

## PUBLIC RECORD

Date: 04/12/2024

Medical Practitioner's name: Mr Anthony LAMBERT  
GMC reference number: 3095506  
Primary medical qualification: MB BS 1985 University of London

Type of case	Outcome on impairment
Review - Misconduct	Not Impaired

**Summary of outcome**

Suspension revoked

**Tribunal:**

Legally Qualified Chair	Mr Julian Weinberg
Lay Tribunal Member:	Mr Birju Kotecha
Medical Tribunal Member:	Dr Louis Savage
Tribunal Clerk:	Ms Angela Carney

**Attendance and Representation:**

Medical Practitioner:	Present, represented
Medical Practitioner's Representative:	Ms Sophie O'Sullivan, Counsel, instructed by Weightmans
GMC Representative:	Ms Kathryn Hughes, 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 - 04/12/2024

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 Mr Lambert's fitness to practise is impaired by reason of misconduct and whether the practitioner has failed to comply with any requirement imposed upon him as a condition of his registration.

### Background

2. Mr Lambert qualified in 1985 with MB BS from the University of London. In 1992, Mr Lambert became a Fellow of the Royal College of Surgeons of England and then went on to undertake a Diploma in Sports Medicine in 1996 at the Royal College of Surgeons of Edinburgh. He became a Master of Surgery at the University of Bath in 1998 and passed the Intercollegiate Speciality Examination in General Surgery with a sub-speciality in Vascular Surgery in 1998. In 2008, Mr Lambert completed a Master of Science at the University of Bath. Prior to the events which are the subject of the hearing, Mr Lambert served for 36 years in the Royal Navy and reached the rank of Surgeon Commander. Mr Lambert commenced surgical training at Royal Navy Hospital Hasler in Gosport in 1992 and became an Honorary Consultant General Surgeon at Derriford Hospital Plymouth in May 2000, having previously spent two years at the hospital as a Trainee.

### The May 2024 Tribunal

3. At Mr Lambert's hearing which concluded in May 2024 (the May 2024 Tribunal), he admitted, and the Tribunal found proved that, on 20 April 2016 whilst working at University Hospitals Plymouth NHS Trust ('UHP'), he performed an umbilical hernia repair on Patient A, a child, who was unconscious under general anaesthetic. Mr Lambert admitted, and the May 2024 Tribunal found proved, that he undertook a freeing of preputial adhesions on Patient A's penis without the knowledge or consent of either Patient A or his parents, and that his language when informing them of what he had done was inappropriate.

4. Further, Mr Lambert admitted, and the May 2024 Tribunal found proved that on 17 June 2016, during an interview into his conduct on 20 April 2016 he stated words to the effect that *'This is the first time in 16 years I've had a complaint...'* and denied ever having any complaints about his language in the past. It was admitted and found proved that Mr Lambert knew that there had been an investigation by UHP and he had been informed in a letter dated 25 September 2014 that an allegation on the 1 July, 2014 he had used expletive language on the Children's High Dependency Unit in front of the nursing staff, the patients and the patients parents, had been upheld, a proposal that a final written warning be issued and he had been excluded from working at UHP between 15 July 2014 and 6 October 2014 (inclusive) whilst the UHP investigation took place.

5. In addition Mr Lambert admitted, and the May 2024 Tribunal found proved that between 1 June 2018 and 31 October 2018 (inclusive), whilst working at UHP, he made

comments which were inappropriate in that they were foul and/or abusive, aggressive and/or intimidating, bullying in nature and derogatory towards patients and other healthcare professionals.

6. The May 2024 Tribunal determined that Mr Lambert's actions in relation to the procedure carried out on Patient A without consent amounted to serious misconduct.

7. The May 2024 Tribunal considered the language and behaviour of Mr Lambert in relation to Patient A and his parents. When Mr Lambert spoke to Patient A's parents to tell them he had carried out the unauthorised procedure he accepted he said '*...because I am a bit of a nosey twat I noticed that [Patient A]'s penis did not look quite normal...*', or words to that effect. He accepted that this was inappropriate.

8. The May 2024 Tribunal considered the language used by Mr Lambert to be clearly inappropriate, ill-judged and far beyond any form of 'informal banter' that you may see between doctors and patients. The May 2024 Tribunal considered Mr Lambert's language in relation to Patient A and his parents to be something that deserved an apology, but not a formal sanction. It took the view that most colleagues would not consider this to be serious misconduct capable of bringing the medical profession into disrepute and deserving of a sanction, but rather inappropriate language which shows poor judgement, but it would not be regarded as deplorable in isolation. It concluded that in this regard Mr Lambert's use of language was unfortunate and unprofessional but did not constitute serious misconduct such as may lead to a finding of impairment.

9. The May 2024 Tribunal considered carefully the language employed within all the comments and the context in which it was deployed. It accepted that Mr Lambert had a professional experience and background which differed greatly from that of many doctors employed within hospital settings. He had worked at the cutting edge in military environments and had been accustomed to what may be termed a less nuanced approach to communication in front line work. He also admitted that some of his experiences had left him vulnerable to allowing his frustration to spill over. Whilst the May 2024 Tribunal felt that such matters did not of themselves excuse the use of inappropriate language, they were relevant factors to be considered when assessing the seriousness.

10. The May 2024 Tribunal was of the view that none of the comments made, separately or cumulatively, were such that they were 'deplorable', 'immoral' or 'of outrageous character'. Again, they constituted behaviour which Mr Lambert accepted was not to his credit, but they were not serious misconduct such as may lead to a finding of impairment.

11. The May 2024 Tribunal concluded that Mr Lambert's misconduct breached fundamental tenets of the profession as he had been explicitly refused consent by Patient A and his parents on more than one occasion. It was presented with no clear explanation as to why he had conducted the procedure in the face of the lack of consent. It noted his comments that he had stopped looking at patients beyond the matter for which he had consent and saw this as potentially detrimental to the overall care of his patients and indicating a lack of self-trust to act within the scope of the consent given. The May 2024

Tribunal considered that Mr Lambert’s insight into the importance of consent, and following the patient’s expressed wishes, was incomplete and therefore raised the real risk of repetition should he ever be in the same position again.

12. The May 2024 Tribunal took into account the statutory overarching objective and was of the view that all three limbs were engaged. It concluded that a finding of impairment was justified since the fear of repetition identified was a risk to public safety. It was also of the view that the breach of trust inherent in the misconduct was such that a finding of impairment was required to promote and maintain public confidence in the profession, and to promote and maintain proper professional standards. The May 2024 Tribunal considered it was necessary to reaffirm the importance of proper standards of professional conduct in relation to obtaining valid consent prior to carrying out medical procedures.

13. The May 2024 Tribunal was satisfied that Mr Lambert’s misconduct was not fundamentally incompatible with continued registration. It noted that the misconduct was a one-off isolated incident, took into consideration Mr Lambert’s otherwise unblemished career and excellent character and that the procedure carried out on Patient A was clinically indicated, and medically correct. It felt that in all the circumstances a concerned member of the public would be satisfied that suspension was a significant sanction and a clear marker of the seriousness of the misconduct and would be satisfied that erasure was not appropriate in this case.

14. The May 2024 Tribunal determined that a period of suspension was the appropriate and proportionate response to mark the seriousness of Mr Lambert’s misconduct. It determined to suspend Mr Lambert’s registration from the medical register for a period of 6 months and directed a review. The May 2024 Tribunal was satisfied that such a period upheld the overarching objective to protect the public, maintain public confidence in the profession and uphold proper professional standards.

15. The May 2024 Tribunal considered that whilst the first limb of the overarching objective was engaged, it was less of a cause for concern for it, given the limited nature of the risk of repetition it identified. The May 2024 Tribunal concluded that a suspension of this length would, however, provide Mr Lambert with an opportunity to further develop his insight and remediate appropriately.

16. The May 2024 Tribunal determined not to impose an immediate order of suspension.

17. The May 2024 Tribunal considered that a reviewing Tribunal may be assisted if Mr Lambert provided evidence of his developed insight into the seriousness of his actions and the central importance of consent and trust in the doctor/patient relationship. Mr Lambert may also provide evidence of any remediation he has undertaken to address the concerns of this Tribunal and any further evidence he considers will assist a reviewing Tribunal.

## The Evidence

18. The Tribunal received the following documentary evidence which included but was not limited to:

- Record of Determinations May 2024
- Email dated 7 August 2024 from Mr C, Consultant Urologist (retired) Mr Lambert's mentor containing mentoring points
- Mr Lambert's reflections and supporting remediation documents
- Testimonials from professional colleagues
- Continuing Professional Development Courses:
  - Consent UK - Medical Protection Society
  - Open Disclosure Principles UK - Medical Protection Society
  - Open Disclosure Conversations - Medical Protection Society
  - Chaperoning in Practice - Medical Protection Society
  - Abdominal Pain in Childhood - Royal College of Surgeons
  - Understanding Consent – BMJ Learning
  - Introduction to Equality and Diversity Modules 1, and 2 - Intercollegiate Committee for Basic Surgical Examinations (ICBSE)

### Submissions

19. On behalf of the GMC, Ms Kathryn Hughes, Counsel, provided the background to the case. She referred the Tribunal to the record of determinations of the May 2024 Tribunal. Ms Hughes reminded the Tribunal of the six-month suspension imposed by the May 2024 Tribunal. She referred the Tribunal to paragraph 167 of the sanction determination:

*'167. The Tribunal determined to direct a review of Mr Lambert's case. A review hearing will convene shortly before the end of the period of suspension, unless an early review is sought. The Tribunal wished to clarify that at the review hearing, it will be Mr Lambert's responsibility to demonstrate how he has addressed this Tribunal's concerns. It therefore may assist the reviewing Tribunal if Mr Lambert provided evidence of his developed insight into the seriousness of his actions and the central importance of consent and trust in the doctor patient relationship. Mr Lambert may also provide evidence of any remediation he has undertaken to address the concerns of this Tribunal and any further evidence he considers will assist a reviewing Tribunal.'*

20. Ms Hughes referred the Tribunal to the evidence provided by Mr Lambert in relation to his remediation. She submitted that it is a matter for the Tribunal to determine whether Mr Lambert's fitness to practise remains impaired.

21. In relation to the facts of the original misconduct, Ms Hughes stated that Mr Lambert reflected on them in detail to identify precisely where his judgement erred and what he ought to have done differently. She said that Mr Lambert accepted the findings of the previous Tribunal without qualification and addressed the concerns raised by them, which showed the extent of his learning and reflection. She said that Mr Lambert set out in great detail precisely why he thought he took that poor decision back in 2016. She said that this

demonstrated a far more developed and advanced level of insight and that was to be commended. Ms Hughes submitted the GMC's position is that Mr Lambert's fitness to practise is no longer impaired, and his suspension can be revoked.

22. On behalf of Mr Lambert, Ms Sophie O'Sullivan, Counsel, submitted that by virtue of the evidence of remediation Mr Lambert has directly engaged with the Tribunal's findings and recommendations. She said that thorough and detailed consideration has been given by Mr Lambert to the findings in a very substantial and comprehensive manner. She said that Mr Lambert has provided evidence of remediation through reflective practice, the use of myriad reflective resources, web journals, as well as courses on key issues of consent and ongoing professional development. Ms O'Sullivan said that Mr Lambert has provided clear and substantial evidence of insight into the seriousness of his actions in respect of Patient A.

23. Ms O'Sullivan stated that it is Mr Lambert's hope and intention should he be permitted to return to practice, he would resume his long-established voluntary work with the Royal College of Surgeons in respect of its training program, most specifically the trauma skills course to which he has contributed so significantly for many years.

24. Ms O'Sullivan referred the Tribunal to the remediation documents provided by Mr Lambert which are of particular credit, which demonstrated a considered and clear assessment of his own failings. She said that his reflections went into his decision making at that time, and an understanding as to the reasons behind his failings. She submitted that Mr Lambert has very clearly engaged with the concerns raised by the May 2024 Tribunal in its determination.

25. In all the circumstances, she submitted that there was sufficient information before the Tribunal to conclude that Mr Lambert was fit to practise without restriction and that he was suitable to return to practise. She submitted that Mr Lambert hoped to continue his voluntary service, which was part of a distinguished career of providing very comprehensive and significant contributions to the medical community.

26. Ms O'Sullivan submitted that the aspects of concern that were ventilated by the May 2024 Tribunal have been expressly engaged with by Mr Lambert and this Tribunal can today be satisfied that it is the appropriate course of action to restore Mr Lambert to the register.

### **The Relevant Legal Principles**

27. 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 he would be safe to return to unrestricted practice.

28. This Tribunal must determine whether Mr Lambert's fitness to practise is impaired today, taking into account their 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

29. The Tribunal noted at Mr Lambert's hearing in May 2024 he admitted and that Tribunal found proved that on 20 April 2016, whilst working at UHP, he performed an umbilical hernia repair on Patient A, a child, and also undertook a freeing of preputial adhesions on the patient's penis without the knowledge or consent of either Patient A or his parents, and that his language when informing them of what he had done was inappropriate.

30. The Tribunal noted Mr Lambert's written reflections in which he stated:

*...I have revisited papers, including those that I have written with regards to consent, and appreciate even more that my interaction with patient A was a significant error of judgement by me on that occasion. As I have now reflected upon the importance I have always placed on consent, I am even more disappointed in myself that I erred to such an extent on this occasion. This has been a hard pill to swallow. It has served to reinforce the fact that I should not have proceeded with the examination or procedure on Patient A's penis at the time of his hernia surgery. This will not happen again.*

*... Whilst I have always accepted responsibility for my actions on 20 April 2016, my reading of the Tribunal's Record of Determinations has caused me to reflect even more deeply and consequently I have gained a greater understanding of my errors which has allowed me to recognise that I would never repeat such a failing...*

*...Should I make an incidental observation in future, I would reflect at the time ('reflection in action') allowing me to appreciate fully the situation. I would consider why I am in that situation and respond by doing things differently. I am confident that the outcome would be different because by 'reflection on action' I have now thought more deeply about the reasons that caused the situation; what options were open to me and why I chose one option above the other. In future my response would be guided by my new level of knowledge and experience and my understanding of theories and values...*

*...Having reflected further since the hearing in April and May 2024, the fact that the procedure was clinically indicated does not excuse my poor decision making. I now have no doubt that I erred in making the wrong choices on 20 April 2016 and should have recorded my incidental observation and delayed any examination and procedure until I had been able to discuss matters with Patient A and his parents.'*

31. In relation to insight the Tribunal noted in his written reflections that Mr Lambert highlighted the impact his misconduct had on Patient A, his parents and the public. Mr Lambert apologised to Patient A, his parents and the public, stating that he was truly sorry for his very serious failings, the additional distress and psychological harm caused and for

undermining the public’s trust in the profession. He also recognised that his misconduct could have the potential to embarrass his professional colleagues.

32. Mr Lambert also accepted that his misconduct breached the principles in Domains 1, 2 and 4 and paragraphs 6, 7, 18, 23 to 26, 28 to 34, 37 and 38. He stated:

*‘It is clear that my actions in proceeding to examine and undertake a procedure on patient A without consent fell seriously short of the standards of practice required of me as set out in Domain 2...*

*I must not make assumptions about the opinions and outcomes a patient might prefer. Good communication with patients, and those close to them, is an essential part of decision-making and obtaining consent.*

...

*My actions in proceeding to examine and undertake a procedure on Patient A without consent, has without doubt, undermined Patient A’s and his parents’ trust. It is only by medical professionals always adhering to principles in Good Medical Practice 2024 that trust will be maintained in the medical profession.’*

33. The Tribunal has borne in mind paragraphs 163 and 164 of the Sanctions Guidance (February 2024), which state:

*‘163 It is important that no doctor is allowed to resume unrestricted practice following a period of conditional registration or suspension unless the tribunal considers that they are safe to do so.’*

*‘164 .....in most cases where a period of suspension is imposed, and in all cases where conditions have been imposed, the tribunal will need to be reassured that the doctor is fit to resume practice – either unrestricted or with conditions or further conditions. A review hearing is therefore likely to be necessary, so that the tribunal can consider whether the doctor has shown all of the following (by producing objective evidence):*

- a they fully appreciate the gravity of the offence*
- b they have not reoffended*
- c they have maintained their skills and knowledge*
- d patients will not be placed at risk by resumption of practice or by the imposition of conditional registration.*

34. Having regard to paragraph 164, the Tribunal was satisfied that Mr Lambert fully appreciated the seriousness of his misconduct, which has not been repeated.

35. The Tribunal noted Mr Lambert’s CPD focussed on consent which was directly relevant to the issues giving rise to his misconduct. The Tribunal also noted that that it has been a relatively short time since Mr Lambert has been out of clinical practice. The Tribunal was satisfied that there was sufficient evidence by way of ongoing learning that Mr Lambert



had maintained his skills and knowledge. Noting the extent and depth of insight and remediation demonstrated by Mr Lambert in relation to his misconduct, which the May 2024 Tribunal found was a ‘one-off’ incident, the Tribunal was satisfied that patients would not be placed at risk if he returned to unrestricted clinical practice.

36. The Tribunal considered that Mr Lambert reflected fully on ‘*Why I erred*’ in which he set out in detail where he went wrong. It considered that his reflection was sincere and meaningful and that there was nothing further that Mr Lambert could reasonably have provided to demonstrate that he has remediated his misconduct.

37. The Tribunal noted that Mr Lambert engaged with mentoring with Mr C, Consultant Urologist and received positive feedback. It noted the email from Mr C which detailed the salient points discussed. Mr C stated: ‘*We had a frank and open discussion specifically relating to the lack of consent for the extra procedure he carried out.*’

38. The Tribunal noted that the order of suspension on Mr Lambert’s registration expires on 6 December 2024.

39. The Tribunal considered that a reasonably informed member of the public, aware of Mr Lambert’s remediation, insight and remorse, would not be concerned if the order of suspension was revoked with immediate effect. Further, the Tribunal concluded that the public should not be deprived of an otherwise competent doctor. The Tribunal noted that the order of suspension was made on all three limbs of the overarching objective, but the May 2024 Tribunal considered that the first limb was less of a cause for concern. This Tribunal was satisfied, in all the circumstances, that patients would not be placed at risk and that public confidence and that proper professional standards and conduct for members of the profession would not be undermined if the order of suspension was revoked with immediate effect.

40. Accordingly, the Tribunal determined that Mr Lambert’s fitness to practise is no longer impaired by reason of misconduct and directed that the current order of suspension be revoked with immediate effect.

41. That concludes this case.