

PUBLIC RECORD

Dates: 23/02/2021

Medical Practitioner's name: Dr Natasha WATERS

GMC reference number: 6116264

Primary medical qualification: Vrach 1996 Kemerovskij Medicinskij Institute

Type of case: Review - Misconduct

Outcome on impairment: Not Impaired

Summary of outcome

Conditions revoked

Tribunal:

Legally Qualified Chair	Miss Megan Larrinaga
Lay Tribunal Member:	Ms Susan Disley
Medical Tribunal Member:	Dr Shehleen Khan

Tribunal Clerk:	Ms Jan Smith
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Sarah Clarke, QC, instructed by Clyde & Co LLP
GMC Representative:	Mr Mark Monaghan, Counsel, instructed by GMC Legal

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 - 23/02/2021

1. This determination will be read in private. However, as this case concerns Dr Waters' misconduct, a redacted version will be published at the close of the hearing with those matters relating to XXX removed.
2. The Tribunal has convened to review Dr Waters' case in accordance with Rule 22 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'). In accordance with Rule 22(1)(f), it first has to decide whether Dr Waters' fitness to practise is currently impaired by reason of misconduct.

The Outcome of Applications made during the Impairment Stage

3. The Tribunal granted Ms Clarke's application, made pursuant to Rule 41 XXX of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), for certain parts of the hearing to be heard in private, particularly where they related to XXX. The GMC did not oppose the application. The Tribunal considered the provisions of Rule 41 XXX of the Rules and determined that the parts of the hearing involving XXX would be heard in private.

Background

4. The Tribunal has been informed of the background to Dr Waters' case which was first considered by a Medical Practitioners Tribunal in February 2019 (the 2019 Tribunal).
5. On 15 October 2012, Dr Waters became employed at Western Sussex Hospitals NHS Foundation Trust ('the Trust) as a Consultant Obstetrician and Gynaecologist. On 26 August 2016, Patient A, who had a history of endometriosis, was referred to the Trust by her General Practitioner following a recurrence of pelvic pain. On 9 October 2017, a referral was made to the GMC by Mr H, Deputy Medical Director of the Trust. The referral related to concerns regarding the care and treatment Dr Waters provided to Patient A.

6. Patient A first saw Dr Waters pre-theatre on 23 January 2017, and Dr Waters went on to perform a 'laparoscopy, left ureterolysis, resection of pelvic side wall nodule and rectovaginal nodule and a sigmoidoscopy' ('the procedure'). The operation was uneventful, and no criticism was made of Dr Waters' surgical care. On 24 January 2017, following concerns about Patient A's condition, a decision was made for Patient A to return to the operating theatre where she underwent a further procedure carried out by another doctor that included a laparotomy which was performed after an initial diagnostic laparoscopy had revealed blood in the abdominal cavity. Patient A was transfused because of the high blood loss.
7. On 24 January 2017, Dr Waters wrote to Patient A and arranged to have a consultation on 7 February 2017. She also wrote to Patient A's GP to explain that she had performed the procedure on Patient A, Patient A had been kept in the Trust for observation overnight and had undergone a further procedure the following day.
8. As a result of the complication suffered by Patient A, it was likely that there would need to be an investigation. Ms I, the Gynaecology Matron at the Trust, requested copies of Patient A's notes. The Consent form and the Clinical notes were scanned and emailed on 27 January 2017. Later that day, Dr Waters attended Patient A and reviewed her following the second procedure. Dr Waters apologised to Patient A, advised her that there would be an investigation, and encouraged her to write down any questions. During the review, there was an altercation between Dr Waters and Patient A's mother-in-law during which Patient A's mother-in-law raised her voice which left Dr Waters distressed.
9. Following her review with Patient A, Dr Waters altered Patient A's Consent Form by adding 'haemorrhage', 'return to theatre', and 'repair of injury'; and Clinical Notes, by adding 'pre op', 'previous 5x [sic] did not relief pain at all' and 'aware of risks of haemorrhage, infections infancy [sic], return to theatre'.
10. Dr Waters knew that any retrospective changes to Patient A's Consent Form and Clinical notes should have been clearly indicated but they were not.

2019 Tribunal

11. The 2019 hearing commenced on 3 February 2019. At the outset of the 2019 hearing, Dr Waters admitted the allegation in full. She accepted that her actions had been dishonest, had breached principles of GMP, Trust policy, and that her conduct amounted to serious professional misconduct.
12. XXX. Dr G accepted Dr Waters' assertions that her behaviour on 27 January 2017 was totally out of character, it was an isolated incident in an otherwise unblemished and impressive career, and not pre-meditated or planned.
13. XXX.

14. The 2019 Tribunal noted that Dr Waters' dishonest conduct was within a clinical environment where she altered Patient A's Consent form and the Clinical notes. Dr Waters knew that any retrospective changes to Patient A's Consent form and Clinical notes should have been clearly indicated. The 2019 Tribunal took into account that there was no evidence to suggest any clinical failings in relation to the procedure Dr Waters had undertaken on Patient A. However, it was of the view that the integrity of patient records was important in ensuring continuity of care for any medical professionals engaged with a patient's case. The 2019 Tribunal concluded that, although they did not impact adversely on Patient A's safety, Dr Waters' actions in dishonestly amending the patient records were inherently wrong.

15. The 2019 Tribunal concluded that Dr Waters' dishonest conduct fell far below the standards expected, was contrary to GMP, the Trust's guidance, and breached fundamental tenets of the medical profession. The 2019 Tribunal considered that failing to identify (whether inadvertently or deliberately) when entries are made in clinical notes has the potential to contribute to patient harm, though it did not do so in this case. However, it considered that such behaviour affects public confidence in the medical profession. Accordingly, the 2019 Tribunal found that Dr Waters' dishonest behaviour in January 2017 amounted to misconduct.

16. In considering whether Dr Waters' fitness to practise was impaired, the 2019 Tribunal took into account that, although Dr Waters had readily accepted throughout the hearing that what she did was wrong, she had denied dishonesty during the Trust Investigation in June 2017 and in response to the GMC's Rule 7 letter in March 2019. It appeared to the 2019 Tribunal that Dr Waters recognised from the outset that her actions were dishonest, but she had sought to justify them.

17. The 2019 Tribunal had borne in mind that Dr Waters was ashamed and distressed due to the impact her behaviour had on a patient, the profession and herself. It reminded itself that Dr Waters' full insight was only very recent, and it recognised that her acceptance of full responsibility for her actions correlated with XXX in November 2019. The 2019 Tribunal noted that Dr Waters had obtained effective XXX, had reflected extensively on her actions and discussed her issues with her peers.

18. The 2019 Tribunal acknowledged that insight and remediation may be of less significance where the public interest is concerned, where it may be necessary to make a finding of impairment to maintain public confidence in the profession and/or to promote and maintain proper professional standards. It bore in mind that Dr Waters' full insight was achieved very shortly before that hearing and it concluded that a finding of impairment was necessary and appropriate in the public interest in order to:

- a. Protect, promote and maintain the health, safety and well-being of the public,
- b. Promote and maintain public confidence in the medical profession, and

c. Promote and maintain proper professional standards and conduct for members of that profession.

19. Accordingly, the 2019 Tribunal found that Dr Waters' fitness to practise was impaired by reason of misconduct.

20. Having found Dr Waters' misconduct amounted to serious misconduct and that her fitness to practise was impaired by reason of that misconduct, the 2019 Tribunal went on to consider what sanction, if any, to impose on Dr Waters' registration. The Tribunal considered that there were some exceptional circumstances in this case which might, in other circumstances, justify taking no action. It accepted that Dr Waters' dishonest conduct was a one-off incident, which was totally out of character and that Dr Waters had demonstrated extensive remediation. However, it bore in mind that it was necessary to ensure XXX and that could not be achieved by taking no action. Further, the 2019 Tribunal considered that taking no action would be insufficient to mark the gravity of the case and would not address the public protection or public interest concerns identified.

21. While the 2019 Tribunal bore in mind that Dr Waters' fitness to practise was impaired by reason of her misconduct XXX. The 2019 Tribunal considered that Dr Waters had demonstrated full insight into her dishonest conduct in that she:

- Continued to engage with remediation;
- XXX;
- Engaged with the GMC's regulatory proceedings; and
- Has been open and frank with her colleagues in relation to the GMC and the Trust investigations.

22. The 2019 Tribunal was in no doubt that Dr Waters would fully comply with and respond positively to an order of conditions imposed on her registration. Furthermore, whilst XXX remained an issue in this case, the 2019 Tribunal considered that the imposition of conditions would adequately protect the public from risk of harm and maintain public confidence in the profession whilst Dr Waters XXX. The 2019 Tribunal took into account that Dr Waters has continued to work in a clinical capacity since July 2019 and XXX.

23. In all the circumstances of this case, the Tribunal determined that placing conditions on Dr Waters' registration was the appropriate, proportionate and the least onerous sanction in order to satisfy all three limbs of the overarching objective.

24. The 2019 Tribunal considered that conditional registration for a period of 12 months would allow Dr Waters sufficient time for XXX. Further, it determined that an imposed period of conditional registration would also mark the gravity of the case and send a clear signal to Dr Waters, the profession and the wider public.

25. The 2019 Tribunal had considered whether it was necessary to suspend Dr Waters' registration. It considered that an order of suspension would not address the real issues in, or

the wider context of, the case. On the other hand, it considered the imposition of conditional registration would allow Dr Waters to continue in practice and receive professional support. The 2019 Tribunal had seen evidence that Dr Waters has exceptional skills as a doctor and allowing her to continue working, albeit under restriction, would be of benefit to her patients and her colleagues.

26. The 2019 Tribunal directed that, shortly before the end of the period of Dr Waters' conditional registration, her case must be reviewed by a Medical Practitioners Tribunal. This Tribunal considered that a future reviewing Tribunal would be assisted by:

- XXX;
- A report from Dr Waters' nominated workplace supervisor;
- Up-to-date testimonials; and
- Any other evidence Dr Waters considers helpful.

Today's Review Hearing

27. This is the first review hearing since Dr Waters' initial substantive hearing which concluded on 14 February 2020.

Evidence

28. The Tribunal had regard to the documentary evidence provided by the parties. This evidence included but was not limited to:

- Record of Determinations dated 14 February 2020;
- Email correspondence between the GMC and Dr Waters;
- XXX;
- XXX;
- XXX;
- XXX;
- XXX;
- Workplace report by Dr E, dated 7 November 2020;
- XXX;
- Reflections by Dr Waters, dated 18 February 2021;
- XXX;
- CPD Cycle Analysis;
- CPD Diary;
- Details of a course on meditation and emotional resilience;
- Testimonial evidence from professional colleagues; and
- Letters of thanks from patients.

29. Dr Waters gave oral evidence at today's proceedings. In her evidence, Dr Waters told the Tribunal that, at the time of the 2017 events, which gave rise to the allegations

considered by the 2019 Tribunal, she had not realised the gravity of her misconduct. She stated that she had not been aware of XXX and she was unable to XXX. Dr Waters said that she had not considered Patient A's upset and grief and felt sadness that she was unable to offer her expertise, compassion, professionalism and support to Patient A. Dr Waters stated she was not able to work again until 2019 when she gained a locum post at registrar level at Royal Sussex County Hospital (RSCH). She stated she has now been offered a fixed contract at the RSCH at registrar level, which she has accepted. XXX She further stated that she continues to engage with her workplace reporter and mentor, Dr E, Consultant Obstetrician and Gynaecologist, and that it had been agreed that the relationship would continue irrespective of the outcome of today's proceedings.

30. Dr Waters told the Tribunal that she reflected and learned much during the last year. She said that she has come to understand that, when she finds herself in a difficult or stressful situation, she must take a step back for a few moments and consider what she needs to do, in a calm and understanding way. She said she has learned resilience, especially during the current unprecedented global pandemic when hospitals are under such pressure and that working in a clinical setting during the Covid-19 pandemic had been the most stressful time in her professional life. However, Dr Waters stated that, during this time, she had put into practice the lessons she had learned which had helped with her decision-making and confidence and that the techniques she had put in place were useful and led to different outcomes than in 2017. She gave evidence to the Tribunal of a recent incident similar to that which led to the allegations considered by the 2019 Tribunal and explained how the outcome had been different. XXX

31. Dr Waters told the Tribunal that she has had constant help and support from Dr E, Consultant Obstetrician and Gynaecologist, and Dr Waters' workplace reporter and mentor. Dr Waters said that Dr E is always available to help when required, she is aware of the GMC proceedings and can advise Dr Waters if extra support is needed. Dr Waters also provided evidence as to the steps that she takes when facing extra pressure, being the most senior clinician in the hospital during the night shift. These steps included calling on her consultant colleagues and ensuring that she understands and communicates effectively with her colleagues, even in stressful situations. XXX

32. When asked if she thought she was ready to return to unrestricted practice, Dr Waters stated that she is ready because the last year has helped her to remain aware of the impact of her actions in 2017. She said it had been a difficult year, but she has been well-supported personally and professionally. Dr Waters told the Tribunal that she is now ready to work in a senior position without supervision and that she has strategies in place to cope with difficulties as they arise.

GMC Submissions

33. On behalf of the GMC, Mr Mark Monaghan, Counsel, reminded the Tribunal of the detailed background to this case. He submitted that the GMC's position in relation to the

issue of current impairment is neutral and that it is for the Tribunal to reach its own decision in this regard.

34. Mr Monaghan acknowledged the documentation submitted by Dr Waters and her representatives but had no further observations to make. In relation to the conditions currently imposed on Dr Waters' registration, Mr Monaghan submitted that the GMC's stance is neutral and that, again, it is for this Tribunal to determine whether the current sanction should remain in effect on Dr Waters' registration.

Submissions on behalf of Dr Waters

35. Ms Sarah Clarke, QC, on behalf of Dr Waters, submitted that the Tribunal can be confident that it is now safe to lift the conditions from Dr Waters' registration for the following reasons:

- Dr Waters has complied fully with the conditions imposed;
- She has considerable insight into the matters that brought her to the attention of the GMC;
- She fully appreciates the gravity of her misconduct and has reflected extensively upon it;
- She has maintained her medical skills and knowledge;
- She is highly regarded at the RSCH where she has worked as a registrar since 2019; and
- XXX.

36. Ms Clarke referred to the wealth of positive feedback from colleagues and patients and testimonials which make it clear that Dr Waters is an excellent doctor, both in her clinical skills and in her level of patient care. Ms Clarke submitted that Dr Waters is fit to resume unrestricted practice and that patients would not be placed at risk if she was allowed to do so.

37. XXX

38. XXX

39. Ms Clarke also referred to the report of Dr E, dated 7 November 2020, and the testimonial provided by Dr E, dated 22 February 2021, in which she concluded that, as Dr Waters' workplace reporter, Dr E feels that Dr Waters is ready to return to independent practice. Dr E stated that Dr Waters would maintain her workplace support network that has been developed over the last year. Dr E went on to say that Dr Waters is a skilled laparoscopic surgeon and is at her best when teaching surgical skills and patient safety to more junior staff. She is also an experienced obstetrician and can be relied upon to provide help and support in an emergency.

40. Ms Clarke urged the Tribunal to take account of all the documentation that has been provided to it which attests to Dr Waters clinical abilities, her excellent communication with patients, her respectful treatment of her colleagues, and her professionalism.

41. Ms Clarke submitted that everything that has been said by Dr Waters and about her leads compellingly to the conclusion that the Tribunal can be confident that it is safe to lift Dr Waters' conditions. It was her contention that Dr Waters is fit to resume unrestricted practice and patients will not be placed at risk by allowing her to do so.

Relevant Legal Principles

42. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.

43. The Tribunal must determine whether Dr Waters' fitness to practise is impaired today, taking into account her conduct 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.

44. The Tribunal must also have regard to the overarching objective, as set out in full at paragraph 17 above, ensuring that its decision is sufficient for the safety of patients and which upholds the public's trust and standards in the medical profession.

Tribunal Decision on Impairment

45. The Tribunal considered whether Dr Waters' fitness to practise remains impaired by reason of her misconduct.

46. The Tribunal has taken account of all the oral and documentary evidence presented to it along with the submissions made by Mr Monaghan on behalf of the GMC, and those made by Ms Clarke on behalf of Dr Waters.

47. The Tribunal has had regard to Dr Waters' reflective statement dated 18 February 2021, which it considered to be articulate and comprehensive. Dr Waters was frank and honest about her situation in 2017 and how she has reflected and learned from those events. She stated that she was XXX at that time and had workplace and personal stresses as well; however, she did not offer XXX as justification for her dishonesty.

48. In her reflective statement Dr Waters said that she hoped that the Tribunal can be confident that it is safe to now lift the conditions on her registration but if it should decide that she should be subject to a further period of conditional registration, then she would be happy to continue under restrictions and use the further period as an opportunity to grow as a doctor XXX.

49. The Tribunal was impressed with Dr Waters' openness and honesty when describing how she has overcome the difficulties since her misconduct in 2017. She expressed genuine remorse, shame and distress that she behaved as she did. It noted that, in her oral evidence, Dr Waters accepted full responsibility for her actions and explained at length the steps she had taken to learn from those events and continually improve.

50. The Tribunal had regard to the solid framework of support that Dr Waters has in place to ensure that that she can avoid acting in the same way in future. She is able to discuss problems with her mentor, colleagues XXX. It noted that Dr Waters cycles to work each day and takes time to plan her day without any anxiety or stress. XXX.

51. The Tribunal recognised that Dr Waters has developed full insight into her dishonesty in 2017 and that her insight had further developed from the 2019 hearing. The Tribunal noted that Dr Waters fully accepts the impact her actions had on her patient and the wider medical profession. It noted that she has put in place robust mechanisms to avoid a recurrence, XXX.

52. The Tribunal is satisfied that Waters fully understands the gravity of her misconduct, she has not repeated it and has maintained her medical skills and knowledge. The Tribunal is satisfied that the circumstances which gave rise to the 2019 hearing are highly unlikely to be repeated and is further satisfied that patients will not be placed at risk if Dr Waters returns to unrestricted practice.

53. Accordingly, the Tribunal has concluded, having taken account of the overarching objective, that Dr Waters' fitness to practise is no longer impaired by reason of her misconduct.

Revocation of current order

54. The current order of conditions imposed on Dr Waters' registration is revoked with immediate effect.

55. That concludes this case.

Confirmed
Date 23 February 2021

Miss Megan Larrinaga, Chair