

## PUBLIC RECORD

Dates: 20/10/2022

Medical Practitioner's name: Dr Megan WHITTAKER

GMC reference number: 7409039

Primary medical qualification: MB ChB 2013 University of Manchester

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

Summary of outcome  
Suspension to expire

## Tribunal:

Legally Qualified Chair	Mrs Jayne Wheat
Lay Tribunal Member:	Mrs Carrie Ryan-Palmer
Medical Tribunal Member:	Dr Ann Wolton

Tribunal Clerk:	Ms Olivia Moy
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## Attendance and Representation:

Medical Practitioner:	Present and not represented
Medical Practitioner's Representative:	N/A
GMC Representative:	Ms Jennifer Devans-Tamakloe, 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.

## 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 - 20/10/2022

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 Whittaker's fitness to practise remains impaired by reason of misconduct.

## Background

### The April 2022 Hearing

2. Dr Whittaker's case was first considered by a Medical Practitioners Tribunal in April 2022 ('the 2022 Tribunal'). Dr Whittaker qualified in 2013 with a MB BCh from the University of Manchester. At the time of the events Dr Whittaker was practising as a trainee in Trauma and Orthopaedics in the East of Scotland Deanery.

3. The facts found proved at the 2022 hearing can be summarised as follows: In 2019, Dr Whittaker submitted a study leave application to attend a Congress and failed to notify the relevant people that she did not attend it when she knew she should have informed them.

4. In December 2019, Dr Whittaker attended an Annual Review of Competence Progression ('ARCP') meeting and when specifically asked, she stated, on one or more occasions, that she had attended the Congress when she knew she had not.

5. Further, in 2019, when required to undergo Multi Source Feedback ('MSF') and having been told that her educational supervisor was to select half of her raters, Dr Whittaker failed to follow this instruction and selected all raters herself. It is alleged that she stated that she had discussed the selection of her raters with her educational supervisor and he was happy with them, but she knew that she had not done so.

6. It was determined that Dr Whittaker's actions were dishonest.

7. The April 2022 Tribunal determined that Dr Whittaker’s fitness to practise was impaired by reason of misconduct.
8. XXX
9. The April 2022 Tribunal acknowledged that Dr Whittaker had accepted its findings at Stage 1, apologised for her actions and had expressed regret. It therefore accepted that Dr Whittaker showed some insight in that she recognised that her dishonesty was wrong. However, the April 2022 Tribunal was not satisfied that she had demonstrated any meaningful insight into the consequences of her dishonesty and lack of judgement on her professional standing and the impact of her behaviour on her employer, colleagues, the wider profession and the public. The April 2022 Tribunal took the view that Dr Whittaker’s acknowledgement of fault lacked depth as it was not apparently based on any thorough analysis of why she had acted as she did and what she had learned from the experience. Overall, the April 2022 Tribunal determined that Dr Whittaker had demonstrated only limited insight and that it appeared to be in the very early stages of development.
10. The April 2022 Tribunal noted that Dr Whittaker’s repeated dishonesty had the potential to cause harm, brought the profession into disrepute, breached fundamental tenets of the profession and demonstrated as a consequence of her dishonest behaviour that she could not be relied upon to act with integrity. The April 2022 Tribunal determined that Dr Whittaker’s dishonesty related to her professional development and assessment of professional development which are crucial in ensuring safe and effective practice as they have the potential to have an impact on patient safety and patient care. It determined that all of those features undermined the fundamental role of a medical practitioner. It further determined that there was only limited evidence before the Tribunal that Dr Whittaker had fully and appropriately reflected on these issues. In the absence of sufficient insight and meaningful reflection, the April 2022 Tribunal determined that there was a current and ongoing risk of repetition and it assessed that risk as being ‘high’ in the absence of significant remediation.
11. It therefore determined that Dr Whittaker’s fitness to practise was impaired for the reasons above and on public interest grounds.
12. The April 2022 Tribunal determined to suspend Dr Whittaker for a period of six months. The April 2022 Tribunal was satisfied that this period of suspension would sufficiently reflect the gravity of Dr Whittaker’s misconduct and send a clear signal to her, the profession and the wider public that this was serious misconduct unbecoming of a registered doctor.
13. The April 2022 Tribunal determined to direct a review of Dr Whittaker’s case. It considered that it may assist a reviewing Tribunal if Dr Whittaker provided:

- A reflective statement which demonstrates that Dr Whittaker fully understands what went wrong and how it can be avoided in future, including specific examples of how she has implemented changes in her communication with others;
- Testimonials from colleagues and supervisors relating to paid and/or unpaid employment;
- Evidence of any discussions with other professionals;
- XXX
- Evidence that Dr Whittaker has kept her medical knowledge and skills up to date;
- Evidence of any courses attended, and in particular the learning outcomes that have been achieved;
- Any other evidence Dr Whittaker considers will assist the reviewing Tribunal in being satisfied that she is no longer impaired.

### Today's Review Tribunal

#### The Evidence

14. The Tribunal has taken into account all the evidence received, including, but not limited to:

- Record of Determinations from Dr Whittaker's April 2022 hearing;
- MPTS letter to Dr Whittaker – dated 19 May 2022;
- GMC letters to Dr Whittaker – dated 1 June and 22 July 2022;
- Email exchange between GMC and Dr Whittaker – dated 12/13 July 2022;
- GMC information letter from the GMC to Dr Whittaker – dated 8 September 2022.
- Statement of Dr Whittaker;
- Testimonial on behalf of Dr Whittaker from Ms A – dated 29 September 2022;
- Testimonial on behalf of Dr Whittaker from Dr B – dated 29 September 2022;
- Certificate of completion for an Emergency Oxygen Provider Course – dated 28 September 2022;
- Certificate of completion for a HMLI Provider Course – dated 11 September 2022;
- Certificate of CPD, Professionalism and the Professional Standards for Doctors, Probity and Ethics – dated 28 September 2022;
- Mindful Mental Health diploma – dated 3 October 2022.

#### Submissions of Ms Jennifer Devans-Tamakloe, on behalf of the GMC

15. On behalf of the GMC, Ms Devans-Tamakloe submitted that the GMC is neutral on the matter of Dr Whittaker's current impairment.

16. Ms Devans-Tamakloe submitted that when considering the testimonials, course certificates and Dr Whittaker's statement, the GMC takes the view that Dr Whittaker has sought to address the matters of insight, reflection and remediation. Ms Devans-Tamakloe

further submitted that the GMC concluded that sufficient work had been done by Dr Whittaker, for it to take a neutral position on the question of current impairment.

### Submissions of Dr Whittaker

17. XXX

18. Dr Whittaker submitted that, at the time the events occurred, she was new to the hospital and was the only trainee there. She further submitted that she was new to Dundee and did not have good social support around her. She stated that this level of support is much stronger now. Dr Whittaker stated that her parents have moved from Tanzania to the Tayside region; XXX.

19. Dr Whittaker submitted that over the last 6 months she has come to realise the importance of being able to trust colleagues. She submitted that in medicine, patients need to be able to trust doctors but doctors also need to be able to trust other doctors, as they work together in teams. She stated that she now understands that although her previous dishonesty did not directly harm patients, acting dishonestly raises the suspicion that you could be dishonest in a way that might directly harm patients. She acknowledged that dishonesty also had a negative impact on public confidence in the profession.

20. Dr Whittaker stated that XXX, and if she was allowed back to practise, she wishes to prove to her colleagues that she can be trusted and that her past lapses in judgement will not be repeated.

21. Dr Whittaker concluded that if she was allowed back to practise, she intends to seek further training in an alternative speciality. This could be as an observership, or a placement at a more junior level for a period of time.

### The Relevant Legal Principles

22. In a review case, in practical terms, there is a persuasive burden upon the doctor to demonstrate that all the concerns which have been identified 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.

23. The Tribunal reminded itself that the decision in relation to impairment is a matter for the Tribunal's judgement alone. The April 2022 Tribunal set out the evidence that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that she would be safe to return to unrestricted practice.

24. This Tribunal must determine whether Dr Whittaker's fitness to practise is impaired today, taking into account her efforts to address the concerns around her practice.

### The Tribunal's Determination on Impairment

25. 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.

26. The Tribunal considered the determinations of the April 2022 Tribunal and submissions from both Ms Devans-Tamakloe and Dr Whittaker.

27. The Tribunal first considered Dr Whittaker's current level of insight. It noted in her statement where she stated:

*'Through reflection and activities outside of medicine, I have come to realise the importance of being able to trust in colleagues, and that it is for this reason the largest factor of my suspension from the GMC was not that I didn't attend the conference, but in my dishonesty that followed.'*

...

*'I wish to repeat again how sorry I am for my actions, and that they have led us here today. If I am allowed to continue in employment I wish to prove to my colleagues that I can be trusted again and the past lapses in my judgment will not be repeated.'*

28. XXX

29. In consideration of Dr Whittaker's remediation, the Tribunal had regard to Dr Whittaker's evidence regarding the diving course she has been undertaking. The Tribunal took the view that, on face value, a diving course may sound irrelevant to the matters relating to these proceedings. However, the Tribunal noted that Dr Whittaker gave a good explanation as to why the diving course was relevant and how it had assisted her in bettering her skills in the areas of communication and responsibility. The Tribunal considered that the diving course was a good step for Dr Whittaker; had given her transferable skills, had assisted her in learning to trust others and learning to communicate with others in what can be difficult or dangerous situations.

30. The Tribunal further noted Dr Whittaker's targeted CPD and had regard to the certificate of completion for the Professionalism and the Professional Standards for Doctors, Probity and Ethics course and the diploma for the Mindful Mental Health training Dr Whittaker has completed. As a result of completing targeted CPD, Dr Whittaker was able to demonstrate to the Tribunal that her reflections were meaningful as she articulated a sophisticated understanding rather than simply describing what she had done wrong.

31. The Tribunal further considered Dr Whittaker’s oral submission that she was currently undertaking a course in the area of communication with the BMJ. Dr Whittaker stated that she did not include this within her statement or addenda bundle as the work was still ongoing and the course was not yet complete. Essentially, she did not want to tell an untruth by including an incomplete course within her CPD bundle. The Tribunal found that Dr Whittaker’s thought process in this regard further demonstrated her developed insight and her desire to be truthful and honest.

32. The Tribunal had regard to the two testimonials provided on behalf of Dr Whittaker. It noted the testimonial of Ms A, who stated:

*‘Throughout the time I have known her she has always engaged with me and followed the advice I have given her. She has reflected on past issues through our many conversations over the past year and has shown insight into her failings at that time and how she would do things differently.’*

33. It also noted the testimonial of Dr B, who stated:

*‘Over time Megan has become more proactive in reaching out to me when she requires some input and support. She has engaged even when we have had upsetting news to discuss and has been able to interact in a positive way when discussing her suspension and how she can manage that. Megan is by nature a private person who finds written reflection difficult. In our most recent meeting she has clearly been planning how she can provide her response to our governing body and was able to discuss this with me in a professional manner. I have been able to see improvement in Dr Whittaker’s interaction with me as her professional support lead in the past year and am happy that she can use this information in her review.’*

34. The Tribunal considered these testimonials to be positive and further evidence that Dr Whittaker’s communication has improved and that she has full insight into her shortcomings.

35. The Tribunal was satisfied that Dr Whittaker has deeply reflected on the outcome of the April 2022 Tribunal and has now successfully completed the steps it recommended she undertake in preparation for the Review hearing.

36. The Tribunal noted that one of the reasons why the April 2022 Tribunal imposed a 6 month period of suspension, was to give Dr Whittaker adequate time to reflect on her misconduct and develop greater insight. The Tribunal determined that Dr Whittaker has at this point achieved that objective and has full insight into her dishonesty, including the reasons for it, its impact on the public and profession and how she would avoid a repetition in future. The Tribunal determined that there was a low risk of repetition in the case of Dr Whittaker, and was satisfied that she is a safe clinician who should be allowed to return to unrestricted practise.

37. The Tribunal concluded that, having regard to the overarching objective and to the level of insight and remediation shown by Dr Whittaker, a finding of impairment was no longer required in all the circumstances.

38. Accordingly, the Tribunal concluded that Dr Whittaker's fitness to practise is no longer impaired by reason of her misconduct.

39. The Tribunal noted that the period of suspension of six months imposed by the April 2022 Tribunal was imposed to mark the seriousness of Dr Whittaker's misconduct and to display how Dr Whittaker's dishonesty had the potential to put public confidence in the profession at risk. In the circumstances, this Tribunal determined that the current order of suspension on Dr Whittaker's registration should lapse upon its expiry on 18 November 2022.

40. That concludes this case.