

## PUBLIC RECORD

Dates: 22/11/2023 - 23/11/2023

Medical Practitioner's name: Dr Nicholas John David ARNOLD

GMC reference number: 6087585

Primary medical qualification: MB ChB 2003 University of  
Leicester

## Type of case

Review - Conviction  
Review - Misconduct  
XXX

## Outcome on impairment

Not Impaired  
Not Impaired  
XXX

## Summary of outcome

Conditions, 18 months.

## Tribunal:

Legally Qualified Chair	Miss Gill Batts
Lay Tribunal Member:	Mr John Elliott
Medical Tribunal Member:	Dr Meenakshi Verma
Tribunal Clerk:	Ms Angela Carney

## Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Miss Rebecca Harris, Counsel, instructed by the MDU
GMC Representative:	Miss Louise Cowen, 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 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 - 23/11/2023

1. This determination will be read in private. However, as this case concerns Dr Arnold's conviction and misconduct a redacted version will be published at the close of the hearing.
2. At this review hearing the Tribunal now 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 Arnold's fitness to practise is impaired by reason of misconduct, a conviction XXX.

## Preliminary matters

3. The Tribunal granted the GMC's application, made pursuant to Rule 41 of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that, all of the hearing should be held in private. The Tribunal's full decision on the application is included at Annex A.

## Background

4. Dr Arnold qualified as a doctor in 2003 from the University of Leicester. He had been working as a GP since 2008. In 2009, Dr Arnold joined the Forestside Medical Practice as a GP partner. From 2014, Dr Arnold worked as a Local Clinical Director for the Somerset Doctors Urgent Care Services ('Somerset Doctors'). Then in 2015 Dr Arnold became Regional Clinical Director for the South West region for that organisation.
5. In September 2016, Dr Arnold was employed at Three Checkers Medical Practice as a GP Partner, where he remained until he was suspended by NHS England in June 2017 due to concerns about prescriptions issued by him.
6. Dr Arnold resumed practice as a GP in February 2018, working under conditions imposed by NHS England. He was employed as a locum GP under the GP Retainer Scheme which provides doctors returning to work with greater support and mentoring. Dr A, a GP Partner at Cross Plain Health Centre ('the Practice'), became Dr Arnold's mentor under the Scheme and was regularly in contact with him at the Practice. She was also the mental health lead for the Practice and the locality.
7. Following a police investigation, Dr Arnold was convicted at South East Wiltshire Magistrates' Court on 13 April 2018 for offences of theft and fraud:

*'a. between 1 December 2016 and 24 April 2017, stealing a prescription pad, of a value unknown, belonging to Musgrove Park Hospital, contrary to section 1(1) and 7 of the Theft Act 1968.*

*b. nine offences of committing fraud in that he dishonestly made a false representation, by purporting to represent another, with an intention to make a gain for medication, as set in Schedule 1 contrary to section 1 and 2 of the Fraud Act 2006."* (Schedule 1 here being the Schedule put before the Magistrate's' Court).

8. Dr Arnold was sentenced to:

- a. 24 weeks imprisonment, suspended for 18 months;*
- b. carry out unpaid work for 300 hours within the next 12 months.*

9. In January 2019, Dr Arnold became a salaried partner at the Cross Plain practice. He was working there when he appeared before a Medical Practitioners' Tribunal hearing (the April 2019 Tribunal) from 24-26 April 2019 in relation to his conviction for fraud and theft. Dr Arnold's suspended prison sentence was still operational at the time he appeared before the April 2019 Tribunal.

10. On 29 May 2019, the Cross Plain Health Centre was contacted by a pharmacist querying the authenticity of a handwritten prescription, issued on a prescription showing Dr A's (Dr Arnold's mentor) typed details at the bottom. The prescription was for XXX, a medicine controlled under the Misuse of Drugs Act 1971. The pharmacist was uncomfortable dispensing the prescription because of the relatively short period of time since the last prescription and he believed that he recognised the patient as the person involved in a police investigation in 2017.

11. The pharmacist reported his concerns to his regional manager, his accountable officer, the police and to NHS Fraud.

12. When shown the prescription, Dr A recognised the signature on the prescription as being Dr Arnold's. The patient's name and address on the prescription was Nicholas Arnold's. Dr Arnold was not a patient at the Practice and the prescription was not issued by Dr A.

13. Cross Plain Health Centre suspended Dr Arnold on 30 May 2019 and reported the matter. Dr Arnold was dismissed from the Practice on 31 May 2019.

14. A further police investigation followed arising from this and Dr Arnold appeared before the Crown Court in February 2022. He was acquitted of two counts of fraud.

## MPTS PROCEEDINGS

### The April 2019 Tribunal

15. At the April 2019 hearing Dr Arnold admitted, and the Tribunal found proved, that on 13 April 2018 at South East Wiltshire Magistrates' Court he was convicted of stealing a prescription pad, of a value unknown, belonging to Musgrove Park Hospital, between 1 December 2016 and 24 April 2017 and nine offences of committing fraud in that he dishonestly made a false representation, by purporting to represent another, with an intention to make a gain for medication. On 13 April 2018 Dr Arnold was sentenced to 24 weeks imprisonment, suspended for 18 months and to carry out unpaid work for 300 hours within the following 12 months and directed a review.

16. XXX. The 2019 Tribunal determined that Dr Arnold's fitness to practise was impaired by reason of his conviction. The 2019 Tribunal imposed an order of conditions on Dr Arnold's registration for a period of 18 months. It noted that this was a serious criminal conviction aggravated by dishonesty and the Tribunal was mindful that typically the minimum sanction would be an order of suspension. However, it considered that Dr Arnold's case was distinguishable because there was strong evidence to suggest his criminal conduct was influenced by XXX.

### **The 2020 Tribunal**

17. Dr Arnold's fitness to practise, in relation to his conviction in 2018, was first reviewed in November 2020. Dr Arnold was not present at that hearing due to XXX but was legally represented. An application was made to adjourn the hearing. The 2020 Tribunal determined that it was in the public interest and Dr Arnold's own interests to extend the current order of conditions for a period of 12 months to allow Dr Arnold XXX and for the GMC to complete any investigations in relation to XXX. The 2020 Tribunal also directed a review.

### **The 2021 Tribunal**

18. At Dr Arnold's review hearing the GMC informed the 2021 Tribunal that there were outstanding matters which had led to a criminal investigation. Only limited facts were disclosed to the 2021 Tribunal as Dr Arnold had been referred to the MPTS for a new hearing. The 2021 Tribunal exercised its powers to adjourn under Rule 29(2) for 12 months in the interests of justice and the wider public interest. It considered that there were no matters arising from the evidence before it to indicate an increase in risk or that a more severe sanction ought to be imposed. The 2021 Tribunal extended Dr Arnold's order of conditions for a period of 12 months and directed a review.

### **The 2022 Tribunal**

19. In November 2022 the Tribunal was informed by the GMC the new case (which subsequently formed the basis of the 2023 Tribunal hearing) involved a potentially fraudulent prescription dated 24 May 2019 which was presented to a pharmacy on the 29 May 2019. This occurred around a week after the conditions which imposed by the April 2019 Tribunal came into effect which could represent a breach of those conditions. The 2022 Tribunal was also informed that the criminal charges relating to that prescription had been dismissed by the Crown Court in February 2022 on the basis of insufficiency of evidence. The 2022

Tribunal heard that Dr Arnold had been referred to an Interim Orders Tribunal (IOT) regarding underlying concerns relating to the potentially fraudulent activity and potential breach of the existing conditions. The 2022 Tribunal granted the GMC's application to adjourn the case under Rule 29(2) to link with a new Allegation, as the potential 'new matters' overlapped with review matters. There was no objection on behalf of Dr Arnold to the application.

20. The 2022 Tribunal decided it was desirable to hear the new matters alongside the review of the 2019 case as both matters were intrinsically linked and should be considered together. The 2022 Tribunal extended the order of conditions for a further 6 months.

### The April 2023 Tribunal

21. In April 2022 a Tribunal convened to consider the review of Dr Arnold's fitness to practise in relation to his conviction in 2017 and to consider the new allegations.

22. At the outset of the April 2023 Dr Arnold admitted the 2023 Allegation in its entirety and the Tribunal found proved that between 28 December 2018 and 24 May 2019, on one or more occasion Dr Arnold inappropriately self-prescribed medication, XXX. Between 25 May 2019 and 29 May 2019, on one or more occasion Dr Arnold attempted to obtain, and/or obtained, XXX from a pharmacy and in doing so he was in breach of conditions 5 and 15-16 upon his registration, which came into effect on 25 May 2019.

23. XXX

### Determination on impairment

#### Misconduct

24. The April 2023 Tribunal noted that Dr Arnold had written 56 separate prescriptions for himself between 28 December 2018 and 24 May 2019. Whilst some of the prescriptions listed a variety of medications, they all included a prescription for XXX, which was from April 2019 a controlled drug under the Misuse of Drugs Act 1971. It also noted that Dr Arnold wrote prescriptions for himself on dates before, during and after the 2019 hearing which was dealing with a conviction for dishonesty in relation to prescribing offences. Further, that Dr Arnold was still subject to a prison sentence of 24 weeks suspended for 18 months at the time he was self-prescribing from December 2018 onwards.

25. The April 2023 Tribunal noted the conditions on Dr Arnold's registration by the April 2019 Tribunal came into effect and Dr Arnold submitted prescriptions to be dispensed on the four dates after his conditions were in place, and in direct contravention of those conditions.

26. The April 2023 Tribunal accepted the evidence that a total of XXX were obtained by Dr Arnold which was an amount that was XXX above the amount XXX he had been prescribed.

27. The April 2023 Tribunal was of the view that Dr Arnold's actions, in prescribing for himself, and continuing to do so after conditions had been imposed on his registration, clearly amounted to misconduct, which was serious. The April 2023 Tribunal noted Dr Arnold led the 2019 Tribunal to believe that he was managing XXX at that time and resulted in an order of conditions, rather than the imposition of a more typical order of suspension. The April 2023 Tribunal considered that whilst there was no risk to patient safety identified, Dr Arnold had brought the profession into disrepute.

28. The April 2023 Tribunal went on to consider Dr Arnold's fitness to practise in relation to Dr Arnold's XXX, conviction and misconduct. It concluded these were intrinsically linked and insight, remediation and risk of repetition and considered them in the round.

29. XXX

30. The April 2023 Tribunal took the view that whilst Dr Arnold had clearly demonstrated insight into XXX, there had been little reflection on the impact of his misconduct both in relation to his conviction and the misconduct, particularly on those around him, the wider profession and the general public. The April 2023 Tribunal concluded that Dr Arnold did not yet have full insight into the seriousness and impact of his actions in relation to his misconduct. The April 2023 Tribunal found that XXX mitigated his misconduct but did not exonerate it. The April 2023 Tribunal found Dr Arnold's fitness to practise was impaired by reason of his misconduct.

XXX

31. XXX

### **Conviction**

32. The April 2023 Tribunal reminded itself that Dr Arnold's registration was made subject to conditions in 2019 as a result of his conviction and all subsequent review hearings in 2020, 2021 and 2022 were adjourned to allow the 2023 Allegation and the review to be heard together.

33. The April 2023 Tribunal was of the view that Dr Arnold had not fully reflected on his past conduct and the impact that his wrongdoing had on his colleagues, other professionals and public confidence in the profession and that his remediation was still incomplete. The April 2023 Tribunal determined that when viewed as a whole, Dr Arnold's fitness to practise remained impaired by reason of his conviction.

### **Determination on Sanction**

34. The April 2023 Tribunal found there were no exceptional circumstances in Dr Arnold's case which could justify it taking no further action. The April 2023 Tribunal considered that Dr Arnold's had admitted breaching the conditions on his registration. It was sympathetic to the

evidence that XXX at the time. However, it considered his actions were a flagrant disregard of the role and responsibility of his regulator.

35. The April 2023 Tribunal was of the view that if Dr Arnold's case was solely regarding XXX, then the conditions would continue to have been an appropriate and proportionate way of continuing to monitor his progress XXX. However, it found that Dr Arnold's fitness to practise was impaired as a result of serious misconduct and the previous conviction which he had not yet fully remediated.

36. The April 2023 Tribunal therefore concluded that a further period of conditional registration would not be sufficient to mark the seriousness of Dr Arnold's actions. It would not satisfy the overarching objective in terms of upholding proper professional standards and maintaining public confidence in the profession.

37. The April 2023 Tribunal determined that suspension for a period of 6 months was sufficient to satisfy the public interest and would allow Dr Arnold time to reflect more deeply on what happened and to demonstrate that he fully understood that his actions had consequences for others.

38. The April 2023 Tribunal considered that at the review hearing the Tribunal would be assisted by the following:

- XXX;
- XXX;
- XXX;
- XXX;
- A report from his Responsible Officer (if he has one);
- A further reflective statement;
- Evidence that he has kept his knowledge and experience up to date;
- References from any paid or unpaid work carried out during the period of his suspension.

### **The November 2023 Tribunal**

39. This Tribunal has been convened to review whether Dr Arnold's fitness to practise is impaired by reason of his conviction, misconduct XXX.

### **The Evidence**

40. The Tribunal has taken into account all the evidence received, both oral and documentary.

41. Dr Arnold provided his own witness statement dated 17 November 2023 and also gave oral evidence at the hearing.

42. Dr Arnold confirmed that his witness statement stands as his evidence in chief.

43. Dr Arnold told the Tribunal that he last worked as a Medical Examiner, for a period of one month prior to his suspension. He explained that prior to his suspension he completed online training as a Medical Examiner. He said that a Medical Examiner scrutinises death certificates and medical records of the deceased. He completed face to face training on 14 June 2023 following his suspension from practise. He said that prior to his suspension he also explored the possibility of working as a civilian Medical Physician for the military but was unable to take up a post due to his suspension.

44. Dr Arnold said that he has applied for a six-month post in a hospital as a GP Specialist in chemical pathology, specifically cholesterol management one day per week. He confirmed that he made clear in his application that he was currently suspended, was previously under conditions and if he remains suspended he will withdraw the application.

45. Dr Arnold said it was his hope to return to medical practice. He said that XXX is linked to his identity as being a medical practitioner. Dr Arnold described the issues with his XXX due to XXX and that unfortunately had not been XXX to work in any capacity for the last six months. XXX.

46. Dr Arnold described the Continuing Professional Development (CPD) he has undertaken and that he now has access to a CPD platform, MB medical. He also confirmed that he has completed a Personal Development Plan (PDP). He also referred to his CPD record from Fourteen Fish when he attended on-line webinars. He described the courses he has identified that would be helpful and relevant to his practice going forward.

47. Dr Arnold said that were he allowed to return to clinical practice he accepted that initially he would be unable to prescribe and would need approval before undertaking any type of clinical practice. XXX.

48. XXX.

49. XXX.

50. Dr Arnold said that he had XXX but masked this, by way of self-preservation, with arrogance and at the time of the events he did not accept the consequences of self-prescribing but now fully understands the consequences. He said that his coping mechanisms are now much more robust and is confident that he will be able to continue to seek support as and when needed.

51. In relation to the consequences of his behaviour Dr Arnold said that his clinical practice is based on truth and not lying. He said that he understands the importance of the truth and telling the truth is at the heart of the doctor patient relationship.



52. In relation to the breach of his conditions Dr Arnold said that clinical practice is based on trust and the public need to be able to trust doctors. He said that at the time of his breach he had not considered public confidence but on reflection it did have an impact on public confidence.

53. He described the challenges around prescribing were he to return to clinical practice. He acknowledged that the medical profession as a whole is under pressure however, in the role of a GP specialist which he intends to pursue he will be heavily regulated but not have the same pressures as a regular GP. He said that he will discuss this hearing and any issues XXX. He said that he has specifically sought roles that are less pressured such as a Medical Examiner.

54. The Tribunal received the following documentary evidence which included but was not limited to:

- Record of Determinations, dated 2019, 2020, 2021, 2022 and 2023
- XXX
- XXX
- XXX
- Evidence of CPD

### Submissions

55. On behalf of the GMC, Ms Cowen submitted that the GMC is neutral in relation to his conviction and misconduct. XXX.

56. On behalf of Dr Arnold, Ms Harris provided written submissions. In summary, Ms Harris reminded the Tribunal that it must determine whether or not Dr Arnold's fitness to practise remains currently impaired by reason of:

- i. His conviction from 13 April 2018 which relates to relating to offending from December 2016 to April 2017, and/or
- ii. His misconduct that took place from 2018 - 2019; and/or
- iii. XXX.

57. Ms Harris submitted that XXX. She noted that the question of impairment is ultimately a matter for this Tribunal, XXX.

58. Ms Harris invited the Tribunal to consider carefully whether Dr Arnold's fitness to practise remains currently impaired by reason of the conviction and the misconduct. She submitted that this is a review hearing, there has been already a finding of impairment and a punitive sanction, to mark the public interest for the conviction and the misconduct.

59. She said that Dr Arnold has taken time to reflect on the impact of his actions.

She reminded the Tribunal that Dr Arnold's conviction and the later misconduct were intrinsically linked with XXX at the time. She submitted that given XXX that Dr Arnold has received since 2019, the risk of recurrence of the behaviour that gave rise to the conviction and misconduct XXX is low. Ms Harris noted that the GMC does not make a positive submission that Dr Arnold's fitness to practise remains impaired by reason of the conviction and the misconduct.

60. Ms Harris submitted that because Dr Arnold's conviction and misconduct is intrinsically linked to XXX, his fitness to practise is capable of remediation. She said that Dr Arnold has borne in mind the over-arching principles and recognises that the authorities make clear that consideration must be given to the need to protect the public interest and maintain public confidence in the profession. She submitted that any decision on impairment must consider the need to uphold and declare proper standards of behaviour. She reminded the Tribunal that such a declaration has already been made in respect of the conviction and misconduct in this case, on more than one previous occasion.

61. Ms Harris reminded the Tribunal that there was no harm to others in either of his cases and there have never been any patient safety issues. She said that there has been no further misconduct of any sort since May 2019 and that Dr Arnold made full admissions to the facts in both his conviction case and his misconduct case earlier this year. She said that Dr Arnold continues to accept his wrongdoing which he has indicated clearly and unequivocally in his witness statement and in his oral evidence. She submitted that this demonstrates a level of understanding and/or insight into his actions.

62. Ms Harris submitted that the proper approach now would be for the Tribunal to determine that XXX, and no longer by reason of the seriousness of conviction and misconduct.

### **The Relevant Legal Principles**

63. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practise.

64. This Tribunal must determine whether Dr Arnold's fitness to practise is impaired today, taking into account his conduct, conviction XXX 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.

### **The Tribunal's Determination on Impairment**

#### **Conviction and Misconduct**

65. The Tribunal noted that, whilst Dr Arnold's conviction and misconduct were serious, there have never been any patient safety concerns about his clinical practice. The conviction

is dated 13 April 2018 and relates to offending behaviour committed between December 2016 and April 2017. The misconduct took place between December 2018 and May 2019. It also noted that the sentence imposed by the Magistrates Court has been served, as has the suspension imposed by the NHS. The Tribunal noted that there has been no repetition of the actions which led to his conviction and misconduct.

66. The Tribunal accepted the submission that the conviction and misconduct were inextricably linked to XXX at the time. Further, that the progress that Dr Arnold has made since 2019 and the time that has elapsed since these incidents has reduced the risk of a repetition of this behaviour. It was noted that following the suspension imposed in April 2023, a decision which impacted on Dr Arnold's XXX.

67. The Tribunal considered that in his statement of reflection and his oral evidence, Dr Arnold expressed insight XXX and regret and remorse for his actions which led to his conviction and misconduct. In his statement he set out his reflections and understanding into his behaviour in 2018 – 2019 and the impact it had on others. He was also open about his reluctance in 2018 - 2019 to disclose to others that he was XXX. Dr Arnold has been open and candid to this Tribunal and with XXX including declaring his suspension on a recent job application.

68. The Tribunal considered that Dr Arnold's conviction and misconduct occurred in the context of a doctor with XXX. The Tribunal was satisfied that Dr Arnold has demonstrated an enhanced level of insight XXX.

69. The Tribunal accepted the submission made on behalf of Dr Arnold that the six-month suspension imposed by the April 2023 Tribunal was to satisfy the public interest. Further, it had allowed him time to reflect more deeply on his behaviour and to demonstrate that he fully understood that his actions had consequences for others.

70. The Tribunal noted that the GMC is neutral on Dr Arnold's fitness to practise in relation to his conviction and misconduct.

71. The Tribunal was satisfied that Dr Arnold's XXX explains the conduct which led to his conviction and misconduct. It considered that Dr Arnold has insight and continues to address XXX. The Tribunal considered that there is a low risk of repetition that Dr Arnold will repeat the behaviour which led to his conviction and misconduct. Consequently, the Tribunal was satisfied that the public interest considerations which merited a suspension in April 2023 have been met.

72. The Tribunal determined that Dr Arnold's fitness to practise is not impaired by reason of his conviction and misconduct.

**XXX**

73. XXX

Record of Determinations –  
Medical Practitioners Tribunal

74. XXX

75. XXX

76. XXX

77. XXX

78. XXX

79. XXX

80. XXX

XXX