

PUBLIC RECORD

Dates: 12/11/2020 - 20/11/2020

Medical Practitioner's name: Dr Sarka BAKALAROVA
GMC reference number: 7024383
Primary medical qualification: MUDr 1988 Lekarska Fakulta 1 Univerzity Karlovy

Type of case	Outcome on facts	Outcome on impairment
New - Misconduct	Facts relevant to impairment found proved	Impaired
XXX	XXX	XXX

Summary of outcome

Suspension, 9 months
Review hearing directed
Immediate order imposed

Tribunal:

Legally Qualified Chair	Mr Neil Mercer
Lay Tribunal Member:	Mrs Anita Hargreaves
Medical Tribunal Member:	Dr Ronan Brennan
Tribunal Clerk:	Mr Larry Millea

Attendance and Representation:

Medical Practitioner:	Present and not represented
GMC Representative:	Mr Robin Kitching, 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 Facts - 16/11/2020

Background

1. Dr Bakalarova qualified in 1988 and prior to the events which are the subject of the hearing Dr Bakalarova practised in Czech Republic as a Radiologist from 1989 until 2017. In 2007 Dr Bakalarova started working two weeks per month as a locum in Ireland, and in June 2016 she began undertaking locum work in England with the intention of working in the field of Breast Radiology. At the time of the events, Dr Bakalarova was working as a locum Breast Radiologist at United Lincolnshire Hospitals NHS Trust ('the Trust').
2. The allegation that has led to Dr Bakalarova's hearing can be summarised as Dr Bakalarova being found at work having drunk a large amount of alcohol prior to commencing her shift. XXX.
3. The initial concerns were raised with the GMC on 18 November 2018 by the Medical Director of the Trust, with further correspondence from the Trust on 20 November 2018, following the event on 5 November 2018 (as set out in the Allegation).

The Outcome of Applications Made during the Facts Stage

4. The Tribunal granted the GMC's application, made pursuant to Rule 41(2) of the General Medical Council (Fitness to Practise Rules) 2004 as amended ('the Rules'), that proceedings be held partly in private, namely when hearing matters relating to XXX. This application was not opposed by Dr Bakalarova.

The Allegation and the Doctor's Response

5. The Allegation made against Dr Bakalarova is as follows:

That being registered under the Medical Act 1983 (as amended):

1. On 5 November 2018 you attended work at United Lincolnshire Hospitals NHS Trust whilst under the influence of alcohol.
To be determined
2. XXX
3. XXX

And that by reason of the matters set out above your fitness to practise is impaired because of your:

- a. misconduct in respect of paragraph 1;
To be determined
- b. XXX.

Evidence

6. The Tribunal received evidence on behalf of the GMC from the following witness:

- Mr D, Radiology Operational Manager at United Lincolnshire Hospitals NHS Trust, by video link;

7. The Tribunal also received evidence on behalf of the GMC in the form of witness statements from the following witnesses who were not called to give oral evidence:

- Mr C, General Manager, Clinical Lead and Professional Lead for Diagnostics at United Lincolnshire Hospitals Trust, by video link, and;
- Mr E, Consultant Mammographer at United Lincolnshire Hospitals Trust, by video link.

8. Dr Bakalarova provided her own witness statement, dated 29 October 2020.

9. XXX

XXX

XXX

Documentary Evidence

XXX

The Tribunal's Approach

10. In reaching its decision on facts, the Tribunal has borne in mind that the burden of proof rests on the GMC and it is for the GMC to prove the Allegation. Dr Bakalarova does not need to prove anything. The standard of proof is that applicable to civil proceedings, namely the balance of probabilities, i.e. whether it is more likely than not that the events occurred.
11. The Tribunal must consider all the evidence put before it when reaching its determination on the facts of the case. XXX.

The Tribunal's Analysis of the Evidence and Findings

12. The Tribunal has considered each outstanding paragraph of the Allegation separately and has evaluated the evidence in order to make its findings on the facts.

Paragraph 1

13. In reaching its determination on this paragraph of the Allegation, the Tribunal considered the witness evidence of Mr D and the written witness statements of Mr C and Mr E
14. In his oral evidence to the Tribunal, Mr D confirmed his written statement relating to the events of 5 November 2018. In his account of events Mr D stated that he arrived at the Accident & Emergency department ('A&E') where Dr Bakalarova had been taken by Ms E and met with her and Mr C, who were both present, at approximately 13:00. Mr D's written account stated:

"In my view it was clear that Dr Bakalarova was under the influence at this point. I can't remember the exact figure of the blood alcohol level, but I know it was very significant, maybe 10 or 11 times the legal limit. She was slurring some words quite badly, she had poor balance and she kept repeating things."

15. On her release from A&E, Mr D then escorted Dr Bakalarova to the on-site doctors' residence, stating:

“She had no idea where she was, and she kept asking where she was and what had happened. She asked why we were doing this and asking what would happen to her. She did try to mitigate and explain that she hadn’t done any reporting or any procedures. She wasn’t in a lucid state and she was explaining that XXX and that’s why she had been drinking.”

16. Mr D’s written account goes on to state:

“At about 18:00 Dr Bakalarova began to become a bit more lucid and I think it dawned on her what had happened. ...She admitted she had drunk a whole bottle of vodka before work. She said she’d had a drink on the plane, a drink at the hotel when she arrived and then drank the bottle of vodka on the train.”

17. In his witness statement, dated 23 December 2019, Mr C stated that:

“On 5 November 2018, I received a call from [Ms F] who is a consultant in A and E, to ask me if I could remove one of my doctors from her department as the doctor was inebriated. I can’t really remember the conversation, I don’t think she was annoyed, I just think she didn’t know what to do with Dr Bakalarova. [Mr D] was off site at the time and that’s why the phone call came to me. I went down to see if [Mr D] was back in his office yet. I contacted [Mr D] to let him know what had happened, although I think he was already aware of the situation. I then went down to A and E. Dr Bakalarova was in resus sat up in a chair when I first saw her. This was around midday.”

18. Mr C’s statement goes on to say that:

“Dr Bakalarova was quite hysterical at this point and she did not know what was happening. She didn’t understand why the doctors were doing what they were doing, and she didn’t seem aware of the situation. I was with her for quite a while, she wasn’t aggressive. I was trying to reassure her. [Mr D] met me in A and E. We had to move her out of the department, but this was quite difficult, and she was quite insulting.”

19. The witness statement of Ms E describes the events of 5 November 2018 as follows:

“On 5th November 2018 Dr Bakalarova was expected at work (Lincoln Breast Unit) at 8.30 but was late. ...At approximately 09:45 I was preparing to scan a patient. As I entered the ultrasound room I saw Dr Bakalarova walk around the corner towards the reading room. It was clear she had just arrived as she had on her coat and a large bag. Whilst I was

scanning the patient I became aware of some commotion elsewhere in the department. ...Upon completing the ultrasound examination I left the scanning room and became aware that there was a staff member in difficulty in the reading room. I was informed by one of the nursing team that Dr Bakalarova had been found 'slumped' at her desk. ...the medical emergency/crash team had arrived and were trying to assist Dr Bakalarova onto a trolley. She was conscious and sitting on the trolley and talking – but not in English. She was calling my name so I went to her. Again she was talking at me but not in a language I understand. She reached forward and grabbed me towards her. It was at this point I noticed she smelled strongly of alcohol. ...The crash team were taking her to AE [sic] and she was screaming and wailing. She refused to let go of my arm and when I tried to remove myself from her grip she tried to get off of the trolley. It was decided I would attend AE with her, as it seemed to calm her somewhat to have me near. On the journey to AE Dr Bakalarova became extremely agitated. She repeatedly tried to get off the trolley. ...On the journey to A&E her bag was on the trolley. One of the crash team pointed out a large empty glass bottle in the bag and indicated that he thought she was under the influence of alcohol. When in AE she carried on in this agitated and aggressive manner, occasionally she would fall asleep and then awake very confused and agitated again. ...After sitting with her for approximately 2-3 hours I was called back to the unit to finish my clinic."

20. The Tribunal was of the opinion that all three factual witnesses were reliable and consistent in their accounts of events. All three describe Dr Bakalarova as being extremely intoxicated and that she had consumed alcohol prior to arriving late for her shift, and the written account of Mr D describes how Dr Bakalarova acknowledged that she had been drinking heavily prior to the events.

21. XXX.

22. Dr Bakalarova's evidence to the Tribunal was that she had no recollection of the events of 5 November 2018, although she accepted that she had consumed a significant amount of alcohol and did not seek to challenge the witness evidence of Mr D, Mr C or Ms E on these matters, XXX.

23. Accordingly, the Tribunal found this paragraph of the Allegation proved.

XXX

24. XXX

25. XXX

26. XXX

XXX

27. XXX

28. XXX

29. XXX

The Tribunal's Overall Determination on the Facts

30. The Tribunal has determined the facts as follows:

That being registered under the Medical Act 1983 (as amended):

1. On 5 November 2018 you attended work at United Lincolnshire Hospitals NHS Trust whilst under the influence of alcohol.
Determined and found proved
2. XXX
3. XXX

And that by reason of the matters set out above your fitness to practise is impaired because of your:

- a. misconduct in respect of paragraph 1;
To be determined
- b. XXX

Determination on Impairment - 19/11/2020

1. The Tribunal now has to decide in accordance with Rule 17(2)(l) of the Rules whether, on the basis of the facts which it has found proved as set out before, Dr Bakalarova's fitness to practise is impaired by reason of misconduct XXX.

The Evidence

2. The Tribunal has taken into account all the evidence received during the facts stage of the hearing, both oral and documentary. In addition, the Tribunal received further evidence as follows.
3. Dr Bakalarova gave oral evidence at this stage of the hearing.
4. The Tribunal also received in support of Dr Bakalarova two testimonials from colleagues/employers, all of which it has read.
5. The Tribunal also received the following documentary evidence:
 - Email from Dr Bakalarova to the Tribunal, dated 16 November 2020, containing correspondence from XXX, and;
 - Email statement from Dr Bakalarova to the Tribunal, dated 17 November 2020.

Submissions

6. On behalf of the GMC, Mr Kitching submitted that all three limbs of the overarching objective are engaged in this case, and that Dr Bakalarova's fitness to practise is impaired by reason of misconduct XXX.
7. Mr Kitching submitted that in respect of the allegation of misconduct, Dr Bakalarova's actions in turning up for her shift late after drinking heavily should be considered as misconduct which was serious. Whether or not Dr Bakalarova intended to work her shift, she arrived late for a scheduled shift five times over the drink drive limit and required emergency medical assistance. The impact on her colleagues and patients was not lessened by her intentions in this regard.
8. Mr Kitching submitted that whilst this was an isolated incident which occurred two years ago, the seriousness of the incident requires a finding of current impairment. The Accident & Emergency team who had to respond to events and treat Dr Bakalarova were taken away from more important duties, as were Dr Bakalarova's colleagues, and some of the patients present at the department where Dr Bakalarova worked would have witnessed the incident.

9. Mr Kitching submitted that Dr Bakalarova's responses during her oral evidence, where she was unable to identify the impact of her actions on public trust and the wider profession, demonstrate that she still lacks insight into these events.
10. XXX
11. XXX
12. Dr Bakalarova submitted that she does not agree with Mr Kitching that her fitness to practise is impaired as the events represent a one-off incident which occurred some time ago.
13. Dr Bakalarova submitted that whilst she regrets her actions, is ashamed of the incident and is sorry for the impact on her colleagues, her behaviour at the time does not mean that her ability to safely practise today is impaired and she remains a competent and committed doctor.
14. Dr Bakalarova submitted that her issues with alcohol were specifically related to XXX shortly before the events of the 5th November 2018. As such, her fitness to practise is not impaired XXX as she understands the situation and does not pose a risk of repetition.

The Relevant Legal Principles

15. The Tribunal reminded itself that at this stage of proceedings, there is no burden or standard of proof and the decision of impairment is a matter for the Tribunal's judgement alone.
16. In approaching the decision, the Tribunal was mindful of the two stage process to be adopted: first whether the facts as found proved amounted to misconduct and that the misconduct was serious and then whether the finding of that misconduct which was serious could lead to a finding of impairment.
17. The Tribunal must determine whether Dr Bakalarova's fitness to practise is impaired today, taking into account Dr Bakalarova's 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

Misconduct

18. In reaching its determination on whether Dr Bakalarova's actions amounted to misconduct, the Tribunal first considered the proven facts in this case. The accounts of the factual witnesses Mr D, Mr C and Ms E make it clear that Dr Bakalarova arrived at the hospital where she was working, after the start time for her shift, heavily intoxicated and was subsequently found slumped at her desk. As a result of this she required emergency medical treatment and was taken by paramedics to Accident & Emergency. XXX.
19. While Dr Bakalarova has no recollection of these events owing to her heavily intoxicated state, she did not seek to challenge this account of events and accepted the account provided by her colleagues.
20. In her evidence to the Tribunal, Dr Bakalarova stated that she did not go to her place of work intending to work her scheduled shift, but had gone there as she was in distress, in an unfamiliar country, and thought she would be able to access some support or assistance and that it was a safe place. While the Tribunal accepted that Dr Bakalarova may have not intended to work, she was nonetheless scheduled to work that shift and had turned up late and extremely drunk.
21. The Tribunal concluded that whilst it may not have been Dr Bakalarova's intention to work, undertake clinical duties or treat patients that day, attending her place of work while extremely intoxicated after drinking heavily amounted to misconduct. In any circumstance Dr Bakalarova was not in an appropriate state to fulfil her scheduled obligations due to her own actions.
22. The Tribunal was of the opinion that fellow practitioners would undoubtedly find Dr Bakalarova's actions deplorable, and that that her actions amounted to misconduct which was serious.
23. The Tribunal therefore concluded that Dr Bakalarova's conduct fell so far short of the standards of conduct reasonably to be expected of a doctor as to amount to misconduct.

Impairment

24. The Tribunal, having determined that the facts admitted and found proved in respect of the misconduct amounted to misconduct which was serious, went on to consider whether Dr Bakalarova's fitness to practise is currently impaired by reason of that misconduct. XXX.

Impairment and Misconduct

25. The Tribunal was of the opinion that Dr Bakalarova's actions put patients at unwarranted risk of harm, and although she states that she had not intended to work there was the potential for harm had she been capable of doing so. There would also have been an expectation by her colleagues that she was working and available for clinical duties.

26. The Tribunal determined that in turning up at her place of work so intoxicated that she required medical treatment, Dr Bakalarova's actions breached a fundamental tenet of the profession and brought the profession into disrepute.

27. Given that the incident was a one-off event which occurred in 2018 and there has been no repetition since, the Tribunal determined that a finding of impairment was not necessary solely to maintain public confidence in the profession.

28. The Tribunal went on to consider Dr Bakalarova's insight into the events of 5 November 2018. While she has repeatedly expressed her shame and remorse for her actions and apologised to her colleagues, the Tribunal was of the view that Dr Bakalarova had not yet taken on board the gravity of her actions and the wider impact. In her evidence, Dr Bakalarova repeatedly referred to the events as an "accident", even when questioned on this specific wording, and stated that the events "happened to me".

29. The Tribunal was of the view that these statements and the wording used partially undermined Dr Bakalarova's assurances that she had reflected on the impact of her actions and indicated that she had not accepted full responsibility. Further, when questioned on the matter, Dr Bakalarova was unable to identify the impact beyond her own embarrassment and the impact on her immediate colleagues. Even when prompted on the impact to public confidence and standards in the profession, Dr Bakalarova did not adequately describe how she understood the seriousness of her actions in this regard or demonstrate that she had truly reflected on these events.

30. The Tribunal also noted that whilst Dr Bakalarova insisted that she had not intended to work but had gone to the hospital as a safe setting where she could find support, this assertion was not mentioned in any of her accounts prior to her oral evidence to the Tribunal. Even were this the case, it would not excuse or justify Dr Bakalarova’s actions or mitigate the impact of her behaviour.
31. The Tribunal concluded that Dr Bakalarova has demonstrated limited insight into her misconduct, has still not accepted full responsibility for her actions, understood the severity of her behaviour, or adequately reflected on the wider impact. Accordingly, the Tribunal determined that Dr Bakalarova’s fitness to practise remains impaired by reason of this misconduct.

XXX

32. XXX

33. XXX

34. XXX

35. XXX

36. XXX

37. XXX

38. XXX.

39. XXX

40. XXX

41. XXX

42. XXX

43. XXX

44. XXX

Determination on Sanction - 20/11/2020

1. Having determined that Dr Bakalarova’s fitness to practise is impaired by reason of misconduct XXX, the Tribunal now has to decide in accordance with Rule 17(2)(n) of the Rules on the appropriate sanction, if any, to impose.

The Evidence

2. The Tribunal has taken into account evidence received during the earlier stages of the hearing where relevant to reaching a decision on sanction.
3. The Tribunal received further evidence on behalf of Dr Bakalarova in the form of a written statement, dated 19 November 2020.

Submissions

4. XXX
5. XXX
6. Mr Kitching submitted that the GMC’s position in respect of Dr Bakalarova’s impairment owing to her misconduct is that a period of suspension is also the appropriate sanction in this case and would mark the seriousness of that misconduct and the limited insight demonstrated by Dr Bakalarova.
7. Mr Kitching went on to submit that the aggravating factors present in this case, when considered in light of the GMC Sanctions Guidance 2019 (‘Sanctions Guidance’), indicate that a period of suspension is both appropriate and proportionate. Dr Bakalarova attending her place of work whilst drunk could have had grave implications for patient safety, had an emotional impact on those colleagues and patients who witnessed the events, unnecessarily used the time and resources of other medical staff and took them away from other clinical duties, and served to undermine standards in the profession. When considered in conjunction with the lack of insight into these wider impacts and her behaviours, a period of suspension is warranted in this case as conditions would not be appropriate or proportionate.

8. Dr Bakalarova submitted that it is absolutely wrong to suggest that she lacks insight into these matters as she has felt extremely guilty and sad every day since these events occurred and has clearly expressed this regret to the Tribunal.
9. Dr Bakalarova submitted that the specific cause for her alcohol misuse was her mental state at the time owing to XXX, and that if it had not been for those losses and the resultant mental state, the events on 5 November 2018 never would have happened. She added that this was the only incident of misconduct in her 30-year career.
10. Dr Bakalarova submitted that it is not healthy for her to dwell on the events of two years ago but that it is more important that she focus on her current mental wellbeing and that “it is necessary to try to go on and fight with every day troubles XXX”, adding that because of these proceedings she is mentally back where she was four years ago and has “to start again”.
11. Dr Bakalarova submitted that she has adequately undertaken remediation through a combination of professional and personal support, XXX.
12. Dr Bakalarova submitted that imposing conditions on her license would be like a punishment and that she would not be able to get a job in the UK with restrictions, but that if the Tribunal did not change its position on her fitness to practise XXX.

The Tribunal’s Determination on Sanction

13. The decision as to the appropriate sanction to impose, if any, is a matter for the Tribunal exercising its own judgement. In reaching its decision, the Tribunal has taken into account the Sanctions Guidance and the statutory overarching objective.
14. The Tribunal bore in mind that the main reason for imposing sanctions is to protect the public and that sanctions are not imposed to punish or discipline doctors, though they may have a punitive effect. The Tribunal has taken a proportionate approach, balancing Dr Bakalarova’s interests with the public interest, but bore in mind that the reputation of the profession as a whole is more important than the interests of any individual doctor.
15. The Tribunal has already set out its decisions on the facts and impairment and it took those determinations into account during its deliberations on sanction. It first considered

the aggravating and mitigating factors in this case and then moved on to consider the appropriate sanction, starting with whether to take no further action.

Aggravating & Mitigating Factors

16. At the outset of its deliberations, the Tribunal considered whether there were any aggravating and mitigating factors in this case.

Aggravating Factors

17. The Tribunal identified the following aggravating factors in this case.

- Dr Bakalarova attended work under the influence of alcohol and put patients at potential risk of harm;
- The detrimental emotional impact to medical staff caused by Dr Bakalarova's actions;
- Dr Bakalarova took clinical colleagues away from other duties;
- The impact to patients who witnessed the events of 5 November 2020, and;
- Dr Bakalarova's behaviour undermined public confidence in the profession.

Mitigating Factors

18. The Tribunal identified the following mitigating factors in this case.

- The event on 5 November 2018 was a one-off incident and no other breaches of Good medical practice (2013) ('GMP') have been put before the Tribunal;
- Dr Bakalarova has expressed her regret and apologies for what occurred;
- Dr Bakalarova has some, albeit limited, insight into these events, and;
- Dr Bakalarova was under psychological stress and in a panic-stricken state owing to significant psychological stressors XXX triggered by life events leading up to 5 November 2018.

No action

19. The Tribunal determined that there were no exceptional circumstances present in this case which would justify taking no action, particularly given that Dr Bakalarova's fitness to practise has been found impaired XXX misconduct.

Conditions

20. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Bakalarova's registration. It has borne in mind that any conditions must be appropriate, proportionate, workable and measurable. It has considered the GMC's submission that conditions are not appropriate.
21. The Tribunal was of the opinion that a period of conditions would not be sufficient to mark the seriousness of the misconduct found in this case. While Dr Bakalarova stated in her evidence that she had not intended to work, going into her place of work so heavily intoxicated meant that Dr Bakalarova would not have been in control of her actions or what happened once she arrived, although fortunately in this case it did not result in any harm to patients. Nonetheless, such behaviour would still be considered serious misconduct by an informed member of the public, and deplorable by fellow practitioners.
22. The Tribunal had regard to the circumstances where conditions may be appropriate XXX and where the doctor has insight.
23. In considering whether conditions would be appropriate in this case, the Tribunal had regard to paragraph 82 of the Sanctions Guidance, which states:
- 82 *Conditions are likely to be workable where:*
- a the doctor has insight*
 - b a period of retraining and/or supervision is likely to be the most appropriate way of addressing any findings*
 - c the tribunal is satisfied the doctor will comply with them*
 - d the doctor has the potential to respond positively to remediation, or retraining, or to their work being supervised.*
24. XXX.
25. XXX.
26. The Tribunal went on to consider whether conditions would be workable in light of the circumstances of this case. Any such conditions would be predicated on XXX and would require that she engage with appropriate XXX. Given Dr Bakalarova's insistence that she has full insight, XXX, the Tribunal concluded that Dr Bakalarova is not currently in a position where she would be able to fulfil the requirements of appropriate conditions should they be imposed.

27. XXX

28. XXX

29. XXX

30. The submissions of Dr Bakalarova indicate that she remains unwilling to acknowledge her lack of insight and does not grasp the need to understand the practical implications and impact of her actions, and how they relate to the need to uphold GMP and the overarching objective. The Tribunal accepted that she regrets her actions and feels remorse, but this emotional acknowledgement of events is not the same as demonstrating that she fully understands the potential implications of her actions and the impact on the wider profession and public perception.

31. Therefore, the Tribunal was of the opinion that conditions would not be appropriate, proportionate or satisfy the overarching objective.

Suspension

32. The Tribunal then went on to consider whether a period of suspension would be the appropriate and proportionate sanction under the circumstances.

33. The Tribunal determined that Dr Bakalarova's misconduct was not so serious that her actions would be considered fundamentally incompatible with continued registration, and that a short period of suspension would be proportionate and sufficient to mark the seriousness of her actions.

34. A period of suspension would send a message that such behaviour is not acceptable and serve to uphold proper standards in the profession and maintain public confidence.

35. In reaching this decision, the Tribunal was mindful of paragraphs 91 and 92 of the Sanctions Guidance, which state:

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).*

36. XXX

37. The Tribunal therefore determined that a period of suspension would be the appropriate and proportionate sanction XXX, and would allow Dr Bakalarova the opportunity to develop further insight and demonstrate the necessary remediation XXX.

Duration of Suspension

38. Having determined that a period of suspension is the appropriate and proportionate sanction in the circumstances of this case, the Tribunal went on to consider the appropriate period of suspension.
39. The Tribunal determined that a shorter period of suspension would be sufficient to mark the misconduct in this case, but a longer duration would be necessary XXX.
40. The Tribunal determined that a period of nine months would be sufficient time for Dr Bakalarova to take the necessary steps to address the concerns raised by this Tribunal.

Directing a Review

41. In light of XXX, the Tribunal determined to direct a review of her case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. The Tribunal wishes to clarify that at the review hearing, the onus will be on Dr Bakalarova to demonstrate how she has developed the necessary insight XXX. It therefore may assist the reviewing Tribunal to receive:

- A detailed reflective statement using a recognised methodology;

- XXX;
- XXX;
- References from colleagues/employers in the Czech Republic and Ireland;
- A letter of support from current supervisor/supervising consultant setting out their view on Dr Bakalarova's fitness to practise in light of the matters before this Tribunal, including history of employment in role;
- Up to date CV, and;
- Any other information which Dr Bakalarova considers may assist the reviewing Tribunal including testimonials.

Determination on Immediate Order - 20/11/2020

1. Having determined to suspend Dr Bakalarova's registration for a period of nine months, the Tribunal has considered, in accordance with Rule 17(2)(o) of the Rules, whether Dr Bakalarova's registration should be subject to an immediate order.

Submissions

2. On behalf of the GMC, Mr Kitching submitted that is necessary to impose an immediate order of suspension in this case. He submitted that this is not due to the Tribunal's findings in respect of misconduct, but because of XXX.
3. Mr Kitching submitted that XXX.
4. Dr Bakalarova made no submissions on an immediate order, or in respect of Mr Kitching's submissions.

The Tribunal's Determination

5. In reaching its decision the Tribunal referred to the relevant paragraphs of the Sanctions Guidance. It exercised its own judgement and had regard to the principle of proportionality. The Tribunal has borne in mind that it may impose an immediate order where it is satisfied that it is necessary for the protection of members of the public, is in the public interest, or is in the best interests of the practitioner. It also took into account the submissions made by both Mr Kitching and Dr Bakalarova.

6. The Tribunal had regard to the following paragraph of the Sanctions Guidance:

172 The tribunal may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the doctor. The interests of the doctor include avoiding putting them in a position where they may come under pressure from patients, and/or may repeat the misconduct, particularly where this may also put them at risk of committing a criminal offence. Tribunals should balance these factors against other interests of the doctor, which may be to return to work pending the appeal, and against the wider public interest, which may require an immediate order.

7. XXX.

8. The Tribunal therefore determined to impose an immediate order of suspension on Dr Bakalarova's registration.

9. This means that Dr Bakalarova's registration will be subject to an immediate order of suspension from today. The substantive direction, as already announced, will take effect 28 days from when written notice of this determination has been served upon Dr Bakalarova, unless an appeal is made in the interim. If an appeal is made, the immediate order will remain in force until the appeal has concluded.

10. The interim order of suspension currently imposed on Dr Bakalarova's registration is revoked with immediate effect.

11. That concludes this case.

Confirmed

Date 20 November 2020

Mr Neil Mercer, Chair