

PUBLIC RECORD

Date: 05/07/2023

Medical Practitioner's name: Dr Yaaghoub TASHTER
GMC reference number: 6109820
Primary medical qualification: MD 1994 Debreceni Orvostudományi Egyetem

Type of case **Outcome on impairment**
Review - Misconduct Not Impaired

Summary of outcome
Suspension to expire

Tribunal:

Legally Qualified Chair	Mrs Fiona Barnett
Lay Tribunal Member:	Ms Bronwen Cooper
Medical Tribunal Member:	Dr Matthew O'Meara

Tribunal Clerk:	Ms Evelyn Kramer
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Attendance and Representation:

Medical Practitioner:	Present and represented
Medical Practitioner's Representative:	Mr Scott Ivill, Counsel, instructed by the Medical Protection Society
GMC Representative:	Ms Fiona McNeill, Counsel

Attendance of Press / Public

In accordance with Rule 41 of the General Medical Council (Fitness to Practise) Rules 2004 the hearing was held in public.

Overarching Objective

Throughout the decision making process the tribunal has borne in mind the statutory overarching objective as set out in s1 Medical Act 1983 (the 1983 Act) to protect, promote and maintain the health, safety and well-being of the public, to promote and maintain public confidence in the medical profession, and to promote and maintain proper professional standards and conduct for members of that profession.

Determination on Impairment - 05/07/2023

Background

1. Dr Tashter qualified in 1994 from the Medical University of Debrecen, Hungary. Prior to the events which are the subject of the hearing Dr Tashter was practising as a specialty eye doctor including performing cataract surgery. He was living in Hungary and travelling to the UK for 7 – 10 days work every month.

The February 2023 Tribunal

2. Dr Tashter's case was heard by a Medical Practitioners Tribunal in February 2023 ('the February 2023 Tribunal'). The February 2023 Tribunal found that Dr Tashter had made inappropriate physical contact with Ms B, a nursing colleague, including attempting to unfasten her bra strap, and that his actions were sexually motivated.

3. The February 2023 Tribunal found that Dr Tashter's actions amounted to serious misconduct. In considering impairment, the February 2023 Tribunal acknowledged that Dr Tashter had reflected on the Allegation against him and understood its seriousness. It bore in mind that Dr Tashter had attended relevant courses on sexual harassment and professional boundaries in the period prior to his first Tribunal hearing. The February 2023 Tribunal recognised Dr Tashter's acknowledgment of the impact of his actions on public confidence and the conditional apology he offered to Ms B. The February 2023 Tribunal considered this apology to be of limited value.

4. The February 2023 Tribunal concluded that, whilst Dr Tashter had completed a substantial number of relevant CPD courses, his insight was developing, in part because he was not able to sufficiently explain what he had learned from those courses. The February 2023 Tribunal determined that Dr Tashter had not yet developed full insight into his misconduct and found that he had not fully remediated it. Further, the February 2023 Tribunal found that public confidence would be harmed if a finding of impairment was not

made. Accordingly, it determined that Dr Tashter's fitness to practise was impaired by reason of misconduct.

5. At the sanction stage, the February 2023 Tribunal concluded that Dr Tashter's misconduct represented a significant breach of the fundamental tenets of the profession and stood to undermine public confidence. The February 2023 Tribunal determined that a sanction of suspension was appropriate, proportionate and would uphold the overarching objective. The February 2023 Tribunal determined to suspend Dr Tashter's registration for a period of four months. It considered that this duration would allow Dr Tashter to continue to develop his insight and to remediate further whilst marking the seriousness of his misconduct.

6. The February 2023 Tribunal directed a review. It indicated that a reviewing Tribunal could be assisted by Dr Tashter providing:

- a) A detailed reflective statement which outlines the actions he has taken to assist his remediation and address the risk of repetition;
- b) Evidence of relevant Continuing Professional Development, which shows how Dr Tashter has continued and developed his knowledge pertinent to the Tribunal's findings;
- c) Any other information which Dr Tashter considers would assist the reviewing Tribunal.

7. The February 2023 Tribunal did not consider it necessary to impose an immediate order of suspension. It found that the substantive order suspending Dr Tashter's registration for four months served the public interest.

Today's Hearing

8. This 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 Tashter's fitness to practise remains impaired by reason of misconduct.

The Evidence

9. No oral evidence was called on behalf of the GMC or Dr Tashter, both parties relied on the documentary evidence adduced.
10. The Tribunal received documentary evidence, which included but was not limited to:
- Record of Determinations from the February 2023 Tribunal;
 - Dr Tashter’s reflective statement, undated;
 - Certificates relating to courses taken, between March and June 2023, including:
 - Preventing Harassment in the Workplace, dated 5 April 2023;
 - Prevention of Sexual Harassment, dated 22 April 2023;
 - Sexual Harassment Awareness Training, dated 4 June 2023;
 - Self Esteem and Assertiveness Skills Course, dated 7 June 2023;
 - Communication Skills: Techniques for Building Strong Relationships, dated 7 June 2023;
 - Sexual Harassment in the Workplace, dated 8 June 2023;
 - Equality and Diversity, dated 10 June 2023;
 - Professional Relationships at Workplace, dated 13 June 2023.
 - Two testimonials from colleagues of Dr Tashter, both dated 30 June 2023.

Submissions

11. On behalf of the GMC, Ms McNeill referred the Tribunal to the background of Dr Tashter’s case and the evidence provided for this hearing. Ms McNeill submitted that the GMC was neutral on the matter of current impairment. She submitted that it was a matter for the Tribunal’s independent judgment to determine whether Dr Tashter’s fitness to practise remains impaired.

12. On behalf of Dr Tashter, Mr Ivill referred the Tribunal to the evidence provided by Dr Tashter and summarised his reflections. Mr Ivill submitted that Dr Tashter has undertaken a targeted approach to his development and has reflected on his learning by setting out his future approach to ensure his misconduct is not repeated. He submitted that Dr Tashter has further developed his insight and understanding about professional boundaries, the importance of a professional work environment and respectful team working. Mr Ivill confirmed that Dr Tashter now understands the negative impact that an atmosphere of ‘jokes’ and ‘banter’ can have on maintaining professional boundaries and assured the Tribunal that such an atmosphere would not be encouraged in future. Mr Ivill submitted that

Dr Tashter's fitness to practise was not impaired and invited the Tribunal to revoke the suspension imposed on Dr Tashter's registration.

The Relevant Legal Principles

13. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal's judgment alone. As noted above, the February 2023 Tribunal set out the matters that a future Tribunal may be assisted by. This Tribunal was aware that it was for Dr Tashter to satisfy it that he would be safe to return to unrestricted practice.

14. This Tribunal must determine whether Dr Tashter's fitness to practise is impaired today, taking into account his conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.

The Tribunal's Determination on Impairment

15. The Tribunal took into account all of the evidence, along with the submissions from both parties, in considering whether Dr Tashter's fitness to practise remains impaired by reason of misconduct.

16. The Tribunal was mindful that Dr Tashter has maintained that his behaviour towards Ms B was not sexually motivated. Given this denial, the Tribunal bore in mind that it needed to be satisfied that Dr Tashter had acquired sufficient insight into the misconduct that was found proved against him, that he knows and understands why his conduct was unacceptable and why it cannot be repeated.

17. Whilst not prescriptive, the February 2023 Tribunal had indicated what would assist this Tribunal in its decision on current impairment. Dr Tashter had demonstrated a willingness to engage with the February 2023 Tribunal's findings and had provided relevant evidence of personal development and reflection.

18. The Tribunal first considered the development of Dr Tashter's remediation. Following the February 2023 Tribunal, Dr Tashter continued to take a structured approach to his remediation, undertaking a number of courses over the period since his suspension. The Tribunal had regard to the wide-ranging and relevant courses that Dr Tashter had undertaken to assist him in understanding and remediating his misconduct. It was satisfied that the

courses and learning completed by Dr Tashter demonstrated that he had further developed his knowledge and understanding of the misconduct and its possible ramifications for those around him, and for himself.

19. The Tribunal reminded itself that the February 2023 Tribunal found that Dr Tashter's insight into his misconduct was developing. The Tribunal had regard to Dr Tashter's written reflection written for these proceedings. It considered the following section to be of particular relevance:

'I do acknowledge that a serious consequence of such behaviour can be the loss of public trust and confidence in the profession; trust is a very important aspect for patients.

I recognise that the facts found proved represent a serious breach of professionalism.

I understand that the proven facts undermine the importance of working with colleagues, and the respect that I should have for colleagues.

Going forward, I will ensure that I will be very careful with what I say, the way in which I say things, my body language and my behaviour, especially with my female colleagues.

As a senior practitioner I should ensure clear communication and provide a safe working environment .

I will be very careful and mindful of colleagues' personal and professional boundaries.

I will always behave in a very professional way since public trust can be damaged by any adverse incident.

I shall maintain high professional standards with colleagues at all times to ensure we work effectively as a productive team, in the best interests of our patients.

I will ensure that I recognise and respect the boundaries of others.'

20. The Tribunal concluded that Dr Tashter had, in his written reflection, demonstrated what he had learned from the CPD he had undertaken. This included his deeper

understanding about the meaning of sexual harassment and power imbalances, and the full extent of the impact of this on individuals and workplaces. He used his learning to reflect on the February 2023 Tribunal's findings; he accepted that the facts found proved against him amounted to a serious breach of professionalism, and he has appropriately considered the impact of his behaviour on others. He recognised that he must behave differently in the future with his colleagues and set out the changes he will make to ensure his relationships will remain professional, to ensure that his misconduct is not repeated. The Tribunal's view was that the depth of Dr Tashter's reflection was limited, given his continued denial of sexual motivation. However, it was satisfied that he has fully understood the findings of the February 2023 Tribunal, and undertaken valuable reflection upon them. The Tribunal was satisfied that Dr Tashter understands why the misconduct found against him was unacceptable, and that it must not be repeated. It concluded, given the training undertaken, and his evident learning from that training, that he has now developed sufficient insight into his misconduct.

21. Dr Tashter also provided testimonials from two professional colleagues, both of whom confirm that Dr Tashter has spoken to them about his misconduct, reflected upon his behaviour, and sought advice about how he can change his behaviour in the workplace in future. This objective evidence served to emphasise that Dr Tashter has understood the findings made against him, and is determined to ensure that he will not find himself in a similar position in future.

22. In considering the risk of repetition, the Tribunal bore in mind its findings that Dr Tashter has now taken further steps to remediate his misconduct. He has demonstrated through his reflection that he has learnt from the courses undertaken, and developed sufficient insight into his misconduct. The Tribunal was satisfied that Dr Tashter has used the time during his suspension appropriately and effectively and that the actions he has taken have reduced the risk of repetition of his misconduct to the extent that it was now highly unlikely to be repeated.

23. In light of the above, the Tribunal concluded that the concerns raised by the February 2023 Tribunal have now been addressed and remediated. The Tribunal determined that Dr Tashter's fitness to practise is no longer impaired by reason of misconduct, and that Dr Tashter is now fit to practise without restriction.

Revocation

24. The Tribunal had regard to the substantive sanction imposed by the February 2023 Tribunal. Although Dr Tashter has now successfully demonstrated sufficient insight and remediation, the function of his suspension was not solely to ensure his insight and remediation developed. It was to send a message to the public and the profession about the standards of conduct expected of medical practitioners, and to uphold public confidence in the profession. The Tribunal therefore concluded that the substantive suspension imposed by the February 2023 Tribunal should run until its expiry on 27 July 2023, to ensure that the aspects of the overarching objective which were addressed by the February 2023 Tribunal are met.

25. Therefore, the Tribunal determined not to exercise its discretion to revoke the suspension immediately but to allow it to expire.