her license to practise. Dr Conway appears to be critical of the fact she has been asked to provide further evidence of CPD as it is no longer required as she is no longer in practice. This falls short of the detailed insight and remediation that the previous Tribunal thought was necessary. Ms Kaye submitted that it appears to attribute the need to source legal representation (at the initial hearing) to the GMC. Dr Conway has not demonstrated that she fully understands the gravity of her actions and seeks to draw distinctions between her misconduct and other types of misconduct. Ms Kaye submitted that there is a failure on Dr Conway's part to address the impact of her action on public confidence and public safety. Therefore, this Tribunal cannot be satisfied that the insight is full and developed, nor that there is other evidence that Dr Conway has remediated her actions.

34. Ms Kaye acknowledged that the previous Tribunal advised that Dr Conway should provide evidence if she intended to return to clinical practice, but that Dr Conway has indicated that she does not intend to return to work. Ms Kaye stated that this Tribunal is no further on today than the previous Tribunal. Dr Conway remains impaired by reason of misconduct. Ms Kaye submitted that, as of today, Dr Conway does present a risk as the Tribunal cannot be satisfied on the evidence before it that she has full insight or remediation. The Tribunal may consider Dr Conway's retirement as going some way to diminishing the risk she presents.

35. XXX

36. Ms Kaye reminded the Tribunal that Dr Conway does not hold a license to practise and if she were to seek employment she would need to apply for one. Dr Conway relinquished her license on 19 October 2021 and would have to be revalidated before she were to apply for work.,

37. When questioned by the Tribunal as to the GMC's change of position on impairment from the 2022 review hearing, Ms Kaye advised that Dr Conway had provided a reflective statement to that Tribunal and so as a result the GMC was neutral at that time regarding her misconduct. However, the previous Tribunal found that there was a lack of insight on Dr Conway's behalf and there is currently a lack of evidence before this Tribunal today.

The Relevant Legal Principles

38. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. This Tribunal is aware that it is for the doctor to satisfy it that she would be safe to return to unrestricted practise.

39. This Tribunal must determine whether Dr Conway's fitness to practise is impaired today, taking into account Dr Conway's conduct XXX at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

XXX

40. XXX

41. XXX

42. XXX

43. XXX

Misconduct

44. In reaching its decision the Tribunal has considered the reflective statement provided by Dr Conway which states that she has retired and has relinquished her License to practise. Regarding the misconduct, Dr Conway wrote,

“I have previously acknowledged the seriousness of this, and my appreciation of this remains the same.”

45. The Tribunal considered that Dr Conway acknowledged and apologised for her misconduct at the initial hearing and also at subsequent review hearings. The Tribunal has determined that it has no evidence before it to suggest that there has been repetition of the misconduct that led to the initial hearing.

46. The Tribunal has further considered Dr Conway’s comments that the GMCs action against her since the initial MPT hearing has been “unremitting” and “punitive”. She also wrote,

“I wonder if the requirement for a further reflective statement is to seek further deference to the GMC.”

47. When considering these comments, the Tribunal reminded itself the submissions of Dr Conway’s counsel (Mr Stephen McCaffrey) at the initial hearing,

“With regards to the email sent to Dr A...Dr Conway had apologised, deeply regretted the email, and that it was a one-off incident. ...her evidence, although not always attractive, was an honest attempt to explain her conduct...she was merely being frank and was not seeking to justify her behaviour but was rather trying her best to show insight. In this context, Mr McCaffrey relied on the expert report of professor [E] which noted Dr Conway’s style of communication and over-use of sarcasm.”

XXX

48. The Tribunal considered that Dr Conway no longer poses a risk to public safety or the public interest by reason of her misconduct.

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

50. The Tribunal considers that it is proportionate to revoke the current order of suspension with immediate effect.

51. This concludes the case.

ANNEX A – 12/01/2024

Service and Proceeding in Absence

52. Dr Conway was neither present nor legally represented at this hearing. The Tribunal noted that in order to proceed with the hearing in the doctor's absence, it needed to be satisfied that she had been properly served with notice of the hearing and that it was appropriate for the hearing to proceed in her absence.

53. The Tribunal had regard to Dr Conway's email sent to the GMC dated 20 October 2023 in which she wrote,

"I do not think that the Tribunal can gain anything from me XXX. Therefore, I would rather not attend the Tribunal hearing. XXX, as I have retired from medicine and have relinquished my licence to practice, I would not be able to satisfy the tribunal that I am fit for further medical practice, as I no longer wish to engage in it. I am extremely tired, and enjoy the fact that my being retired means that I am not inconveniencing any patients or clinical service by not attending work.

I do hope that the Tribunal will be able to proceed in a satisfactory manner without my attendance. If this isn't the case, please let me know."

Submissions

54. Ms Kaye submitted that notice of these proceedings have been properly served upon Dr Conway and that she has acknowledged the same. Ms Kaye submitted that Dr Conway's absence is expected, and the Tribunal should proceed in her absence. Ms Kaye submitted that there would be nothing to be gained from adjourning these proceedings as Dr Conway's non-attendance is wilful and deliberate.

The Tribunal's determination

55. Dr Conway is neither present nor represented today. The Tribunal has borne in mind that it is the responsibility of Dr Conway to keep her registered address up to date with the GMC, and that the notice of hearing was sent email to the doctor's current registered email address on 13 October 2023. Receipt of the email was acknowledged on 17 November 2023. The Tribunal has decided that notice of this hearing has been served in accordance with Rule 40 of the General Medical Council (Fitness to Practise) Rules 2004 and paragraph 8, Schedule IV of the Medical Act.

56. The Tribunal has balanced Dr Conway's interests with the public interest in deciding whether to proceed in her absence.

57. In accordance with Rule 31, the Tribunal has determined that it is appropriate to proceed in Dr Conway's absence. The Tribunal is satisfied that Dr Conway has been properly served with notice of these proceedings and has voluntarily absented herself. It was also of the view that Dr Conway has not requested an adjournment and that adjournment would serve no useful purpose as it would not ensure Dr Conway's attendance at a future hearing. In accordance with Rule 31, the Tribunal considers that it is appropriate to proceed in Dr Conway's absence and this would cause no injustice to the doctor.

ANNEX B – 24/11/2023

Application to adjourn and to extend current order of suspension

58. Due to the lateness of the hour and there being insufficient time for the Tribunal to conclude Dr Conway's case, the Tribunal determined that it was necessary to adjourn the hearing to reconvene at a later date to be confirmed.

59. The Tribunal noted that the current suspension on Dr Conway's registration is due to expire on 8 December 2023. It invited submissions as to whether it is necessary to extend the current order of suspension in accordance with section 35D(12)(c) of the Medical Act 1983 and Rule 22(5) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules').

Submissions

60. On behalf of the GMC, Ms Kaye submitted that the order of suspension should remain in place until the hearing can be reconvened. Ms Kaye reminded the Tribunal that Dr Conway is currently not working and apparently does not have an intention to work. Ms Kaye submitted that it is necessary to protect the public and maintain public confidence that the suspension remains in place for the short period until the next hearing.

The Tribunal's determination

61. The Tribunal determined that it was necessary for public protection, was in the public interest and was proportionate in this case for the order of suspension to be extended for a period of three months.