

## PUBLIC RECORD

Date: 02/12/2022

Medical Practitioner's name: Dr Maria Colavita  
GMC reference number: 6168730  
Primary medical qualification: State DMS 1988 Universita degli Studi di Milano

Type of case	Outcome on impairment
Review - Determination by other regulator	Not Impaired
Review - Misconduct	Not Impaired

Summary of outcome  
Suspension to expire

## Tribunal:

Legally Qualified Chair	Ms Alice Moller
Lay Tribunal Member:	Mr Geoff Brighton
Medical Tribunal Member:	Dr Matthew O'Meara
Tribunal Clerk:	Mr Sewa Singh

## Attendance and Representation:

Medical Practitioner:	Not present and not represented
Medical Practitioner's Representative:	None
GMC Representative:	Ms Shirley McKenna, 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 - 02/12/2022

1. At this 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 Colavita's fitness to practise remains impaired by reason of misconduct and a Determination by another regulator.

### The Outcome of Applications Made during the Impairment Stage

2. The Tribunal did not grant an initial application to proceed in absence, as Dr Colavita attended the Tribunal at 10am.

### Background

3. On 12 January 2019, the Medical Commission of the Physicians, Surgeons and Dentists Association of Milan ('the Commission') determined that Dr Colavita had failed to fulfil her obligations as a General Practitioner ('GP') set by the National Collective Agreement in Italy, by unduly favouring her self-employed profession, and suspended her registration for a period of one month from 1 to 29 February 2020. Dr Colavita was found by a previous MPT to have failed to disclose the determination of the Commission ('the Determination') to the GMC.

4. At the time of the events, Dr Colavita was practising as a GP in Italy. On 3 May 2018, a TV programme was broadcast in Italy called '*Striscia la Notizia*'. It included a story filmed after one Dr Colavita's patients complained to a TV station that Dr Colavita had not been sufficiently available to patients of her GP surgery.

### May 2022 Hearing

5. Dr Colavita's case was first considered by a Medical Practitioners Tribunal between 16 to 19 May 2022 ('the May 2022 Tribunal'). Dr Colavita was not present nor represented at that hearing.

6. The May 2022 Tribunal found that, on 12 January 2019, the Commission determined that Dr Colavita had failed to fulfil her obligations as a GP and that her registration was suspended from 1 to 29 February 2020. The May 2022 Tribunal also found that Dr Colavita had failed to notify the GMC of the one-month suspension by the Commission. It found Dr

Colavita's fitness to practise was impaired by reason of misconduct and the Determination by another regulator.

7. The May 2022 Tribunal found that Dr Colavita had breached paragraph 75 of Good Medical Practice ('GMP') which states:

*'75 You must tell us without delay if, anywhere in the world:*

*...*

*c another professional body has made a finding against your registration as a result of fitness to practise procedures.'*

8. The Tribunal considered that a finding of impairment was required to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of the profession. The May 2022 Tribunal determined that Dr Colavita's fitness to practise was impaired by reason of misconduct.

9. In considering sanction, the May 2022 Tribunal identified aggravating factors including the fact that Dr Colavita had not demonstrated insight or remediation. It also identified mitigating factors such as lapse of time since events in May 2018.

10. The May 2022 Tribunal determined to suspend Dr Colavita's registration for six months. It considered that this would mark the seriousness with which it viewed her actions, and it would demonstrate clearly to Dr Colavita, the profession and the public that her actions were unacceptable.

11. The May 2022 Tribunal considered that six months would provide Dr Colavita with sufficient time to adequately reflect and demonstrate at the review hearing that she had developed insight and to provide evidence of remediation. The May 2022 Tribunal determined to impose an immediate order.

12. The May 2022 Tribunal suggested to Dr Colavita that a reviewing Tribunal may be assisted by the following information:

*'i Evidence that Dr Colavita understood the standards expected of a doctor as set out in GMP and the importance of complying with these provisions;*

*ii Evidence that she had reflected on the findings of the Italian regulatory body; an explanation of her failure to notify the GMC; and her reflections on the findings of this Tribunal;*

*iii Evidence that she has kept her medical knowledge and skills up to date including relevant Continued Professional Development; and*

*iv Any other relevant evidence that Dr Colavita considers will assist the reviewing tribunal.'*

Today's Review Tribunal

## The Evidence

13. The Tribunal has taken into account all the documentary evidence received, This included but was not limited to:

- Record of Determinations from Dr Colavita’s previous MPT hearing;
- Email correspondence between the GMC and Dr Colavita and between the MPTS and Dr Colavita; various dates.

14. Dr Colavita gave oral evidence, in which she outlined the context of events and explained the circumstances giving rise to her suspension by the Commission, which she said, involved a consultation with a female patient.

15. Dr Colavita said that she had taken sick leave in January or February 2019 and was in Qatar at the time of the consultation. Dr Colavita asked a colleague to ‘cover’ the patients’ appointments for a few days, but when one patient attended the clinic for an appointment, the clinic was closed. This led to the complaint about Dr Colavita to a TV programme.

16. Dr Colavita told the Tribunal today that she had been unaware of the decision by the Commission to suspend her registration for one month, until notified by the GMC. Dr Colavita told the Tribunal that she was aware of the MPT hearing in May 2022 but did not attend as she was travelling to Abu Dhabi. At this time she was distressed: *‘I wasn’t ready’*.

17. Dr Colavita said that she only became aware of the suspension by the Commission when she was notified that the MPT hearing in May 2022 had determined to suspend her registration for six months. Dr Colavita said that she still held a practising certificate to work in Italy. Although she does not undertake any significant work in Italy, she does occasional consultations there for the Government. Dr Colavita said that she now works in private medical practice in Qatar.

18. In relation to the previous MPT Tribunal hearing, Dr Colavita acknowledged that she received several communications from the GMC referring to her suspension in the UK and that she responded to some, explaining the circumstances of her one month suspension in Italy. Dr Colavita said that she had not told the GMC about her suspension from the Commission, as she was unaware until informed by the GMC.

19. Dr Colavita said, in relation to Continued Professional Development (‘CPD’), that she had undertaken approximately fifty hours of CPD during the past year, but there was always room for improvement. Keeping up-to-date was important: *‘how can one be a good doctor if you don’t read online and go on conferences.’*

## Submissions on behalf of the GMC

20. Ms McKenna said that the GMC was neutral on the question of whether Dr Colavita’s fitness to practise is currently impaired. Ms McKenna reminded the Tribunal that Dr Colavita had

not engaged with the GMC proceedings in May 2022, adding that the Tribunal has now heard evidence from Dr Colavita, who explained the circumstances leading to her one-month suspension by the Italian regulator; this evidence had not been provided to the May 2022 Tribunal. Ms McKenna alluded to Dr Colavita's evidence that she only learned of the suspension in Italy when notified by the GMC of her six-month suspension in the UK.

### Dr Colavita's submissions

21. Dr Colavita told that Tribunal that, in her 25-year career as a doctor, there had been no other adverse findings or complaints. In answer to questions, she recognised the need for doctors to be regulated, for patients to be protected, clinical standards upheld and public confidence in the medical profession maintained. She told the Tribunal that the public needs to be protected against doctors who breach guidance or do not follow the rules, adding that it was important for a doctor registered with the GMC to tell the GMC of any adverse regulatory findings made abroad. In future, she would check email and inform the GMC immediately of any such proceedings, because *'the GMC has to know the truth'*.

22. Dr Colavita submitted that she is currently fit to practise as a doctor. The well-being of patients is her main focus; continuing professional development is also important.

### The Relevant Legal Principles

23. In a review case, there is a persuasive burden on the doctor to demonstrate that all relevant concerns have been adequately addressed, and that remediation has taken place. If so, a Tribunal might then conclude that the doctor's fitness to practise is no longer impaired.

24. Impairment may be based on historical matters or a continuing state of affairs, but it is to be decided at the time of the hearing. To do this the Tribunal must look forward, taking account of any reparation, changes in practice, conduct or attitude since the matters found proved occurred.

25. The Tribunal must consider any risk of harm, breach of a fundamental tenet of the [medical] profession, bringing it into disrepute, in the past or likely future issues: ***CHRE v Grant 2011 EWHC 927 citing Fifth Shipman report.***

26. Maintaining innocence is not to be equated with lack of insight: ***Karwal v GMC 2011 EWHC 826.*** The Tribunal in Karwal had justified its view that the doctor had not fully appreciated the gravity of their actions.

27. The decision on impairment is a matter for the Tribunal's judgement. It is for the doctor to satisfy the Tribunal that she is safe to return to unrestricted practice.

28. This Tribunal must determine whether Dr Colavita's fitness to practise is impaired today, taking account of her recent conduct and whether any deficits or attitudinal issues have been remedied as well as any likelihood of repetition.

29. In reaching its decision, the Tribunal bore in mind that its primary responsibility is to the statutory overarching objective which is as follows:

- To protect, promote and maintain the health, safety and well-being of the public;
- To promote and maintain public confidence in the medical profession;
- To promote and maintain proper professional standards and conduct for members of that profession.

### The Tribunal's Determination on Impairment

30. The Tribunal considered the evidence before it, as well as the submissions made by Ms McKenna and Dr Colavita.

31. The Tribunal took account of the previous Tribunal's determination including paragraph 26 indicating how Dr Colavita may be able to assist a reviewing Tribunal.

*'The Tribunal wished to clarify that at the review hearing, the onus will be on Dr Colavita to demonstrate how she had developed insight and remediated her conduct. Any future Tribunal may be assisted if Dr Colavita provides:*

- i. Evidence that Dr Colavita understood the standards expected of a doctor as set out in GMP and the importance of complying with these provisions;*
- ii. Evidence that she had reflected on the findings of the Italian regulatory body; an explanation of her failure to notify the GMC; and her reflections on the findings of this Tribunal;*
- iii. Evidence that she has kept her medical knowledge and skills up to date including relevant Continued Professional Development; and*
- iv. Any other relevant evidence that Dr Colavita considers will assist the reviewing tribunal.'*

32. The Tribunal noted that the May 2022 Tribunal, in paragraph 54 and 55 of its determination on impairment, stated:

*'The Tribunal noted that Dr Colavita had provided no evidence as to why she had not notified the GMC. There had been no evidence of insight or remediation. The Tribunal concluded that in the absence of insight or remediation, there was a risk of repetition on the basis that she had taken no action to address the conduct concerned.*

*The Tribunal was not persuaded that the first limb, regarding patient safety, was engaged, as there was insufficient evidence that patient safety was compromised by Dr Colavita not being available for her patients... However, the Tribunal were satisfied that the second and third limbs of the overarching objective were engaged.'*

33. This review Tribunal disregarded evidence from Dr Colavita that she did not inform the GMC of her suspension for one month by the Commission because she was not aware of such suspension. This is because findings of fact have already been made; the Tribunal took account of the factual findings of the previous Tribunal.

34. Dr Colavita recognised the need for doctors to be regulated, for patients to be protected, clinical standards upheld and public confidence in the medical profession maintained. In evidence she said that the public needs to be protected against doctors who breach guidance or do not follow the rules.

35. In future, Dr Colavita assured the Tribunal that she would check email and inform the GMC immediately of any such proceedings, because *'the GMC has to know the truth'*.

36. Although Dr Colavita has not provided certificates of CPD or testimonials, the Tribunal recognised that, as an unrepresented doctor, she has not had the guidance available to some practitioners. Ms McKenna did not challenge Dr Colavita's claim to have undertaken regular CPD. There was no suggestion of any other concerns about Dr Colavita's medical practice since these matters came to light.

37. The May 2022 Tribunal suspended Dr Colavita's registration for a period of six months. This was solely to declare standards and maintain confidence in the medical profession. A suspension can be imposed to mark the seriousness with which a Tribunal views misconduct. The previous Tribunal recognised the gravity of Dr Colavita's actions by imposing a suspension. This Tribunal considers that the purpose of the suspension has been served. Taking account of all evidence provided today, this Tribunal is satisfied that issues identified in May 2022 are no longer a cause for concern.

38. The Tribunal considered that Dr Colavita has explained her actions and demonstrated that she has kept her medical knowledge and skills up to date through CPD.

39. In all the circumstances, the Tribunal has determined that Dr Colavita's fitness to practise is no longer impaired.

40. The suspension of Dr Colavita's registration is due to expire on 23 December 2022. The Tribunal has borne in mind the decision of the May 2022 Tribunal that, due to the gravity of the misconduct, a suspension of six months was the appropriate sanction. Therefore, the current period of suspension will be revoked on the date of expiry, on 23 December 2022.

41. That concludes the case.