

PUBLIC RECORD

Dates: 07/06/2024

Medical Practitioner's name: Dr Susan OAKLEY

GMC reference number: 4187440

Primary medical qualification: MB ChB 1995 University of Sheffield

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

Summary of outcome
Conditions revoked

Tribunal:

Legally Qualified Chair	Ms Ijeoma Omambala
Medical Tribunal Member:	Dr Mark Garfield
Medical Tribunal Member:	Dr Emily Hubbard

Tribunal Clerk:	Ms Keely Crabtree
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Attendance and Representation:

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Mr Ben Rich, Counsel, instructed by the MDU
GMC Representative:	Ms Emilie Morrison, 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 - 07/06/2024

1. At this review hearing the Tribunal now has to decide in accordance with Rule 22(1)(f) of the General Medical Council (GMC) (Fitness to Practise) Rules 2004, as amended ('the Rules') whether Dr Oakley's fitness to practise is impaired by reason of misconduct.

Background

2. Dr Oakley qualified as a doctor in 1995 and undertook various posts in emergency medicine, general medicine, and histopathology until 2006 when she commenced General Practitioner (GP) training. Dr Oakley qualified as a GP in 2009.

3. At the time of the events in question, Dr Oakley held three roles. She was working as a salaried GP at Cripps Health Centre ('the Practice'), part of the University of Nottingham Health Service, as the GP Lead for diabetes. In addition, between 2009 and 2019, Dr Oakley worked at BUPA Healthcare ('BUPA') as a self-employed GP responsible for performing health assessments. In 2015, Dr Oakley was appointed Lead Physician at BUPA and started to undertake GP consultations. Between 2016 and 2020 Dr Oakley also worked as an out of hours GP for Nottingham Emergency Medical Services ('NEMS').

The Allegations

4. The allegations that led to Dr Oakley's hearing related to concerns that she had misused the appointment and record system whilst employed at the Practice. It was also alleged that Dr Oakley had failed to disclose to NHS England that she was under investigation by the Practice for gross misconduct whilst she was undergoing an NHS England appraisal. It was alleged that whilst working for BUPA between 31 August 2018 and 6 December 2019, Dr Oakley had inappropriately inputted non-contemporaneous notes into patients' clinical records before seeing them and that she had failed to inform BUPA of her suspension and

subsequent gross misconduct dismissal until 18 April 2019. Dr Oakley had also failed to correct a statement in her BUPA appeal document which suggested that she had been exonerated by the Practice's investigation into her conduct. Finally, it was alleged that Dr Oakley had knowingly delayed in informing NEMS that she had been suspended and then dismissed from BUPA and had failed to disclose the true reason for her dismissal from the Practice.

5. A Medical Practitioners Tribunal (MPT) convened to consider Dr Oakley's case on 7 to 25 November 2022 ('the 2022 Tribunal'). Dr Oakley was present and represented.

6. Dr Oakley made a number of admissions at the 2022 Tribunal hearing.

7. The 2022 Tribunal found two allegations of dishonesty proved. The first finding was that Dr Oakley's failure to disclose to NHS England during an appraisal meeting that she was being investigated by the Practice for gross misconduct which included probity concerns, was dishonest. The second was that Dr Oakley's failure to inform NEMS of her suspension from BUPA in a timely manner was dishonest.

8. The 2022 Tribunal took into consideration that the two acts of dishonesty which it had found proved were discrete, relatively brief and had minimal consequences. The 2022 Tribunal was conscious of the context in which the dishonesty took place, namely following a flawed investigation and disciplinary process at Dr Oakley's primary workplace. Nonetheless, the 2022 Tribunal determined that Dr Oakley's actions which were found proved amounted to serious departures from fundamental tenets of the medical profession and that members of the profession would find her actions deplorable.

9. The 2022 Tribunal accepted Dr Oakley's account and the reasons she provided for not disclosing the investigation and her suspension within her appraisal form. However, the 2022 Tribunal determined that the failure to disclose the information in the face-to-face meeting - after being asked - amounted to dishonesty. The 2022 Tribunal considered this amounted to serious misconduct as it had the capacity to undermine the appraisals and revalidation process.

10. Moreover, the 2022 Tribunal concluded that Dr Oakley's dishonest failure to inform her other employers of her suspended status restricted their ability to make an informed decision as to whether it was appropriate for her to continue working without restrictions.

11. The 2022 Tribunal acknowledged that Dr Oakley had made no gain through her dishonesty, financially or otherwise, and that some of her actions were motivated by embarrassment and self-protection. However, the 2022 Tribunal did not consider this to significantly mitigate her misconduct. The 2022 Tribunal noted that there had been no suggestion of further probity or other concerns since the index events and that Dr Oakley had fully disclosed matters in three subsequent appraisals, as well as to five potential employers. The 2022 Tribunal concluded that there was a negligible risk of the misconduct being repeated.

12. The 2022 Tribunal was not satisfied that it had sufficient evidence that Dr Oakley had gained an adequate level of understanding into her actions. It considered her insight was incomplete at that time of the hearing. It had evidence of CPD courses she had attended but noted that they were not specifically targeted towards the misconduct it had identified. The 2022 Tribunal concluded that there was insufficient evidence to demonstrate that Dr Oakley had adequately remediated her behaviour.

13. The 2022 Tribunal considered that public confidence in the profession and the maintenance of professional standards would be undermined if a finding of impairment were not made. Accordingly, it determined that Dr Oakley's fitness to practise was impaired by reason of misconduct.

14. The 2022 Tribunal took account of the impact the events had had on Dr Oakley, including that she had lost three jobs she had held for a long time, including a senior role at BUPA. It also considered it significant that there had been no repetition of the serious misconduct since the index events took place.

15. The 2022 Tribunal determined to impose conditions Dr Oakley's registration for 18 months. The 2022 Tribunal considered a lengthy period of restriction would be sufficient to mark the seriousness of the misconduct and ensure a clear message was sent out of the considerable consequences of dishonesty within the profession. This period would also provide Dr Oakley with sufficient time to address the issues identified, whilst also adequately addressing the seriousness of the misconduct.

16. The 2022 Tribunal directed this review hearing, and it was suggested that this reviewing Tribunal would be assisted if Dr Oakley were to provide:

- A reflective statement;

- An up-to-date report from her mentor or supervisor;
- Evidence of targeted Continuing Professional Development ('CPD') courses that she has undertaken.

This Hearing

17. This is the first review of the order.

The Evidence

18. The Tribunal has taken into account all the documentary evidence received. It did not hear oral evidence.

Documentary Evidence

19. The Tribunal received two GMC report forms from Dr A, GP Partner Meadows Health Centre dated 7 March 2023 and 4 October 2023. Dr Oakley has been working at Meadows Health Centre for a number of years as a locum GP. Dr A became Dr Oakley's clinical supervisor in June 2020.

20. Dr A described their approach to clinical supervisions with Dr Oakley. They would go through lists of patients seen by Dr Oakley on a daily basis and select a few patients for discussion. Dr A stated that Dr Oakley received good feedback from patients and that patients liked to see her again for their follow ups. In addition, Dr Oakley was a very good team member and was liked by all clinical and non-clinical staff.

21. The Tribunal received three GMC report forms dated 22 March 2023, 28 September 2023 and 1 March 2024 from Dr B, GP Supervisor, Campus View Medical Centre. Dr B is Dr Oakley's clinical supervisor and provides day to day support via telephone, conducted structured reviews and formal supervision meetings. Dr B also provided an NHS England Clinical Supervision report dated 22 March 2023.

22. Dr Oakley provided a reflective statement dated 4 March 2024. Within her statement she provided details of Continuing Professional Development (CPD) she had undertaken and produced the relevant certificates. She detailed virtual meetings she attended and reading she has completed with accompanying reflections on what she had learned. The CPD courses attended included 'Managing Patient Complaints' dated 28 February 2023, 'Getting

Organised To Support Your Effectiveness And Wellbeing – 1720’ dated 25 January 2024, ‘Managing Your Own Well Being And Building Resilience – 1654’ dated 2 March 2023 and ‘Probity and Ethics in Practice Course’ dated 8 March 2024.

23. The Tribunal received a witness statement from Professor C, Associate Professor of Epidemiology and Public Health, latterly with Leicester Medical School until his retirement on 31 May 2020. Professor C supported Dr Oakley in understanding, developing insight into and reflecting on her actions regarding non-clinical matters of management, governance and probity.

24. The Tribunal has been provided with a number of testimonials in support of Dr Oakley. The Tribunal has also been provided with feedback in the form of thank you cards/letters from patients.

Submissions

25. On behalf of the GMC, Ms Emilie Morrison reminded the Tribunal of the background of the case and the suggestions made to Dr Oakley by the 2022 Tribunal as above.

26. Ms Morrison referred the Tribunal to Dr Oakley’s extensive reflective statement and the evidence of CPD courses that she has undertaken. She stated that Dr Oakley makes clear in her reflective statement that she apologises for her actions and accepts that they could have compromised patient safety and undermined public confidence in the profession. She also set out strategies that she now has in place to prevent recurrence.

27. Ms Morrison referred the Tribunal to the reports provided by Dr Oakley’s clinical supervisors which she described as positive. She stated that this positivity is echoed in the testimonials provided on Dr Oakley’s behalf which attest to her clinical competence, her conscientiousness and caring nature.

28. Ms Morrison referred the Tribunal to a letter from NHS England stating that the conditions they had put her under were revoked on 17 of January of this year.

29. Ms Morrison stated that there was also evidence of a number of CPD certificates for courses including probity and ethics, Good Medical Practice and Wellbeing which were all specific to the concerns raised in the 2022 Tribunal. Ms Morrison stated that Dr Oakley had remained employed as a GP throughout the period since the 2022 hearing, at a GP practice and in a Medical Centre.

30. Ms Morrison submitted that in the light of the evidence that Dr Oakley had provided to this review hearing, the GMC's position, both in relation to current impairment and in relation to sanction was neutral.

31. On behalf of Dr Oakley, Mr Ben Rich submitted that Dr Oakley was aware that the onus was on her to persuade this Tribunal that she is now fit to practice without restrictions on her registration, having been found impaired 18 months ago.

32. Mr Rich stated that the index events occurred 4-5 years ago. He submitted that there had been no further concerns raised and no issues since the events which formed the subject of the 2022 Tribunal.

33. Mr Rich submitted that Dr Oakley had been under regular supervision and referred the Tribunal to the clinical supervisor reports provided.

34. Mr Rich stated that there was a very good summary of the essence of the case in the findings of the 2022 Tribunal in paragraphs 176-179 which details the series of events and the significant effects it had on Dr Oakley at the time. Mr Rich stated that it was noted at the time that Dr Oakley was a successful and highly competent GP who had behaved dishonestly regarding administrative matters, consequently losing three jobs and who then had been required to rebuild her career. Mr Rich submitted that she had successfully started to rebuild her career.

35. Mr Rich submitted that the 2022 Tribunal had concluded that the workplace investigation which led to her dismissal was poorly pursued and was significantly unfair. Mr Rich submitted that this explained why the 2022 Tribunal described Dr Oakley's dishonesty as relating to administrative matters rather than having any impact on patient safety.

36. Mr Rich referred the Tribunal to Dr Oakley's reflective statement. He stated that this deals very directly with the issues involved. He highlighted the separate sections on appraisals, employers and standards generally. He stated that Dr Oakley had done a considerable amount of work alongside practicing under supervision. She had achieved good results and received very positive responses from her supervisors. She had also worked on herself as well.

37. Mr Rich noted that Dr Oakley had undertaken a series of sessions with Professor C, which were specifically directed to making sure that she does not get herself in to the same position she got herself in during the unfortunate period when she was accused of manipulating the practice's appointment system. Mr Rich emphasised that he was not minimising Dr Oakley's actions as there was a requirement for honesty at all times.

38. Mr Rich referred the Tribunal to the NHSE report of Dr B dated 22 March 2023. He submitted that this was a helpful indication that Dr Oakley had successfully remediated her misconduct and was no longer at risk of repeating her dishonest behaviour. Mr Rich also referred the Tribunal to the CPD courses Dr Oakley had undertaken and the testimonials provided.

39. Mr Rich stated that this process had been a lengthy and difficult process for Dr Oakley. He stated that the 2022 Tribunal felt that a period of reflection and supervision under conditions was what was required to restore the confidence of the public in Dr Oakley as a clinician, to assert the standards of the profession and to maintain public confidence in the profession. Mr Rich submitted that this had been achieved by Dr Oakley and that the Tribunal could bring the period of conditions to an end at any point from now on.

The Relevant Legal Principles

40. The Tribunal reminded itself that the decision on impairment is a matter for the Tribunal's judgement alone. This Tribunal is aware that it is for the doctor to satisfy it that she would be safe to return to unrestricted practise.

41. This Tribunal must determine whether Dr Oakley's fitness to practise is impaired today, taking into account Dr Oakley's conduct at the time of the events and to any relevant factors since then. It must consider whether her misconduct is remediable, has been remedied and the likelihood of repetition.

The Tribunal's Determination on Impairment

42. The Tribunal had regard to the findings of the 2022 Tribunal, including the further evidence that it thought might be of assistance for Dr Oakley to provide. It also had regard to

the conclusions of the 2022 Tribunal in respect of the level of insight and remediation that Dr Oakley had shown at that point.

43. The Tribunal considered the points highlighted by Mr Rich in his submissions. The Tribunal had regard to Dr Oakley's CPD and the accompanying supporting material, together with the testimonials submitted. The Tribunal was satisfied that there has been a period of considerable personal reflection by Dr Oakley. It accepted the evidence of the learning undertaken by her, and the evidence submitted to show how she has conducted herself in a medical setting since the 2022 Tribunal hearing.

44. The Tribunal was able to see the continued development of insight that has taken place since the last hearing demonstrated in Dr Oakley's reflective statement and its associated documentation. The Tribunal considered that her insight and remediation of matters is reflected by her identification and completion of appropriate training courses and by her expressions of regret and remorse.

45. The Tribunal consider that Dr Oakley has demonstrated that she has obtained a greater understanding of the findings of the 2022 Tribunal, has learnt from her experiences and devised appropriate strategies to assist and support her when she encounters difficulties in the future.

46. The Tribunal had regard to the reports from Dr Oakley's clinical supervisors which state that she has been compliant with her conditions and there have been no concerns raised about probity or any additional concerns. The reports also demonstrate Dr Oakley's positive engagement with her supervisors and her positive working relationships.

47. The Tribunal noted the decision of the NHSE Outcome of Performers List Decision Panel which was assured that Dr Oakley had remediated, removed the NHSE conditions and closed the case.

48. The Tribunal also noted Professor C's witness statement as follows:

'4.4. I asked Dr Oakley what she would like to gain from her interactions with me and she requested that I help her understand:

a) herself better

b) the non-clinical issues of management, governance and probity

c) how to engage with the non-clinical aspects of working as a doctor.

4.5. For a), I helped Dr Oakley realise that her strategies when faced with conflict, whether they are interpersonal, organisational or with respect to demands on her time, are limited to the low Assertiveness strategies of Accommodating and Avoiding without engaging in the issues causing conflict for her.

4.6. For b), I helped Dr Oakley reflect on the practical, as opposed to just the theoretical, aspects and implications for her clinical practice of the following frameworks, constructs, concepts and abstractions:

i) Clinical Governance 7 pillars of:

- Evidence, Audit, Risk*
- Staff, Patients, Technology*
- Training*

ii) Naivety vs. Ignorance vs. Stupidity

iii) Honesty vs. Integrity vs. Probity

iv) Moral vs. Ethical vs. Legal.

4.7. For c), I helped Dr Oakley understand Integrative, as opposed to Distributive, Negotiation using Principled, as opposed to Positional, Bargaining. This helped Dr Oakley broaden her approach to conflict, whether they are interpersonal, organisational or with respect to demands on her time, and adopt a moderate Assertiveness strategy of Negotiating to enable her to engage in the issues causing conflicts for her.'

49. The Tribunal determined that Dr Oakley clearly appreciates the gravity of the 2022 Tribunal's findings and has demonstrated that she has fully reflected upon them and taken positive action to ensure that her misconduct is not repeated.

50. The Tribunal is satisfied that, given Dr Oakley's insight and remediation, it is unlikely that her misconduct will be repeated. It is also mindful of the public interest in good and competent practitioners being able to return to practice. The 2022 Tribunal had been satisfied that there was no evidence of patient safety risks and this Tribunal is also satisfied that no issues arise in relation to patient safety.

51. The Tribunal has determined that Dr Oakley’s fitness to practise is not impaired by reason of misconduct and that she is therefore safe to return to unrestricted practice. The Tribunal has concluded that this decision is in accordance with the statutory overarching objective to promote and maintain public confidence in the medical profession, to promote and maintain proper professional standards and conduct for members of that profession.

52. The Tribunal noted that the order of conditions on Dr Oakley’s registration is due to expire on 30 June 2024. The Tribunal was clear that the order of conditions had, as set out by the 2022 Tribunal, marked the seriousness of Dr Oakley’s misconduct and upheld the demands of the overarching objective at the time. It had allowed Dr Oakley adequate time and opportunity to complete her process of insight and remediation such that it was now safe and appropriate for her to return to practice. In the light of its findings on impairment, the Tribunal therefore determined to revoke the order of conditions with immediate effect. It was of the view that this was both appropriate and proportionate in the circumstances.

53. That concludes this case.