

PUBLIC RECORD

Date: 19/03/2021

Medical Practitioner's name: Dr Peter DAVIES

GMC reference number: 1647145

Primary medical qualification: BM BCh 1973 Oxford University

Type of case	Outcome on impairment
Review - Caution	Not Impaired

Summary of outcome

Suspension to expire

Tribunal:

Legally Qualified Chair	Mrs Fiona Barnett
Medical Tribunal Member:	Dr Paolo De Marco
Medical Tribunal Member:	Dr Tony Gu
Tribunal Clerk:	Ms Racheal Gill

Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Ms Laura Stephenson, Counsel, instructed by Medical Protection Society
GMC Representative:	Ms Shirlie Duckworth, 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 - 19/03/2021

1. 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 Davies' fitness to practise remains impaired by reason of the caution for a criminal offence.

Background

2. This is the first review of Dr Davies' case following a Medical Practitioners Tribunal (MPT) hearing which concluded on 11 March 2020 (The March 2020 Tribunal). The Tribunal does not intend to rehearse the entire background of this case because this has been set out in the determination of the March 2020 Tribunal.

3. Dr Davies' hearing arose from a caution for a criminal offence, namely for possessing an extreme pornographic image. On 4 December 2018, in his office at the Liverpool Heart and Chest Hospital (the Hospital), Dr Davies viewed pornographic images, depicting bestiality (sexual acts involving animals). On 8 January 2019, the Assistant Director of Informatics and Infrastructure (the Director) at the Royal Liverpool Broadgreen Hospital, NHS Trust (the Trust), contacted Merseyside Police. He reported that the Trust had found sexual images on the work computer of Dr Davies. The Trust had seized the computer hard drive on 6 December 2018 and sent it for analysis at 'Sapphire' digital forensics. There were nine extreme pornographic images recovered depicting bestiality.

4. Dr Davies was subsequently interviewed by Merseyside Police on 1 February 2019 when he made a full admission. He accepted a police caution on 28 March 2019.

March 2020 hearing

5. At the outset of the March 2020 hearing Dr Davies admitted the Allegation and the March 2020 Tribunal announced the Allegation as admitted and found proved. In relation to impairment, the March 2020 Tribunal determined that Dr Davies' fitness to practise was impaired by reason of a caution for a criminal offence. The March 2020 Tribunal were, *"in no doubt that Dr Davies had breached fundamental tenets of the profession; his actions fell short of the standards expected and he had brought the profession into disrepute"*. The March 2020 Tribunal considered that Dr Davies' actions were aggravated by the fact that he accessed pornography at work, during work hours in his office. The Tribunal noted that Dr Davies had taken steps to address his conduct and he had demonstrated some insight. It also noted that Dr Davies' clinical skills had not been called into question.

6. At the Sanction stage, the March 2020 Tribunal determined that the risk of repetition was low and there was no evidence of repetition since the matters which gave rise to the caution. It decided to suspend Dr Davies' registration for a period of 12 months. In the circumstances it was satisfied that a period of suspension would send the right message to Dr Davies and to the profession that his behaviour had been unacceptable. This was sufficient to mark the seriousness of Dr Davies' caution, declare and uphold proper standards of conduct and behaviour and to maintain confidence in the medical profession.

7. The March 2020 Tribunal directed a review hearing. It decided that it may assist the reviewing Tribunal if Dr Davies provided:

- A reflective statement;
- XXX;
- Any other information that he considers will assist.

Today's Review Hearing

The Evidence

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

9. Dr Davies provided a reflective statement, dated 19 February 2021, and also gave oral evidence at the hearing.

10. The Tribunal received documentary evidence, which included, but was not limited to:
- Record of Determination, dated 11 March 2020;
 - Email correspondence between Dr Davies, GMC, MPTS and Medical Protection Society, various dates;
 - Defence bundle from previous MPT hearing;
 - XXX;
 - Multiple testimonials, various dates;
 - The Federation of the Royal Colleges of Physicians of the UK – CPD record, 2020 – 2021.

Dr Davies' oral evidence

11. Dr Davies told the Tribunal of his continued commitment to abstain from viewing pornography. XXX. He explained that he has looked back over his life and been able to identify and discuss the triggers for his behaviour. XXX. Dr Davies told the Tribunal that he meets regularly with a good friend and mentor, Reverend C and that he will continue to do so in the future. He said that he XXX from pornography which include XXX.

12. Dr Davies said that XXX. He said he did not see himself going down this road again. He explained that he found it invaluable to XXX. He recognised the horror of what he has put others through and how he has let them down. He explained that reflecting on this stops him from repeating his behaviour and said that he now has coping strategies in place.

Submissions

On behalf of the GMC

13. Ms Duckworth stated that the GMC was neutral on the matter of impairment. She referred the Tribunal to paragraphs 163 and 164 of the Sanctions Guidance (November 2020) ('SG'). These state:

163 *It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.*

164 *In some misconduct cases it may be self-evident that, following a short suspension, there will be no value in a review hearing. However, in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed,*

the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):

a they fully appreciate the gravity of the offence

b they have not reoffended

c they have maintained their skills and knowledge

d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.

On behalf of Dr Davies

14. Ms Stephenson submitted that Dr Davies' fitness to practise is no longer impaired by reason of his caution and he is fit to resume unrestricted practise. She submitted that the purpose of the March 2020 sanction was to mark the seriousness of the case and reminded the Tribunal of the findings of the previous Tribunal.

15. Ms Stephenson submitted that Dr Davies has fully complied with the recommendations made by the March 2020 Tribunal. She referred the Tribunal to the reflective statement which she said was full and detailed and set out what Dr Davies has been doing since the March 2020 Tribunal. She submitted that Dr Davies continues to engage meaningfully with XXX.

16. Ms Stephenson referred the Tribunal to the testimonials provided by Dr Davies, many of which were from individuals who supported him at the time of the first hearing and continue to do so.

17. Ms Stephenson referred the Tribunal to paragraphs 164 of the SG. She submitted that Dr Davies fully appreciated the gravity of his offence and has reflected deeply upon his actions. She submitted that there was no evidence that he has reoffended, that he has maintained his skills and knowledge during the period of his suspension, and that patients would not be placed at risk if Dr Davies resumed practice. She submitted that the March 2020 Tribunal found that there was a low risk of repetition and that this has not changed.

18. Ms Stephenson submitted that looking forward, Dr Davies has plans and strategies in place XXX and has a strong structure of accountability. She submitted that he has been committed to the profession for over 50 years, is a caring and committed physician and is remorseful and insightful about his behaviour. She submitted that he is now safe to return to unrestricted practice.

The Relevant Legal Principles

19. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. This Tribunal is aware that it is for the doctor to satisfy it that he would be safe to return to unrestricted practice.

20. This Tribunal must determine whether Dr Davies' fitness to practise is impaired today, taking into account his 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.

The Tribunal's Determination on Impairment

21. The Tribunal was satisfied that Dr Davies has engaged with the requirements of the March 2020 Tribunal. He provided a written reflection which the Tribunal found to be comprehensive and compelling. It was evident from this written reflection and from Dr Davies' oral evidence that he continues to feel shame and remorse for his behaviour. He recognises that his behaviour has had a significant impact upon others, in particular, that his behaviour must have given offence to patients.

22. Dr Davies provided evidence to satisfy the Tribunal that he has continued to engage with XXX. He has kept in close contact with XXX.

23. XXX. He continues to meet regularly with his friend and mentor, Reverend C, for mentoring and support and intends to continue doing so in future.

24. Dr Davies provided a number of testimonials from colleagues, friends, and family. The Tribunal found it worthy of note that many of these testimonials were from individuals who supported Dr Davies at the time of March 2020 Tribunal and continue to support him knowing of the findings made in March 2020 and the sanction imposed. Some of the authors comment favourably upon Dr Davies' commitment to XXX.

25. The Tribunal had regard to paragraph 164 of the SG. It was satisfied from the evidence before it, that Dr Davies continues to appreciate fully the gravity of his offence. There was no evidence before the Tribunal to suggest that Dr Davies has reoffended since he accepted the caution. The March 2020 Tribunal found that the risk of repetition was low. This Tribunal found, given Dr Davies' continued engagement XXX and given that he has a robust framework in place XXX, that the risk of repetition remains low.

26. Dr Davies provided the Tribunal with a meticulous CPD diary from which the Tribunal concluded that he has kept his knowledge and skills up to date with relevant activities throughout the period of his suspension.

27. Overall the Tribunal was satisfied that patients would not be placed at risk if Dr Davies returned to unrestricted practice. It bore in mind that the purpose of the 12 month suspension imposed by the 2020 Tribunal was to maintain confidence in the profession and to uphold proper standards of conduct. The Tribunal found that that the suspension has served its purpose and that the overarching objective would be upheld if Dr Davies now returned to unrestricted practice.

28. This Tribunal has therefore determined that Dr Davies' fitness to practise is no longer impaired by reason a caution for a criminal offence. The current order of suspension will lapse on expiry.

29. That concludes this case.

Confirmed

Date 19 March 2021

Mrs Fiona Barnett, Chair