

PUBLIC RECORD

Dates: 15/12/2023

Medical Practitioner's name: Dr Ronald JAMES

GMC reference number: 6121825

Primary medical qualification: MD University of Perpetual Help System
Dalta Jonelta Foundation School of Medicine

Type of case	Outcome on impairment
Review - Misconduct	Impaired

Summary of outcome

Suspension, 6 months.
Review hearing directed

Tribunal:

Legally Qualified Chair	Ms Louise Sweet
Medical Tribunal Members:	Dr Jill Edwards, Dr Nigel Langford
Tribunal Clerk:	Mr Andrew Ormsby

Attendance and Representation:

Medical Practitioner:	Not present, not represented
GMC Representative:	Ms Megan Tollitt, 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 - 15/12/2023

1. At this review hearing the Tribunal must 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 James' fitness to practise is impaired by reason of misconduct and whether the practitioner has failed to comply with any requirement imposed upon him as a condition of registration.

Background

2. Dr James' case was initially considered by a Medical Practitioners Tribunal ('MPT'), at a hearing which took place in March 2022, ('the 2022 Tribunal').

3. Dr James qualified from the University of Perpetual Help in the Philippines in 2001. Prior to the events which are the subject of the hearing, Dr James was employed to carry out medical examinations of drivers to enable them to submit a completed Medical Report to obtain certain driving licences.

4. Dr James was employed by Doctors on Wheels (DoW) from early April 2018. DoW was a company which offered drivers medical examinations such that they could apply to the DVLA for various licences or to a local authority for a Hackney Carriage licence. By the time Dr James joined the company, it was offering medical assessments at fixed premises as part of a remote service from a DoW vehicle which covered various parts of the country. The procedure included a nurse that would carry out a medical examination under the

supervision of a doctor who would attend the examination remotely. If the driver passed the medical assessment, the nurse was authorised to stamp the form with the Doctor's name, the GMC number and the Doctor's signature using a stamp prepared and provided by DoW.

5. The Allegation that led to Dr James' hearing can be summarised as that he failed, on three occasions, to connect with a nurse virtually to supervise medical examinations and to permit the nurse to authorise the application form with his name, GMC number and his signature stamp to be given to the driver. Therefore, Dr James permitted the applications to be authorised in his absence. The drivers submitted their assessments as a duly authorised medical examination. It was alleged that Dr James, in allowing this to happen, was acting dishonestly.

6. The initial concerns were raised with the GMC on 6 February 2020 by Mr A, the Director of DoW Limited, after a Trading Standards investigation discovered the misconduct.

The 2022 Tribunal

7. The facts found proved at Dr James' hearing, can be summarised as follows: on three occasions Dr James permitted a Medical Examination D4 Report to be completed, indicating that he carried out the examination. Dr James allowed the documents to be stamped bearing his name and registration number knowing he had not carried out the examination. Dr James had failed to dial into the examination. It was further found that Dr James had been dishonest in his actions as described above.

8. The 2022 Tribunal considered Dr James' dishonesty, which occurred on 3 separate instances, over 2 different dates. In doing so, it agreed that paragraph 1, 15(a), 34, 65, and 71 (a) and (b) of *Good medical practice* (GMP) were engaged.

'1 Patients need good doctors. Good doctors make the care of their patients their first concern: they are competent, keep their knowledge and skills up to date, establish and maintain good relationships with patients and colleagues, are honest and trustworthy, and act with integrity and within the law.'

'15 You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:

- a. *adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient'*

'34 When you are on duty you must be readily accessible to patients and colleagues seeking information, advice or support.'

'65 You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.'

'71 You must be honest and trustworthy when writing reports, and when completing or signing forms, reports and other documents. You must make sure that any documents you write or sign are not false or misleading.

- a *You must take reasonable steps to check the information is correct.*

- b *You must not deliberately leave out relevant information.'*

9. The 2022 Tribunal bore in mind that Dr James was just eight weeks into his role at DoW, at the time of the first instance of dishonesty, and although he had concerns around the practice of virtual examinations he may not have had the confidence to take any positive action regarding these concerns. Dr James had acknowledged that he needed the work. However, the 2022 Tribunal drew a distinction between committing and omitting and found that Dr James' dishonesty was sustained through his passivity and by omission on his part.

10. The 2022 Tribunal concluded that the failings identified were so significant that they were fundamental breaches of GMP ('Good medical practice') which amounted to misconduct that was serious.

11. In reaching its decision on impairment, the 2022 Tribunal noted Dr James had failed to prevent D4 medical forms being authorised in his absence and in his name. The drivers submitted their assessments as authorised medical examinations. The 2022 Tribunal also found that Dr James had acted dishonestly on those three occasions. These failures had been a breach of his duty of integrity and honesty.

12. The 2022 Tribunal noted that Dr James had accepted the findings of the Tribunal. However, it noted that Dr James had not provided any evidence of remediation through relevant courses or further reflection at the hearing. The 2022 Tribunal also noted that Dr James had not demonstrated any significant steps he had taken to gain insight.

13. The 2022 Tribunal found that Dr James did not directly put the clients of DoW at risk of harm. However, it found that an issue in this case was the potential consequences and risks to the public by driving licences being issued without properly authorised D4 forms.

14. The 2022 Tribunal identified the following mitigating factors were present on the facts:

- a. Raised concerns with Dr B;
- b. Cooperated with formal inquiries;
- c. XXX;
- d. Gained some insight into the risk to the public caused by his actions;
- e. No previous history of regulatory proceedings;
- f. Engaged with the regulatory proceedings;
- g. Made admissions to all the paragraphs of the Allegation that were found proved;
- h. Apologised to the Tribunal for his misconduct; and
- i. Provided reflection, both written and in his oral evidence.

15. In considering the issue of sanction, the 2022 Tribunal concluded that Dr James had not been the “architect of the system”. It also found that he had not attempted to cover up his dishonesty. The 2022 Tribunal considered that Dr James’ dishonesty was not persistent as there were only three instances over two dates.

16. The 2022 Tribunal found that Dr James had demonstrated that he understood the gravity of his actions and was working his way toward remediating them. It considered that Dr James’ misconduct was unacceptable but that the overarching objective would be satisfied by a period of suspension lasting of twelve months.

17. The 2022 Tribunal determined to direct a review of Dr James’ case.

The April 2023 Tribunal

18. The April 2023 Tribunal (the first review) reviewed Dr James' case and noted Dr James' late engagement with the regulatory process throughout the course of his suspension.

19. It bore in mind the lack of evidence Dr James had demonstrated to the 2022 Tribunal. It was the duty of Dr James to demonstrate whether his insight had developed sufficiently to mean that his fitness to practise could be said to be not impaired. The Tribunal considered that this position has not changed significantly. Although, it noted, there was some new evidence provided to demonstrate reflection on his part it was described as *"scant, and woefully inadequate, consisting of little more than CPD started in March 2023 which has not been fully completed"*.

20. Further, it noted that in Dr James' had accepted that his remediation had been *'last minute and inadequate.'* It also noted that Dr James had failed to provide any testimonials from his mentor or his current employer. He explained, *"he did not think"* of asking for them. It considered that Dr James had acknowledged the 2022 Tribunal findings but that he had asserted that his remediation and insight was progressing, without developing or evidencing any detail of this.

21. The April 2023 Tribunal considered that dishonesty was a serious matter and accepted it difficult to remediate. It noted that dishonesty had the potential to seriously undermine public trust in the medical profession and to bring the profession into disrepute. The April 2023 Tribunal was satisfied that, in the absence of any evidence of remediation or the development of insight, the overarching objective required a finding of impairment in Dr James' case.

22. The April 2023 Tribunal concluded that it had not seen any new evidence that discharged the persuasive burden on the doctor. Dr James had accepted *'there has been a lack of effort on his part to prove remediation and insight'*. It was concerned that Dr James' engagement has been limited. He did not appear to have fully appreciated that there is a persuasive burden upon him to demonstrate that he is safe to return to unrestricted practice and is no longer impaired.

23. The April 2023 Tribunal determined that, given the information before it, there was insufficient evidence to conclude that Dr James has developed insight into his conduct, to appreciate why there was misconduct and how he could minimise the likelihood of repetition.

24. In the circumstances, the April 2023 Tribunal determined to suspend Dr James registration for a period of eight months to allow Dr James an opportunity to demonstrate that he had reflected on the impact of his actions, understand the gravity of dishonesty for a medical practitioner and gained full insight into his wrongdoing. The April 2023 Tribunal considered that it would also provide him with the necessary time to gather evidence of remediation and insight, and to enable him to demonstrate that his clinical knowledge and skills had been kept up to date during the period of suspension.

25. The April 2023 Tribunal determined to direct a review of Dr James' case and clarified that at the review hearing, the onus would be on Dr James to provide evidence demonstrating how he had developed his insight and remediated his dishonesty and maintained his clinical knowledge and skills.

26. It determined that the reviewing Tribunal might be assisted if Dr James' provided:

- a) Evidence that demonstrates the development of his insight and reflection, such evidence might include information as to his continuing engagement with his mentor, including evidence from the mentor himself;
- b) Evidence that Dr James has made efforts throughout the period of his suspension to keep his clinical knowledge and skills up to date;
- c) References/testimonials. These may be from any work environment and could demonstrate his integrity and work ethic; and
- d) any other information that he considers will assist a review hearing.

Today's Review Hearing

27. This is the second review of Dr James' case

The Evidence

28. The Tribunal has taken into account all the documentary evidence received, which included, but was not limited to, various email correspondence between the GMC and Dr James of various dates which included his personal circumstances set out in a recent e mail dated 12 December 2023.

29. Dr James did not attend nor was he represented.

Submission on behalf of the GMC

30. Ms Tollitt submitted that Dr James' fitness to practise remained impaired by reason of his misconduct.

31. Ms Tollitt added that Dr James had not provided evidence of further remediation or insight. Further she stated that the doctor had failed to provide any testimonials from his mentor.

32. Ms Tollitt stated that it had now been eight months since his April 2023 hearing and that despite this passage of time, the doctor had not provided evidence of reflection or insight.

33. Ms Tollitt noted Dr James' email correspondence with the GMC, particularly his email dated, dated 8 December 2023, which gave the impression that the doctor would provide further information, but noted that he had failed to do so.

34. Ms Tollitt submitted that there had been a lack of meaningful engagement on Dr James' part and that, in the absence of evidence that the doctor had satisfied the concerns originally by the 2022 Tribunal, it was the case that the Dr James' fitness to practise was still impaired.

35. Ms Tollitt concluded by emphasising that in the absence of any evidence of remediation of insight Dr James' fitness to practise remained impaired.

The Relevant Legal Principles

36. At a review hearing, the burden is on the doctor to demonstrate that all the concerns which have been identified previously have been adequately addressed and that remediation has taken place.

37. The Tribunal reminded itself that the decision in relation to impairment is a matter for the Tribunal's judgement alone. As noted above, the 2022 Tribunal and the April 2023 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 he would be safe to allow him to return to unrestricted practice.

38. This Tribunal must determine whether Dr James' 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

39. The Tribunal considered all the evidence before it, as well as the submissions made by Ms Tollitt on behalf of the GMC.

40. The Tribunal further noted that the onus was on Dr James to demonstrate whether his insight had developed sufficiently to mean that his fitness to practise could be said to be not impaired.

41. The Tribunal agreed with the earlier Tribunal findings, that this was serious misconduct that related to matters of dishonesty. It considered that there had been a breach of a fundamental tenet of the medical profession namely to act with honesty and integrity. The Tribunal also agreed that there were breaches of SG 1, 15, 34, 65 and 71.

42. In reaching its decision the Tribunal noted that the original 2022 Tribunal had concluded that Dr James had insufficient insight into his misconduct and had not provided sufficient evidence of remediation.

43. The Tribunal considered the findings of the April 2023 Tribunal, in particular the following:

'...although there is some new evidence provided to demonstrate reflection on his part it is scant, and woefully inadequate, consisting of little more than CPD started in March 2023 which has not been fully completed.'

44. This Tribunal noted that it had not received any further evidence of insight or remediation and, as such, nothing had changed. The Tribunal noted that the GMC had set out the recommendations of the first review Tribunal in later correspondence to Dr James on 8 September 2023. It also noted that Dr James had also expressed an intention to provide supplemental material. It was evident that he knew what was expected of him.

45. The Tribunal were sympathetic to the difficult personal circumstances that Dr James currently faced. However, it also noted that Dr James had many months to collate that material and had provided nothing to support the development of further insight or remediation. There was also no evidence that Dr James had kept his medical knowledge up to date.

46. In the circumstances, the Tribunal determined that Dr James had not discharged his burden to show that he was currently fit to practise, and as such remained impaired by reason of misconduct.

Determination on Sanction - 15/12/2023

1. Having determined that Dr James' fitness to practise is impaired by reason of misconduct, the Tribunal now must decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to Dr James' registration.

The Evidence

2. The Tribunal has taken into account the background to the case and the evidence received during the earlier stage of the hearing, where relevant, to reaching a decision on what action, if any, it should take with regard to Dr James' registration.

Submissions

3. Ms Tollitt referred to the *Sanctions Guidance (SG)* and submitted that a further period of suspension for six months was appropriate in this case.

4. Ms Tollitt submitted that there were no exceptional circumstances to warrant no action and that conditions would be neither proportionate nor workable given the findings of misconduct, particularly in relation to dishonesty.

5. Ms Tollitt stated, although erasure could be justified on the facts of the case, presently a complete removal from the register would not be in the public interest. Dr James had set out some recent personal difficulties. Although late in the day to inform the GMC, she reminded the Tribunal that Dr James is not legally represented. She asserted that this was not a case where there had been complete absence of contact with his regulator. He had attended the original Tribunal and the first review hearing and corresponded with the GMC.

6. Ms Tollitt emphasised that the GMC did not seek erasure *'at this time'* but submitted that the doctor should be given a *'final'* period of suspension to allow him the opportunity to remediate.

The Tribunal's Determination

7. The decision as to the appropriate sanction to impose, if any, is a matter for this Tribunal exercising its own judgement. There is no burden or standard of proof at this stage. It recognises that every case will necessarily turn on its own facts.

8. In reaching its decision, the Tribunal has carefully considered the SG. It has borne in mind that the purpose of a sanction is not to be punitive although it may have a punitive effect.

9. The Tribunal has borne in mind that in deciding what sanction, if any, to impose, it should consider the sanctions available, starting with the least restrictive.

10. Throughout its deliberations, the Tribunal has taken into account the overarching objective and applied the principle of proportionality, balancing Dr James' interests with the public interest.

11. The Tribunal has taken into account its earlier determinations on the facts on impairment, the SG, GMP as well as the submissions of Ms Tollitt on behalf of the GMC. The Tribunal has accepted that Dr James' misconduct was short lived and resulted from omission. However, dishonesty is serious and has an inevitable adverse impact on public confidence in Dr James and in the profession as a whole.

12. This Tribunal has already noted, and accepted, the considerable mitigation that was set out by the 2022 Tribunal.

13. The Tribunal considered each sanction in ascending order of seriousness starting with the least restrictive.

No Action

14. The Tribunal first considered whether to conclude the case by taking no action.

15. The Tribunal determined that to take no action would be inappropriate. The Tribunal did not consider that there were any exceptional circumstances that would justify such a course. It would not be sufficient, proportionate or in the public interest to conclude the case by taking no action.

16. The Tribunal next considered whether it would be appropriate to impose conditions on Dr James' registration. It bore in mind that any conditions imposed should be appropriate, proportionate, workable and measurable.

17. The Tribunal considered that, as there were no concerns regarding Dr James' fitness to practise with regard to performance or health, an imposition of a sanction of conditions would not be appropriate.

18. The Tribunal determined that imposing conditions in relation to misconduct, particularly in relation to dishonesty, would not be appropriate or workable.

Suspension and Erasure

19. This Tribunal was of the view that it was now faced with a choice of either suspension or erasure as the appropriate and proportionate sanction in this case.

20. The Tribunal noted that the misconduct dated back to July 2018 and March 2019.

21. Dr James first appeared before an MPT Tribunal in March 2022 and was suspended from the register for 12 months. At that hearing, he would have appreciated that dishonest misconduct is taken very seriously because it has such an adverse impact on public confidence both in him and in the medical profession as a whole. His misconduct had fallen far below the standards expected of a good doctor.

22. At his review hearing, in April 2023, Dr James had, in the words of the Tribunal, been '*woefully inadequate*' in presenting evidence of insight and remediation. Further, it expressed concerns that he had not yet begun the process of reflecting, developing insight and remediating his misconduct. A further period of suspension was imposed to allow Dr James time to collate and present evidence to a subsequent review hearing. No new material was presented to this Tribunal.

23. This Tribunal was of the view that Dr James, given his total lack of effort to meet the concerns of past tribunals, has come very close to erasure, but for the reasons set out below, the Tribunal has just found that it was able to agree with the submission of the GMC, namely, that the doctor deserves one last opportunity to provide the necessary evidence of his reflection, insight, and remediation.

24. The Tribunal emphasised that Dr James' continued failure to produce evidence of insight and remediation was giving the impression that he does not understand the seriousness of his position and that he was not properly engaging with what he needed to do to return to safe practice.

Suspension

25. The Tribunal first considered whether imposing a period of suspension on Dr James' registration would be appropriate and proportionate.

26. The Tribunal took account of the following paragraphs of the SG which indicate circumstances in which it may be appropriate to impose a sanction of suspension:

'91 Suspension has a deterrent effect and can be used to send out a signal to the doctor, the profession and public about what is regarded as behaviour unbefitting a registered doctor. Suspension from the medical register also has a punitive effect, in that it prevents the doctor from practising (and therefore from earning a living as a doctor) during the suspension, although this is not its intention.'

'92 Suspension will be an appropriate response to misconduct that is so serious that action must be taken to protect members of the public and maintain public confidence in the profession. A period of suspension will be appropriate for conduct that is serious but falls short of being fundamentally incompatible with continued registration (ie for which erasure is more likely to be the appropriate sanction because the tribunal considers that the doctor should not practise again either for public safety reasons or to protect the reputation of the profession).'

'93 Suspension may be appropriate, for example, where there may have been acknowledgement of fault and where the tribunal is satisfied that the behaviour or incident

is unlikely to be repeated. The tribunal may wish to see evidence that the doctor has taken steps to mitigate their actions...'

'97 Some or all of the following factors being present (this list is not exhaustive) would indicate suspension may be appropriate.

a A serious breach of Good medical practice, but where the doctor's misconduct is not fundamentally incompatible with their continued registration, therefore complete removal from the medical register would not be in the public interest. However, the breach is serious enough that any sanction lower than a suspension would not be sufficient to protect the public or maintain confidence in doctors.

[...]

e No evidence that demonstrates remediation is unlikely to be successful, eg because of previous unsuccessful attempts or a doctor's unwillingness to engage.

f No evidence of repetition of similar behaviour since incident.'

27. As has been noted this was a serious breach of GMP and a fundamental tenet of the medical profession. The first Tribunal were of the view that it was capable of remediation. This Tribunal is of a similar view. However, the Tribunal is unable to assess the risk of repetition as there is no evidence that allows the Tribunal to do so. It is accepted that there has been no similar misconduct before or since.

28. The Tribunal determined that a serious sanction is necessary to protect public confidence in this case, but it was of the view that the concerns of this case can be met by the sanction of suspension.

29. The Tribunal concluded that Dr James misconduct fell short of being fundamentally incompatible with continued registration but bore in mind that, with the passage of time, it would be more difficult for Dr James to present credible evidence of insight and remediation.

30. In the circumstances the Tribunal determined to extend the current order of suspension for a period of six months which would allow Dr James sufficient time to gain and provide evidence of insight, remediation, and reflection.

31. The Tribunal determined to direct a review of Dr James' case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought by either Dr James or the GMC. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr James to provide evidence demonstrating how he has developed his insight and remediated his dishonesty and maintained his clinical knowledge and skills. It therefore may assist the reviewing Tribunal if Dr James' provides the following (as was suggested by the April 2023 Tribunal):

- a) Evidence that demonstrates the development of his insight and reflection, such evidence might include information as to his continuing engagement with his mentor, including evidence from the mentor himself;
- b) Evidence that Dr James has made efforts throughout the period of his suspension to keep his clinical knowledge and skills up to date;
- c) References/testimonials. These may be from any work environment and could demonstrate his integrity and work ethic and
- d) Any other information that he considers will assist a review hearing.

32. That concludes this case.

ANNEX A – 15/12/2023

Service of Notice of the Hearing and proceeding in absence

Service of Notice of the Hearing

1. Dr James was neither present nor represented at this hearing.
2. The Tribunal considered Ms Tollitt's submission, on behalf of the GMC, that notification of this hearing ('NoH') had been properly served upon Dr James in accordance with Rule 40 of the General Medical Council ('GMC') ('Fitness to Practise') Rules Order of Council 2004 ('the Rules').
3. The Tribunal was provided with a service bundle which included a screenshot of the GMC database showing Dr James' registered address and contact information; the GMC information letter, dated 4 November 2023 and Dr James' emailed acknowledgement of receipt.
4. It was also provided with the MPTS's NoH letter to Dr James, dated 3 November 2023 and an email from Dr James dated 23 November 2023 in which he acknowledged receipt.
5. The Tribunal noted that the NoH was sent by the MPTS to Dr James at his registered email address on 3 November 2023 with relevant attachments. The NoH included details of the MPT hearing.
6. Email correspondence was received from Dr James which acknowledged receipt of the relevant GMC and MPTS correspondence regarding the 15 December 2023 review hearing.
7. The Tribunal noted that Dr James had initially stated in his email correspondence, dated 8 December 2023 to the GMC that he would attend the hearing. Dr James subsequently emailed the GMC on 12 December 2023 to ask for the hearing to be postponed until January 2024. He set out the reason for his inability to comply with the production of evidence he wishes to rely on and outlined his current personal issues. He was told that the hearing could not be adjourned beyond the expiry of his suspension, which was 24 December 2023.

8. Dr James then informed the GMC that he would not be attending the hearing and stated that he was content for the hearing to proceed in his absence.

9. The Tribunal was satisfied that notice of the hearing commencing 15 December 2023 had been served upon Dr James in accordance with Rule 40 of the Rules.

Proceeding in Absence

10. Having determined that the notice of the hearing had been properly served, the Tribunal went on to consider, under Rule 31, whether it should proceed with the hearing in Dr James' absence, as submitted by Ms Tollitt.

11. The Tribunal was mindful that the discretion to proceed in the absence of a doctor should be exercised with the utmost care and caution, balancing the interests of the doctor with the wider public interest.

12. The Tribunal was of the view that it was clear from Dr James' email that he was aware of today's hearing and he had voluntarily absented himself from it. The Tribunal noted that Dr James had acknowledged that the hearing should proceed in his absence.

13. The Tribunal was satisfied that an adjournment would not necessarily result in Dr James' participation at a hearing before 24 December 2023.

14. The Tribunal considered all the information before it including the seriousness of the misconduct and the passage of time since the misconduct and the last review. It was also satisfied that Dr James had voluntarily absented himself. It concluded that the wider public interest in the case proceeding outweighs Dr James' own interests in adjourning particularly when no useful purpose would be served by adjourning to a later date.

15. In accordance with Rule 31, the Tribunal determined to proceed in Dr James' absence.