

**Date:** 06/03/2019

**Medical Practitioner's name:** Dr Michael DALY

**GMC reference number:** 6104532

**Primary medical qualification:** MB BCh 2004 Queens University of Belfast

**Type of case**

Review - Misconduct

**Outcome on impairment**

Not Impaired

**Summary of outcome**

Suspension revoked

**Tribunal:**

Legally Qualified Chair	Mrs Julia Oakford
Lay Tribunal Member:	Mrs Helen Russell
Medical Tribunal Member:	Professor Robert Mansel

Tribunal Clerk:	Mr Michael Murphy
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**Attendance and Representation:**

Medical Practitioner:	Present and not represented
GMC Representative:	Mr Alan Taylor, 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.

## Record of Determinations – Medical Practitioners Tribunal

### Determination on Impairment - 06/03/2019

1. The Tribunal does not intend to rehearse the full background of Dr Daly's case, but has had regard to the determinations of the previous Tribunal.

2. This case was considered by a Medical Practitioners Tribunal in 2018 following an investigation by Belfast Health and Social Care Trust ('BHSCT'). This investigation was in relation to nine time sheets that had been submitted between February 2016 and July 2016, which appeared to have been forged in relation to the authorising signature. Dr Daly admitted to forging these signatures and remained practising, through Direct Medics ('DM') locum agency, under the proviso that he must inform any prospective future employers of conditions he was now subject to whilst the investigation was underway. These conditions stated, amongst other things, that he should inform DM of any placements he undertakes that are not organised through themselves. In 2016, Dr Daly accepted employment at Western Health and Social Care Trust ('WHSCT') via Medical Banks Limited ('Medical Banks') locum agency. He did not inform DM of this and also did not inform either WHSCT or Medical Banks of the conditions he was subject to.

3. The 2018 Tribunal determined that Dr Daly breached fundamental tenets of GMP and the overarching objective, bringing the medical profession into disrepute. It found that he had limited insight and was on the road to remediation. The 2018 Tribunal determined that his misconduct was so serious that if a finding of impairment was not found, public confidence in the medical profession would be undermined. It therefore determined that Dr Daly's fitness to practise was impaired by reason of misconduct.

4. The 2018 Tribunal determined that Dr Daly was not inherently dishonest. It determined that a period of suspension for nine months would mark the serious nature of Dr Daly's misconduct. The 2018 Tribunal was of the view that this sanction would send a message to him, the profession and to the public that his behaviour was not acceptable and would mark the need to satisfy the public's confidence in the medical profession.

5. The 2018 Tribunal stated that the next Tribunal reviewing this case may be assisted by the following:

- Evidence of a reflective statement or diary;
- Evidence of meetings with past or current supervisors, mentors, senior colleagues or responsible officers demonstrating discussion about Dr Daly's misconduct;
- Evidence of appraisal documentation;
- Evidence that he has apologised to those impacted by his misconduct;
- Any evidence of CPD undertaken to maintain skills and knowledge;

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- Any other evidence that may assist the Tribunal.

### **Today's Review Hearing**

6. The Tribunal has considered, under Rule 22(f) of the Rules, whether Dr Daly's fitness to practise is impaired by reason of misconduct. It considered the submissions made Mr Taylor, Counsel, on behalf of the GMC, and by Dr Daly. It has also taken account of the documentary evidence before it.

### **Documentary Evidence**

7. The Tribunal has taken account of the evidence provided, which includes, but is not limited to:

- Determinations of the 2018 Tribunal;
- Emails from Dr Daly to the MPTS and to the GMC;
- Appraisal, completed in December 2017;
- Letters of apology with responses;
- Reflective statement completed in February 2019;
- Feedback reports and testimonials.

### **GMC Submissions**

8. Mr Taylor submitted that the GMC's position in this case is one of neutrality. He reminded the Tribunal of its overarching objective and of the documents recommended by the 2018 Tribunal. Mr Taylor referred the Tribunal to the relevant paragraphs of the Sanctions Guidance (2018) ('SG') and submitted that it should bear in mind the principles highlighted in case of *CHRE v. Grant* with regard to insight and dishonesty.

### **Doctor's Submissions**

9. Dr Daly submitted that since the 2018 hearing his insight has improved as he now has an awareness of the consequences that his misconduct has had upon public confidence in the medical profession and the wider medical profession. He submitted that the risk of repetition is low as he now accepts the situation that led to his misconduct and has identified the triggers that caused this. Dr Daly informed the Tribunal that he would now adopt XXX mechanisms to stop the misconduct from occurring again in the future.

10. Dr Daly submitted that he feels his fitness to practise is no longer impaired and that he should return to unrestricted medical practice.

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### **The Tribunal's Decision**

11. Whilst the Tribunal has borne in mind the submissions made, the decision as to whether Dr Daly's fitness to practise is currently impaired is a matter for this Tribunal exercising its own judgement. In so doing, the Tribunal has had regard that its primary responsibility is to ensure the health, safety and wellbeing of the public, the promotion and maintenance of public confidence in the profession, and the promotion and maintenance of proper standards of conduct and behaviour.

12. The Tribunal first considered if Dr Daly has demonstrated remediation. It was of the view that he has provided all of the evidence possible, including that recommended by the 2018 Tribunal, whilst not working in a medical capacity. The Tribunal noted that he has learned coping strategies to deal with similar situations in the future and that he now puts importance on all of the areas of his work, as opposed to just the clinical side and because of this the risk of repetition is low. The Tribunal bore in mind that Dr Daly has not made any excuses for his misconduct and was of the view that he has remediated his misconduct.

13. The Tribunal next considered Dr Daly's insight. It was impressed with his open admission that although he did not fully accept the findings of the 2018 Tribunal he now accepts the impact of his actions both personally and professionally. It had regard to the letters of apology Dr Daly had written and was of the view that these demonstrated remorse. The Tribunal also noted that Dr Daly is very aware of the issues which caused his misconduct and that he has been open and honest at this hearing.

14. The Tribunal was of the view that Dr Daly's clinical knowledge and skills have been kept up to date as he has been working on a PhD cardiac research project. It bore in mind that he has already undertaken conventional medical training so he would not have lost significant clinical skills during his current period of suspension.

15. The Tribunal found that no patient safety issues have been currently identified in this case and that none of the limbs of the overarching objective are now engaged.

16. Bearing all of the above in mind, the Tribunal has determined that Dr Daly's fitness to practise is no longer impaired by reason of misconduct.

17. The substantive sanction imposed by the 2018 Tribunal is therefore revoked as Dr Daly's fitness to practise is no longer impaired.

18. That concludes the case.

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**Confirmed**

**Date** 06 March 2019

Mrs Julia Oakford, Legally Qualified Chair