

PUBLIC RECORD

Date: 30 October 2020

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
Misconduct	Impaired

Summary of outcome

Conditions for 12 months

Tribunal/Legally Qualified Chair:

Legally Qualified Chair:	Mr Simon Bond
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Review on the Papers

This case was reviewed on the papers, with the agreement of both parties, by a Legally Qualified Chair.

Overarching Objective

Throughout the decision making process the Chair 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.

Legally Qualified Chair's determination

1. I have reviewed the background to Dr Conway's case, which was first considered by a medical practitioners tribunal in October 2019 ('the October 2019 Tribunal').
2. Dr Conway graduated from the University of London in 1987 and became a member of the Royal College of Psychiatrists in 1992. Prior to the events which were the subject of the October 2019 Tribunal, she was working as a General Psychiatrist. XXX.
3. Dr Conway admitted, and the October 2019 Tribunal found proved, that:
 - a. Between 15 October 2015 and 3 November 2015, she worked as a Specialty Doctor in Psychiatry at South Westminster Assessment and Brief Treatment Team, when she did not hold a licence to practise in the UK;
 - b. At 16:38 on 27 September 2016, she sent an email to Dr A which contained inappropriate and offensive comments;
 - c. XXX
 - d. XXX
 - e. XXX
4. The October 2019 Tribunal found that:
 - a. Dr Conway's actions in working whilst not licensed to practise amounted to serious misconduct and that Dr Conway's approach to her licence to practise was, 'cavalier'. The October 2019 Tribunal considered that Dr Conway did not fully recognise the potential ramifications for patient care of treating patients while not licenced to practise.
 - b. 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.

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5. Accordingly, the October 2019 Tribunal determined that Dr Conway's fitness to practise was impaired by reason of misconduct.
6. XXX
7. XXX
8. The October 2019 Tribunal determined to impose conditions on Dr Conway's registration for a period of 12 months and considered that it was necessary to do so to satisfy each of the three limbs of the overarching objective.
9. In order to provide assistance at a review hearing, the October 2019 Tribunal recommended that Dr Conway provide:
 - a. a reflective statement dealing with her attitude towards the regulatory regime and the importance of ensuring that all communications with colleagues are appropriate in nature;
 - b. reports from those involved in supervising her as to her compliance with the regulatory regime and her attitude towards regulation generally; and
 - c. evidence that she has engaged with and complied with her regulatory obligations, particularly the appraisal and revalidation system.
10. Dr Conway and the GMC have agreed that this review should be considered on the papers in accordance with Rule 21B of the General Medical Council (Fitness to Practise) Rules 2004. They have provided agreed terms of an order which I could make at this review ('the Agreement Form'). In the Agreement Form, Dr Conway and the GMC agree that Dr Conway's fitness to practise remains impaired by reason of XXX misconduct and that her registration should be subject to a further period of conditions for 12 months.
11. I have considered all of the evidence presented to me, which included but was not limited to:
 - a. Determination of the October 2019 Tribunal;
 - b. Letters from MPT to Dr Conway dated 29 October 2019 and 29 November 2019;
 - c. Letter from GMC to Dr Conway dated 8 November 2019;
 - d. XXX;
 - e. Emails between GMC and Mentor ending 20 April 2020;

- f. XXX;
- g. Clinical Supervision Report dated 10 June 2020;
- h. Letter from GMC to Dr Conway dated 9 July 2020;
- i. XXX;
- j. Dr Conway's reflective statement;
- k. The Agreement Form;
- l. GMC written submissions;

12. I have taken into account that, since the previous order was made by the October 2019 Tribunal, Dr Conway:

- a. XXX;
- b. has a Mentor, Dr G;
- c. XXX;
- d. has a Clinical Supervisor, Dr F, who supervises her on a daily basis using a range of media including email, telephone, zoom or face-to-face contact;
- e. has attended a course in Managing Professional Ethics; and
- f. XXX.

13. XXX

14. Dr Conway's mentor, Dr G, confirmed in an email to the GMC dated 20 April 2020, that he had met her, 'about two or three times over January/ February' but that he hadn't heard from Dr Conway during March and April as those months had been, 'taken over by Covid response and priorities'.

15. XXX

16. In her Clinical Supervisor's report dated 10 June 2020, Dr F reported that Dr Conway had found her return to work, 'challenging' and noted Dr Conway's absence from work between 17 February 2020 and 5 May 2020. In Dr F's opinion Dr Conway understands the, 'limitations on her practice in light of her GMC conditions'. Dr F was also of the view that Dr Conway appeared to be responding to close supervision and guidance but needed reminding of the importance of the support structures provided for her (such as mentoring XXX). Dr F noted a concern that Dr Conway had not returned to face to face clinical practice or to working as envisaged in her job description.

17. XXX

18. XXX

19. In its written submissions XXX. The GMC concede that Dr Conway understands the gravity of working without a licence and has developed some insight into the regulatory function of the GMC and the importance of complying with its rules. However, the GMC submit that, 'it is difficult to prove remediation without supporting evidence' and that Dr Conway's fitness to practise remains impaired by misconduct.

20. In her reflective statement, Dr Conway addresses what she describes as, 'concerns about my probity and conduct'. In relation to the issue of the inappropriate email she sent to a colleague, Dr Conway acknowledges that it was, 'ham fisted', contained a 'shocking description' of a colleague and she could understand why her colleague felt he had to forward the email to the GMC. Dr Conway said that she apologised, 'profusely and unreservedly for sending it' and said that she would, 'certainly never do anything similar in future'. In relation to 'the probity issue', Dr Conway said that her, 'previous appreciation of the GMC was that it applied Kafkaesque requirements to doctors' but she now understood the GMC's essential regulatory role. She considered that her conduct in working without a licence was out of character and was explained by her lack of understanding, the fact that she had not received written confirmation and by the fact that she was solely responsible for her own welfare. She could understand why the GMC would be so alarmed by her conduct in working without a licence and understood that the purpose of licencing was to protect the public and practitioners.

21. In reaching my decision, I have taken into account the Sanctions Guidance. I have borne in mind that the purpose of the sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.

22. I have applied the principle of proportionality, weighing Dr Conway's own 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 declaring and upholding of proper standards of conduct and behaviour.

23. I am satisfied that the proposed conditions would be proportionate and sufficient to protect the public and the public interest. I have therefore determined that Dr

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Conway's registration be made subject to the following conditions for a further period of 12 months:

1. She must personally ensure the GMC is notified of the following information within seven calendar days of the date these conditions become effective:
 - a the details of her current post, including:
 - i her job title
 - ii her job location
 - iii her responsible officer (or their nominated deputy)
 - b the contact details of her employer and any contracting body, including her direct line manager
 - c any organisation where she has practising privileges and/or admitting rights
 - d any training programmes she is in
 - e of the organisation on whose medical performers list she is included
 - f of the contact details of any out of hours service she is registered with
2. She must personally ensure the GMC is notified:
 - a of any post she accepts, before starting it
 - b that all relevant people have been notified of her conditions, in accordance with condition 4

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- c if any formal disciplinary proceedings against her are started by her employer and/or contracting body, within seven calendar days of being formally notified of such proceedings
 - d if any of her posts, practising privileges, or admitting rights have been suspended or terminated by her employer before the agreed date within seven calendar days of being notified of the termination
 - e if she applies for a post outside the UK.
3. She must allow the GMC to exchange information with any person involved in monitoring her compliance with her conditions.
4. She must personally ensure the following persons are notified of the conditions listed at 1 to 8:
- a her responsible officer (or their nominated deputy)
 - b the responsible officer of the following organisations:
 - i her place(s) of work, and any prospective place of work (at the time of application)
 - ii all of her contracting bodies and any prospective contracting body (prior to entering a contract)
 - iii any organisation where she has, or has applied for, practising privileges and/or admitting rights (at the time of application)
 - iv any out of hours service she is registered with
 - v if any of the organisations listed at (i to iv) does not have a responsible officer, she must notify the person with responsibility for overall clinical governance within that organisation. If she is unable to identify that person, she must

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contact the GMC for advice before working for that organisation.

e the approval lead of her regional Section 12 approval tribunal (if applicable) - or Scottish equivalent

f her immediate line manager and senior clinician (where there is one) at her place of work, at least 24 hours before starting work (for current and new posts, including locum posts).

5. She must get the approval of the GMC before working in a non-NHS post or setting.

6. a She must be supervised in all of her posts by a clinical supervisor, as defined in the *Glossary for undertakings and conditions*. Her clinical supervisor must be appointed by her responsible officer (or their nominated deputy).

b She must not work until:

i her responsible officer (or their nominated deputy) has appointed her clinical supervisor and approved her supervision arrangements

ii she has personally ensured that the GMC has been notified of the name and contact details of her clinical supervisor and her supervision arrangements.

7. She must not work:

a as a locum

8. She must have a mentor who is approved by her responsible officer (or their nominated deputy).

XXX

24. XXX

25. I am also satisfied that Dr Conway's fitness to practise remains impaired by reason of misconduct. I concluded that, whilst Dr Conway has developed some insight into her misconduct, her insight was not fully developed. In addition, there was little evidence before me of attempts by Dr Conway at remediation. In reaching that decision I noted, in particular, the following:

- a. that Dr Conway accepts, in the Agreement Form, that her fitness to practise remains impaired by reason of misconduct;
- b. that, whilst the reports of Professor E and Dr F refer to Dr Conway having attended a professional boundaries course, I was not provided with any details of the course content or any other evidence of Dr Conway's attendance (for example a certificate of attendance);
- c. that Dr Conway's reflective statement, whilst expressing some insight into issues relating to her probity and conduct, was limited and did not, for example, contain:
 - i. any reflections on the professional boundaries course or what she had learnt from it;
 - ii. any detail of her interactions with her mentor, Dr G, or how she had benefited from having a mentor; or
 - iii. details of any other positive actions Dr Conway had taken to remediate her misconduct.
- d. there was limited evidence of Dr Conway's attempts to remediate her misconduct, beyond participation in the professional boundaries course. For example:
 - i. Dr Conway's interaction with her mentor appears to have comprised 'two or three' meetings and there was no evidence that Dr Conway had met with Dr G since March 2020;
 - ii. The October 2019 Tribunal recommended that a review Tribunal would be assisted by evidence that Dr Conway has engaged with and complied with her regulatory obligations, particularly the appraisal and revalidation system. There was no such evidence before me and Dr F confirmed that Dr Conway, 'has yet to participate' in individual training for her appraisal or revalidation.

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- e. whilst Dr F was of the opinion that Dr Conway understands the limitations on her practice, she expressed concern in her report that it was, 'necessary to remind Dr Conway not to take on any other practice at regular intervals'.

26. In determining that Dr Conway's period of conditional registration should be extended for a further period of 12 months, I took into account:

- a. Professor E's opinion that the restrictions on Dr Conway's registration need to remain in place at least until she has had full opportunity to return to clinical practice;
- b. Dr F's report that Dr Conway has not yet returned to face to face clinical practice. However, Dr F considered that Dr Conway understood the limitations on her practice and appeared responsive to close supervision and guidance, albeit with reminders about the support structures provided for her;
- c. the opinion of Professor E that the conditions on Dr Conway's practice imposed by the October 2019 Tribunal remain appropriate and that he could recommend no changes to those conditions;
- d. my finding that Dr Conway does not yet have full insight into her misconduct; and
- e. the Agreement Form in which the GMC and Dr Conway agree that:
 - i. her fitness to practise remains impaired by reason of XXX misconduct; and
 - ii. the conditions currently imposed on Dr Conway's registration should be extended for a further period of 12 months from the date on which they would otherwise expire.

27. I am therefore satisfied that it is necessary to extend Dr Conway's period of conditional registration to satisfy each of the three limbs of the overarching objective, namely:

- a. to protect, promote and maintain the health, safety and well-being of the public;
- b. to promote and maintain public confidence in the medical profession; and

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- c. to promote and maintain proper professional standards and conduct for members of the profession.

28. The effect of this direction is that, unless Dr Conway exercises her right of appeal, the conditions will take effect 28 days from when written notice of this determination has been served upon her. The current order of conditions will remain in place until the appeal period has ended, or in the event that she does appeal, that appeal is decided. A note explaining Dr Conway's right of appeal will be provided to her.

29. Notification of this decision will be served on Dr Conway in accordance with the Medical Act 1983, as amended.

Confirmed

Date 30 October 2020

Mr Simon Bond, Chair