

PUBLIC RECORD

Dates: 09/11/2022

Medical Practitioner's name: Dr Stefania Costa Zaccarelli
GMC reference number: 4296920
Primary medical qualification: State Exam 1992 Universita degli Studi di Modena e Reggio Emilia

Type of case **Outcome on impairment**
Review - Deficient professional performance Impaired

Summary of outcome
Erasure

Immediate order imposed

Tribunal:

Lay Tribunal Member (Chair)	Mr Ian Comfort
Lay Tribunal Member:	Ms Jacqueline Telfer
Medical Tribunal Member:	Dr Gabrielle Downey
Tribunal Clerk:	Mr Rowan Barrett

Attendance and Representation:

Medical Practitioner:	Present and not represented
GMC Representative:	Ms Niamh Ingham

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 - 09/11/2022

Background

1. Dr Costa Zaccarelli was assessed as a Consultant Community Paediatrician. She qualified in 1992 with a Degree in Medicine and Surgery from the University of Modena in Italy. Dr Costa Zaccarelli gained a CCST in General Paediatrics in 1992 at the University of Modena and gained entry onto the GMC specialists register (paediatrics) in 2004. She subsequently worked in a series of Staff Grade roles in Community Paediatrics before being employed as a Consultant in Community Paediatrics in 2010. In March 2017 Dr Costa Zaccarelli underwent a GMC Performance Assessment following concerns raised about her clinical practice.

2. Dr Costa Zaccarelli attended a Medical Practitioner’s Tribunal which concluded on 28 February 2018 (‘the February 2018 Tribunal’), and faced the following allegations:
 - ‘1. Between 8 and 10 March 2017 you underwent a General Medical Council assessment of the standard of your professional performance.
Admitted and found proved

 2. Your professional performance was unacceptable in the following areas:
 - a. Maintaining Professional Performance;
Admitted and found proved

 - b. Assessment.
Admitted and found proved

 - c. Clinical Management.
Admitted and found proved

d. Relationship with Patients.’

Admitted and found proved

3. The February 2018 Tribunal found the allegations proved, finding that the assessment had been carried out fairly and that the decisions of the assessors were correct at the time. The February 2018 Tribunal went on to determine that the findings of the assessors constituted deficient professional performance and that Dr Costa Zaccarelli’s practice was impaired by reason of deficient professional performance. The February 2018 Tribunal noted that Dr Costa Zaccarelli had not yet remedied the concerns in the assessment and it determined that the imposition of conditions for 36 months on Dr Costa Zaccarelli’s practice was a proportionate sanction. It determined that this sanction was necessary to protect patients but would also afford Dr Costa Zaccarelli the opportunity to gain insight, find employment, work through her personal development plan with supervision and support, build her knowledge and skills to address her deficiencies, and undertake a Performance Assessment before a review hearing is held.

4. The February 2018 Tribunal also suggested that a reviewing Tribunal would be assisted if Dr Costa Zaccarelli provided:

- A reflective statement which demonstrates she has developed full insight into her deficient professional performance;
- Report(s) from her Educational Supervisor;
- Report(s) from her Clinical Supervisor/Workplace Reporter;
- Performance Assessment Report;
- Evidence of Continuing Professional Development;
- Any other information that she considers will assist the review Tribunal.

March 2021 Review Hearing

5. On 4 March 2021 a Tribunal (‘the March 2021 Tribunal’) reviewed Dr Costa Zaccarelli’s case and concluded that the doctor had not yet remedied the concerns in the assessment of her performance.

6. The March 2021 Tribunal considered that it had not received objective evidence in which Dr Costa Zaccarelli could demonstrate any Continuing Professional Development (‘CPD’) she had undertaken. Dr Costa Zaccarelli accepted her lack of commitment towards keeping her skills and knowledge up to date and highlighted her personal difficulties over the 3 years. As such, the March 2021 Tribunal was concerned that she had not maintained her

medical skills or knowledge and was of the view that she had shown a lack of effort and commitment.

7. The March 2021 Tribunal considered that there was little evidence in relation to her insight or remediation nor how she had kept her skills and knowledge up to date during her period of conditions. It had sight of Dr Costa Zaccarelli's reflective statement, which demonstrated some insight into her clinical deficiencies. Furthermore, it concluded that from the outset of this hearing Dr Costa Zaccarelli had accepted that her fitness to practise is impaired but found that the overall evidence of insight was insufficient.

8. The March 2021 Tribunal considered that whilst Dr Costa Zaccarelli had blamed the fact that she could not secure work on the conditions imposed, it considered that there had been insufficient structured reflection on the deficiencies previously identified and that she had failed to demonstrate that she was fit to practise.

9. It determined that whilst Dr Costa Zaccarelli had some insight, it remained limited and determined that Dr Costa Zaccarelli's fitness to practise is impaired by reason of deficient professional performance.

10. The March 2021 Tribunal determined to impose a further order of conditions on Dr Costa Zaccarelli's registration for a period of 18 months.

11. The March 2021 Tribunal suggested that a reviewing Tribunal would be assisted if Dr Costa Zaccarelli provided:

- A reflective statement which demonstrates she has developed full insight into her deficient professional performance;
- Report(s) from any of her Supervisors;
- Performance Assessment Report;
- Evidence of Continuing Professional Development;
- Up to date Appraisal report; and
- Any other information that she considers will assist the review Tribunal.

12. The March 2021 Tribunal also suggest that Dr Costa Zaccarelli take active steps to apply to both clinical and non-clinical attachments within hospitals and may wish to apply for roles in a lower grade, so as to build her clinical knowledge and skills.

August 2022 Adjournment

13. A Tribunal convened on 30 August 2022 to consider Dr Costa Zaccarelli's case, however, that Tribunal concluded that it would not be appropriate to proceed in Dr Costa Zaccarelli's absence, as the date of the hearing had been changed by the MPTS and Dr Costa Zaccarelli had made clear that she could not attend a hearing on the new date as she would be travelling to the UK. It determined to adjourn the case in order to allow Dr Costa Zaccarelli the opportunity to be present. The August 2022 Tribunal also determined to extend the current order of conditions on Dr Costa Zaccarelli's registration for a period of two months, in order that the conditions did not lapse whilst the review hearing was relisted.

Today's Review Hearing

14. This is the second review of Dr Costa Zaccarelli's fitness to practise following the imposition of conditions on her registration.

The Evidence

15. The Tribunal has taken into account all of the evidence received.

16. The Tribunal received an agreed hearing bundle from the GMC, which included correspondence between the GMC and Dr Costa Zaccarelli and between Dr Costa Zaccarelli and two recruitment agencies.

Submissions

17. On behalf of the GMC, Ms Ingham submitted that Dr Costa Zaccarelli's fitness to practise remains impaired by reason of her deficient professional performance. She told the Tribunal that Dr Costa Zaccarelli had not worked as a doctor since 2016 and relinquished her licence to practice in 2017. Ms Ingham submitted that it is highly likely that Dr Costa Zaccarelli's competence had diminished since the last hearing. Ms Ingham submitted that Dr Costa Zaccarelli could have provided evidence of CPD or a Personal Development Plan ('PDP') and had not done so. Ms Ingham noted that the persuasive burden was on a doctor to satisfy the Tribunal that their fitness to practise was no longer impaired. Ms Ingham submitted that Dr Costa Zaccarelli has not done so, and therefore submitted that her fitness to practise remains impaired.

18. Dr Costa Zaccarelli conceded that there had been no change since the last review hearing. Dr Costa Zaccarelli told the Tribunal that she had tried unsuccessfully to secure a clinical work placement and that this had been a 'dead end.' In response to questions

from the Tribunal, Dr Costa Zaccarelli said that it was unlikely that she would be able to complete a PDP. She clarified that she agreed that her fitness to practise was impaired.

The Relevant Legal Principles

19. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgement alone. As noted above, the previous Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal is aware that it is for the doctor to satisfy it that she would be safe to return to unrestricted practise.
20. This Tribunal must determine whether Dr Costa Zaccarelli's fitness to practise is impaired today, taking into account her performance 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 considered the list of evidence that the March 2021 Tribunal indicated would be of assistance in reviewing Dr Costa Zaccarelli's case. The Tribunal has heard Dr Costa Zaccarelli's submissions that it was not feasible for her to secure a clinical attachment with her current conditions. The Tribunal considered that it would have been possible for her to provide some evidence without this. For example, Dr Costa Zaccarelli could have prepared a reflective statement and provided evidence of her having engaged in CPD in a self-directed way, even without a clinical attachment. The Tribunal also considered that the onus was on Dr Costa Zaccarelli to be proactive in her efforts to secure some form of clinical attachment. While Dr Costa Zaccarelli has provided some limited evidence of attempts made to find work in the period since her conditions were imposed, the Tribunal considered that the evidence suggests that Dr Costa Zaccarelli has not exhausted all efforts to secure a clinical role in which she could be appraised and which would provide a Supervisors Report. The Tribunal concluded that Dr Costa Zaccarelli had made no attempt to undertake independent CPD or reflection on the issues identified by the GMC Performance Assessment.
22. The Tribunal had regard to Dr Costa Zaccarelli's submissions, in which she conceded that there had been no change since the March 2021 review, and agreed that her fitness to practise remains impaired. The Tribunal noted that, in response to questions from the Tribunal, Dr Costa Zaccarelli agreed that it was unlikely that she would be able to

produce the evidence that had been recommended by previous Tribunals in the near future.

23. The Tribunal noted that Dr Costa Zaccarelli has not worked as a doctor since 2016 and relinquished her licence in 2017. As the Tribunal has seen no evidence that her clinical knowledge and skills have been brought up to date, it is reasonable to conclude that they are likely to have deteriorated in the period when Dr Costa Zaccarelli has not been practising. The Tribunal therefore considered that Dr Costa Zaccarelli has not taken any steps to remediate the deficiencies found in her practice. The Tribunal reminded itself of the overarching objective, namely to protect patients, uphold public confidence in the medical profession and promote and maintain standards of conduct for members of the profession. The Tribunal considered that, in order to meet the overarching objective, a finding of impairment was necessary in this case.
24. This Tribunal has therefore determined that Dr Costa Zaccarelli's fitness to practise is impaired by reason of deficient professional performance.

Determination on Sanction - 09/11/2022

1. Having determined that Dr Costa Zaccarelli's fitness to practise is impaired by reason of her deficient professional performance the Tribunal now has to decide in accordance with Rule 22(1)(h) of the Rules what action, if any, it should take with regard to Dr Costa Zaccarelli's 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 Costa Zaccarelli's registration.

Submissions

3. On behalf of the GMC, Ms Ingham submitted that the appropriate sanction in this case would be one of suspension with an immediate order of suspension. She submitted that Dr Costa Zaccarelli appeared to be either incapable or unwilling to remediate the concerns about her professional performance. Ms Ingham referred the Tribunal to paragraph 97 of the Sanctions Guidance, which she submitted applies in this case.
4. Dr Costa Zaccarelli told the Tribunal that she did not have much to say at this stage. She stated that she wished to record that the initial concerns had been raised following a whistleblowing incident, in which she had reported concerns she had about colleagues

misusing NHS funds. She stated, however, that she took responsibility for the situation she was now in. Dr Costa Zaccarelli told the Tribunal that she was not able to take steps to address the deficiencies in her practice, as she had been given no help to do so.

The Tribunal's Determination

5. The decision as to the appropriate sanction to impose, if any, in this case is a matter for this Tribunal exercising its own judgement.
6. In reaching its decision, the Tribunal has taken account of the Sanctions Guidance and of the overarching objective. It has borne in mind that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest, although it may have a punitive effect.
7. Throughout its deliberations, the Tribunal applied the principle of proportionality, balancing Dr Costa Zaccarelli's interests with the public interest.

No action

8. The Tribunal was satisfied that there were no exceptional circumstances in Dr Costa Zaccarelli's case which could justify it taking no action. It determined that, given the circumstances of this case, taking no action would be inappropriate, inadequate and would not be in the public interest.

Conditions

9. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Costa Zaccarelli's registration. It has borne in mind that any conditions imposed would need to be appropriate, proportionate, workable and measurable.
10. The Tribunal had regard to paragraph 84(a) of the Sanctions Guidance which outlines circumstances in which conditions may be appropriate. The Tribunal considered that this is not a case in which there is evidence to demonstrate that remediation is likely to be successful. Dr Costa Zaccarelli has not shown that she is committed to complying with previously imposed conditions, such as keeping her knowledge and skills up to date with CPD and improving the quality of her work and devising a Personal Development Plan. The Tribunal therefore did not consider that this was a case in which conditions would be workable or proportionate.

Suspension

11. The Tribunal next considered whether it would be appropriate to impose a period of suspension on Dr Costa Zaccarelli's registration. The Tribunal had regard to paragraph 97

of the Sanctions Guidance, which sets out situations in which suspension may be the appropriate course:

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

...

b In cases involving deficient performance where there is a risk to patient safety if the doctor's registration is not suspended and where the doctor demonstrates potential for remediation or retraining.

...

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

...

g The tribunal is satisfied the doctor has insight and does not pose a significant risk of repeating behaviour.

12. The Tribunal noted that the GMC's submission was that suspension would be the appropriate direction for this Tribunal to make. In considering the above paragraph, however, the Tribunal was not satisfied that the above factors were present in Dr Costa Zaccarelli's case. The Tribunal considered that this was a case of deficient professional performance which posed a significant risk to patient safety, however, Dr Costa Zaccarelli has had four years since the conditions were originally imposed in which to demonstrate her potential for remediation and retraining and has not done so. The Tribunal further considered that, in this case, there is evidence that demonstrates that remediation would be unlikely to be successful, because of Dr Costa Zaccarelli's unwillingness to take any proactive steps to demonstrate that she is trying to remedy the deficiencies in her practice. The Tribunal has noted her difficulty in securing clinical attachments under her conditions, however, there has been no evidence of any reflection following the finding of impaired fitness to practise or of any self-directed efforts to strengthen her practice, for example through completing CPD.

13. Further, the Tribunal is not satisfied that Dr Costa Zaccarelli has insight into the deficiencies identified in her practice by the GMC performance assessment. She has shown no sign of having reflected on the concerns about her clinical knowledge and skills which

have led to these proceedings and has not demonstrated to the Tribunal that her insight is developing.

Erasure

14. The Tribunal went on to consider whether this was a case in which erasure would be the proportionate response. The Tribunal considered paragraph 109j of the Sanctions Guidance, which states that erasure may be appropriate in situations where doctors demonstrate a ‘persistent lack of insight into the seriousness of their actions or the consequences.’

15. The Tribunal took into account its finding that Dr Costa Zaccarelli does not have insight into the failings in her practice which led to the initial finding that her fitness to practise was impaired. The Tribunal considered that, after several years of conditional registration, Dr Costa Zaccarelli’s insight had not developed to the extent that she is able to appreciate what steps she could take to address the deficiencies and remediate. The Tribunal considered that there has been no progress in Dr Costa Zaccarelli’s approach to her conditions since the last review. The Tribunal was of the view that, given this lack of insight which has persisted over several years, erasure is the appropriate and proportionate direction in Dr Costa Zaccarelli’s case.

16. The Tribunal has therefore directed that Dr Costa Zaccarelli’s name be erased from the medical register. The MPTS will send Dr Costa Zaccarelli a letter informing her of her right of appeal and when the direction and the new sanction will come into effect.

17. In accordance with paragraph 38(1) of the Medical Act, the Tribunal is satisfied that it is necessary for the protection of the public that Dr Costa Zaccarelli’s registration should be suspended during the appeal period. It has therefore imposed an immediate order of suspension for the duration of the 28 day appeal period.