

PUBLIC RECORD

Dates: 26/07/2024

Medical Practitioner's name: Dr Samuel HARTLEY

GMC reference number: 6103285

Primary medical qualification: BM BS 2004 University of Nottingham

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

Summary of outcome

Suspension revoked

Tribunal:

Legally Qualified Chair	Mrs Jayne Wheat
Lay Tribunal Member:	Mrs Jane Johnson
Medical Tribunal Member:	Dr Andy Cohen
Tribunal Clerk:	Mr Matt O'Reilly

Attendance and Representation:

Medical Practitioner:	Present, not represented
GMC Representative:	Ms Isobel Thomas, Counsel

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 - 26/07/2024

1. At this review hearing the Tribunal 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 Hartley's fitness to practise remains impaired by reason of misconduct.

Background

2. Dr Hartley graduated from the Nottingham University Medical School with an intercalated BMedSci in 2002 and a BMBS degree in 2004. He passed his Royal College of Paediatrics and Emergency Medicine (MRCPE) exam in 2010 and the RCPCH Start, achieving an 'outcome 6' to general paediatric run-through training in July 2017. Dr Hartley was working as a Locum Paediatric Registrar at Milton Keynes University Hospital NHS Trust up until his case was considered by a Medical Practitioners Tribunal (MPT), which convened on 5 May 2023 – 19 May 2023, 7 July 2023, and 30 October 2023 – 2 November 2023 ('the 2023 Tribunal'). Dr Hartley was legally represented at that hearing.

3. It was alleged that, between January 2018 and March 2019, Dr Hartley submitted job applications to three separate hospital trusts: University Hospitals of Leicester NHS Trust (UHLT), Sheffield Children's NHS Foundation Trust (SCH), and Oxford University Hospitals NHS Foundation Trust (OHFT) in which he provided false or misleading information regarding his previous GMC investigation and completion of training courses. It was also alleged that during his interview at SCH, Dr Hartley informed the interview panel that he had been subject to a GMC investigation but this had been closed without any restrictions being placed upon his registration. It was alleged that Dr Hartley's actions in doing so were dishonest.

4. At the outset of the 2023 hearing, Dr Hartley made a number of admissions to the Allegation. The 2023 Tribunal's findings on the facts of the case were:

University Hospitals of Leicester NHS Trust

1. On 3 January 2018, you submitted an application for the post of Locum Consultant in General Paediatrics with a Subspecialty at Leicester Royal Infirmary ('Application 1') in which you:
 - a. stated on page 4 of Application 1 that you had attended the 'Hands on Course in Basic Paediatric Echocardiography' at 'UCL GOSH ICH' for 2 days in 2017; **Admitted and found proved**
 - b. stated on page 8 of Application 1 that you had 'recertified in APLS/NLS instructor' between 3 August 2016 and 31 January 2017. **Admitted and found proved**
2. As at the date of Application 1 you knew that you:
 - a. had not attended the course specified at paragraph 1a above; **Admitted and found proved**
 - b. had not recertified as a APLS/NLS instructor between 3 August 2016 and 31 January 2017. **Admitted and found proved**
3. Your actions as set out at paragraphs 1a to 1b above were dishonest by reason of paragraphs 2a and 2b respectively. **Determined and found not proved in relation to paragraphs 1(a) and 1(b), and 2(a) and 2(b).**

Sheffield Children's NHS Foundation Trust

4. Between 23 April and 4 June 2018, you submitted an application for the post of Specialty Doctor in Paediatric Emergency Medicine at Sheffield Children's NHS Foundation Trust ('SCH') ('Application 2') in which you:
 - a. answered 'No' to the question on page 5 of Application 2 'Have you ever been removed from the register, or have conditions or sanctions been placed on your registration, or have you been issued with a warning by a regulatory or licencing body in the UK or any other country?'; **Admitted and found proved**
 - b. stated on page 4 of Application 2 that you had attended the following two day courses:

- i. GIC General Instructor Course in 2018;
Admitted and found proved
 - ii. Hands-on.. Basic Paed Echocardiography in 2018;
Admitted and found proved
 - c. stated on page 9 of Application 2 that you had ‘recertified in APLS/NLS instructor’ between February and August 2017;
Admitted and found proved
 - d. stated on page 23 of Application 2:
 - i. ‘I’m completing ALSG GIC instructor training’;
Admitted and found proved
 - ii. ‘I’ll be qualified in the ALSG General Instructor Course but hold no further formal qualifications in teaching yet’;
Admitted and found proved
 - e. cited on page 26 of Application 1 2 a publication ‘XXX’.
Admitted and found proved
5. As at the date of Application 2 you knew that you:
- a. had been suspended by the GMC from 19 September 2012 until 18 October 2012; **Admitted and found proved**
 - b. had not attended the courses set out at 4bi and 4bii above;
Admitted and found proved
 - c. had not recertified as a APLS/NLS instructor between February and August 2017; **Admitted and found proved**
 - d. were not completing the ALSG GIC Instructor training at the time of Application 2 nor were you due to be qualified in the ALSG General Instructor Course; **Admitted and found proved**
 - e. were not the author of the Publication nor cited within it as an

author. **Admitted and found proved**

6. Your actions as set out at paragraphs 4a – e above were dishonest by reason of paragraphs 5a – e respectively.
Found proved in relation to 4(a) and 5(a), and 4(e) and 5(e)
Determined and found not proved in relation to 4(b) and 5(b), 4(c) and 5(c) and 4(d) and 5(d)
7. On 19 May June 2018, you were interviewed for the position of Specialty Doctor in Paediatric Emergency Medicine at SCH at which time you confirmed that you had been the subject of a previous GMC investigation but that it had been closed without ongoing restrictions being placed on your practise, or words to that effect.
Determined and found not proved
8. You knew that your previous GMC investigation had not been closed and that you had received a one-month suspension from 19 September 2012 until 18 October 2012 following a fitness to practise hearing.
Admitted and found proved
9. Your actions as set out at paragraph 7 above demonstrated a lack of candour by reason of paragraph 8. **Determined and found not proved**

Oxford University Hospitals NHS Foundation Trust

10. On 11 March 2019, you submitted an application for the post of Consultant in Paediatric Emergency Medicine at Oxford University Hospitals NHS Foundation Trust ('Application 3') in which you:
 - a. answered 'No' to the question on page 4 of Application 3 'Have you ever been removed from the register, or have conditions or sanctions been placed on your registration, or have you been issued with a warning by a regulatory or licencing body in the UK or any other country?'; **Admitted and found proved**
 - b. stated on page 3 of Application 3 that you had attended the following two-day courses:
 - i. GIC General Instructor Course in 2018;

Admitted and found proved

- ii. Hands-on.. Basic Paed Echocardiography in 2018;
Admitted and found proved
 - c. stated on page 10 of Application 3 that you had ‘recertified in APLS/NLS instructor’ between February 2017 and August 2017;
Admitted and found proved
 - d. stated on page 26 of Application 3:
 - i. ‘I’m completing ALSG GIC instructor training’;
Admitted and found proved
 - ii. ‘I’ll be qualified in the ALSG General Instructor Course but hold no further formal qualifications in teaching yet’;
Admitted and found proved
 - e. cited on page 29 of Application 3 the Publication as set out at paragraph 4e above. **Admitted and found proved**
11. As at the date of Application 3 you knew that you:
- a. had been suspended by the GMC from 19 September 2012 until 18 October 2012; **Admitted and found proved**
 - b. had not attended the courses set out at 10bi and 10bii above;
Admitted and found proved
 - c. had not recertified as a APLS/NLS instructor between February 2017 and August 2017; **Admitted and found proved**
 - d. were not completing the ALSG GIC Instructor training at the time of Application 3 nor were you due to be qualified in the ALSG General Instructor Course; **Admitted and found proved**
 - e. were not the author of the Publication nor cited within it as an author. **Admitted and found proved**

12. Your actions as set out at paragraphs 10a – e above were dishonest by reason of paragraphs 11a – e respectively.

Found proved in relation to 10(a) and 11(a), and 10(e) and 11(e)

Determined and found not proved in relation to 10(b) and 11(b), 10(c) and 11(c) and 10(d) and 11(d)

5. The 2023 Tribunal determined that Dr Hartley’s conduct in respect of paragraphs 4(a), (e), 5(a), (e), 10 (a), (e), 11(a), (e), and where it found dishonesty in respect of those allegations, amounted to misconduct.

6. The 2023 Tribunal concluded that, in the round, Dr Hartley’s repeated dishonesty would be considered deplorable by fellow members of the profession. It determined that Dr Hartley’s conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to serious misconduct.

7. The 2023 Tribunal noted Dr Hartley’s Probity and Ethics CPD courses undertaken, and that Dr Hartley had shown a degree of willingness to work on his failures. It noted however that the late stage at which those courses were completed left Dr Hartley with little opportunity to embed any learning from those courses. It also noted that his reflective statement did not elaborate on what he had learned, nor how he had applied it to the dishonesty in this case.

8. The 2023 Tribunal determined that Dr Hartley’s willingness to remediate was not matched by actions. It accepted Dr Hartley had some insight and a desire to work towards remediation, but that it was at an early stage. It was of the view that the misconduct had not been remediated.

9. The 2023 Tribunal noted that this was the second time Dr Hartley had been found to have been dishonest by a Tribunal at the MPTS. It concluded that in the absence of detailed insight and more extensive remediation, there remained a risk of repetition. It determined that Dr Hartley has in the past and was liable in the future to bring the medical profession into disrepute and had breached fundamental tenets of the medical profession. It determined that a finding of impairment was necessary in order to uphold the second and third limbs of the overarching objective and that public confidence in the profession would be undermined were a finding of impairment not made. It therefore determined that Dr Hartley’s fitness to practise was impaired by reason of misconduct.

10. The 2023 Tribunal determined that suspension for a period of 8 months would appropriately mark the seriousness of Dr Hartley’s dishonest conduct. It was satisfied that this period was proportionate and marked the seriousness of Dr Hartley’s misconduct, while giving him time to develop his insight and remediation.

11. The 2023 Tribunal also directed a review hearing. It set out that the reviewing Tribunal would be assisted if Dr Hartley were to provide:

- Evidence that he has continued his development of insight and remediation;
- Evidence of Continuing Professional Development, which shows how Dr Hartley has maintained his skills and kept his clinical knowledge up to date;
- Any other information which Dr Hartley considers would assist the reviewing Tribunal.

Today’s Hearing

12. This is the first review of Dr Hartley’s case following the decision of the 2023 Tribunal.

The Evidence

13. The Tribunal received documentary evidence which included, but was not limited to:

- Record of Determinations of the 2023 Tribunal;
- Dr Hartley’s reflections, various;
- Probity and CPD diaries;
- CPD;
- Report from Ms A, Professional Counsellor, dated 12 July 2024;
- Personal development plan;
- Character references and testimonials, various.

Submissions

14. On behalf of the GMC, Ms Isobel Thomas, Counsel, submitted that the GMC were neutral on whether Dr Hartley’s fitness to practise remained impaired and that it was a matter for the Tribunal.

15. Dr Hartley apologised for his misconduct. He said that he realised that he needed to gain more insight into his misconduct, reflect, learn, and change his practice. He submitted

that it had become clear to him how his misconduct could have caused harm to patients and that it would have had an effect on trust in the profession, patients and the public.

16. Dr Hartley said that he fully accepted all the findings of the 2023 Tribunal, that he was determined to change and has always wanted to be a moral and ethical doctor. He said that he has five mentors and one responsible officer, whom he understood implied in their testimonials that he was now fit to practise. Dr Hartley referred the Tribunal to the testimonials he provided. He also referred it to his probity and CPD diary entries, he said that this demonstrated that he had taken these matters very seriously and in a structured way remediated his actions. He said that whilst he had provided reasons for his actions, he did not want to convey any excuses.

17. Dr Hartley said that he fully recognised the risks of getting any written communications wrong, especially on a job application. He said that he wanted to turn this situation into a positive, about how he could change, not just for himself but to improve the public's trust in the medical profession in a more proactive way. He said that he had made a personal goal to always have a personal learning plan for the rest of his career, that he will always reflect on his probity and conduct and openly discuss this with appraisers and mentors. He said that he would speak more openly with colleagues about what he did and why it was wrong. He said that he now avoided any shade of dishonesty, lack of candour, and not to leave any doubt in people's minds about an appearance of dishonesty. He said that his mentors have agreed to continue to mentor him, if he is allowed to return to practice, for which he was very grateful.

18. Dr Hartley said that Dr B, Consultant Paediatrician and Clinical Director for paediatrics, Milton Keynes Hospital NHS Foundation Trust, has agreed to be his supervisor should he be allowed to return to work. He said Dr B has a detailed knowledge of the full findings of the 2012 and 2023 hearings. He said he had spoken with mentors at Milton Keynes and in Leicester who were keen to offer him a permanent job previously, but as these regulatory matters were still ongoing he did not want them to hold those positions open for him in case he was not allowed to return to practice. He said that whilst they expressed verbally to him that he would have to apply through the normal pathways, they were keen in principle to have him apply for a more permanent job.

19. Dr Hartley told the Tribunal how these regulatory matters had affected his personal circumstances. He said that he has however had a lot of support as he has tried to remediate and get back on track. He said he would like to take up at least a part time substantive role at Milton Keynes, but wanted to pace himself getting back to practice and not overstretch himself in any way, so that he could perform at a good level. He said that his first priority

would be to demonstrate that he was clinically safe, up to date and following Good Medical Practice guidelines. He said that another priority would be to undertake an appraisal and the revalidation processes, and then in the medium to long term, with agreement from his mentors that they would support him in restarting his career, compile a portfolio that would allow him to go for the CESR qualification as a paediatric consultant.

The Relevant Legal Principles

20. The Tribunal reminded itself that there is no legal test for determining impairment. It is a matter for the Tribunal's judgement alone.

21. The Tribunal first had regard to the statutory overarching objective in section 1 of the Medical Act 1983: to protect and promote the health, safety and wellbeing of the public, promote and maintain public confidence in the medical profession and promote and maintain proper professional standards and conduct for the members of the profession.

22. This Tribunal considered it must determine whether Dr Hartley's fitness to practise is impaired today, taking into account Dr Hartley's conduct at the time of the events. The Tribunal was advised that it may wish to consider whether the matters are remediable, have been remedied, and any likelihood of repetition.

23. The Tribunal bore in mind that, at this stage, there was a persuasive burden on the doctor to demonstrate that all of the concerns which have been identified previously have been adequately addressed and that he would be safe to return to unrestricted practice.

The Tribunal's Determination on Impairment

24. The Tribunal took into account all of the evidence provided, as well as the submissions from both parties.

25. At the outset of its deliberations, the Tribunal had regard to the 2023 Tribunal's expectations of the evidence which a reviewing Tribunal would be assisted by.

26. The Tribunal had before it Dr Hartley's probity and CPD diaries. The Tribunal noted that Dr Hartley shared his weaknesses with others, had been open and candid with mentors, family and friends, as to the decisions of the 2012 and 2023 Tribunals and his misconduct.

27. The Tribunal considered that Dr Hartley had gone above and beyond what it would have expected to identify the root cause of his misconduct and address the findings of the

2023 Tribunal. He has also undertaken counselling, designed to assist in developing coping strategies to avoid placing himself in a similar situation in future. He has completed courses in probity and ethics, and reflected on those courses at length. The Tribunal considered the depth and breadth of Dr Hartley's probity and CPD diaries to be insightful, extensive and impressive.

28. In his reflections and in his submissions, Dr Hartley expressed genuine apology, regret and remorse for his actions, how his actions could have had an impact on patient safety, would have had on the public's trust in the profession, and on the GMC.

29. The Tribunal considered the testimonial evidence in which members of the profession who were aware of findings of the 2023 Tribunal expressed that Dr Hartley had been open, honest and was, in their view, fit to return to practice. The Tribunal considered that the testimonial evidence overall was extensive and impressive.

30. The Tribunal also considered that Dr Hartley had looked at, and reflected on, other MPT decisions to better understand his own misconduct and the impact on the reputation of the profession.

31. The Tribunal reminded itself that dishonesty was difficult to remediate. It was satisfied however that Dr Hartley had been open and candid in his reflections and done all that he could to remediate his actions.

32. Dr Hartley also provided extensive evidence of CPD courses he had undertaken which demonstrated that he kept his knowledge and skills up to date.

33. The Tribunal was satisfied that Dr Hartley has demonstrated a commitment to remediate his misconduct, to getting back to practise, and to putting a plan in place to try to ensure that his misconduct would not be repeated.

34. The Tribunal was satisfied that Dr Hartley has demonstrated significant insight into his misconduct.

35. The Tribunal also considered that Dr Hartley has significant support in place were he to return to unrestricted practice.

36. The Tribunal acknowledged that whilst dishonesty was difficult to remediate, it was not impossible to do so. In this case, it was satisfied that Dr Hartley had sufficiently remediated his misconduct.

37. Taking into account its conclusions relating to Dr Hartley’s extensive remediation and his level of insight, the Tribunal was satisfied that Dr Hartley’s risk of repeating the misconduct was minimal.

38. The Tribunal was satisfied that there was no longer any risk to patient safety. It was also of the view that the wider public interest had been served by Dr Hartley’s suspension, and that this period of suspension was sufficient to mark the gravity of the wrongdoing and to restore public confidence. It determined that returning Dr Hartley to unrestricted practice would not undermine the overarching objective.

39. This Tribunal therefore determined that Dr Hartley’s fitness to practise was no longer impaired by reason of his misconduct.

40. The Tribunal noted that the order of suspension on Dr Hartley’s registration expires on 7 August 2024. It invited submissions pursuant to Rule 22(1)(g) of the Rules about whether to make a direction under section 35D of the Medical Act 1983.

41. Ms Thomas submitted that it was a matter at the Tribunal’s discretion, but that the GMC had no objection to the suspension at being revoked as of today in light of the decision on impairment. Dr Hartley also invited the Tribunal to revoke the substantive suspension.

42. The Tribunal considered that this was a matter for its independent judgment. Given its decision on impairment that Dr Hartley had done all that he could in respect of insight and remediation, it was satisfied that a member of the public fully informed of all the circumstances of this case would not consider the public interest had been undermined if the substantive suspension was revoked with immediate effect. It was satisfied that the public interest has been met in this case. The Tribunal therefore determined to revoke Dr Hartley’s suspension with immediate effect.

43. That concludes this case