Record of Determinations –
Medical Practitioners Tribunal

PUBLIC RECORD

Dates: 06/06/2019
Medical Practitioner’s name: Dr Chizoba Christopher UZOH
GMC reference number: 6110999
Primary medical qualification: MB BS 2002 University of Ibadan
Type of case Outcome on impairment
Review - Misconduct Impaired

Summary of outcome
Erasure

Tribunal:

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<tr>
<th>Role</th>
<th>Name</th>
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<tbody>
<tr>
<td>Legally Qualified Chair</td>
<td>Mr Damian Cooper</td>
</tr>
<tr>
<td>Lay Tribunal Member:</td>
<td>Dr Kevin Hope</td>
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<tr>
<td>Medical Tribunal Member:</td>
<td>Dr Shehleen Khan</td>
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<tr>
<td>Tribunal Clerk:</td>
<td>Ms Jean Gleeson</td>
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Attendance and Representation:

<table>
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<tr>
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<th>Details</th>
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<tr>
<td>Medical Practitioner:</td>
<td>Not present and not represented</td>
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<td>Medical Practitioner’s Representative:</td>
<td>NA</td>
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<td>GMC Representative:</td>
<td>Mr Kevin Slack, Counsel</td>
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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.
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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 - 06/06/2019

1. The Tribunal 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 Uzoh’s fitness to practise is impaired by reason of misconduct.

2. The Tribunal granted the GMC’s application, made pursuant to Rule 31 of the Rules, to proceed in the absence of Uzoh. The Tribunal’s full decision on this application is included at Annex A.

Background

3. Dr Uzoh’s case was first heard by a Medical Practitioners Tribunal at a hearing in May 2017 (‘2017 Tribunal’). Dr Uzoh was not present or represented at that hearing. The 2017 Tribunal found that on 22 March 2016 Dr Uzoh was employed as a locum General Practitioner at Murdishaw Health Centre (‘the Practice’) when Patient A attended an appointment with him. It found proved that Dr Uzoh accessed Patient A’s personal records and obtained her personal contact details. Further, the 2017 Tribunal found that in order to pursue a personal relationship with her, Dr Uzoh used her personal details to send texts to her mobile phone, telephoned her, left a voicemail on her mobile phone, and sent a card and flowers to her home address. Dr Uzoh continued to contact Patient A after she asked him to stop. The 2017 Tribunal determined that his actions were sexually motivated.

4. The 2017 Tribunal noted that it was important that patients had trust in their doctors and in the confidential nature of their medical records and it was seriously improper for a doctor to seek to pursue a relationship of this kind with a patient, more so when they persist with it beyond the point when the patient has made it clear that their approaches are unwelcome. It found that Dr Uzoh’s behaviour fell far below expected standards and represented a clear breach from the principles set out in Good Medical Practice (‘GMP’). The 2017 Tribunal was of the view that Dr Uzoh’s conduct was, in principle, remediable but that it had received little evidence of his understanding of the impact of his actions or reassurance that he would not repeat this sort of behaviour. The 2017 Tribunal also had concerns about his level of insight into the impact of his actions on the reputation of the profession or on the public interest generally. The 2017 Tribunal concluded that Dr Uzoh had breached fundamental tenets of the medical profession by making sexually motivated
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approaches to a patient and determined that public confidence in the profession would be undermined if a finding of impairment were not made and found that his fitness to practice was impaired.

5. The 2017 Tribunal determined to suspend Dr Uzoh’s registration for a period of 12 months. It provided a list of measures that it considered that a future Tribunal would be assisted by. This list included evidence of Dr Uzoh’s insight into his past actions, evidence that Dr Uzoh addressed failings such as the issues of personal relationships with patients and the misuse of confidential information, as well evidence that he had kept his clinical knowledge up to date.

6. Dr Uzoh’s case was reviewed by a Medical Practitioners Tribunal on 5 June 2018 (‘2018 Tribunal’). Dr Uzoh was not present or represented at this hearing. The 2018 Tribunal was of the view that, in a letter dated 16 April 2018, Dr Uzoh had demonstrated that he had some insight into his behaviour but that it was limited. In this letter, whilst accepting that he was guilty of misconduct, Dr Uzoh failed to grasp the concept of sexual misconduct as it applies to his case and that he is ‘...still at a loss as to how the GMC managed to determine that matter was of a sexual nature’. The 2018 Tribunal was of the view that Dr Uzoh had not adequately demonstrated insight into the impact of his behaviour on Patient A, the reputation of the profession or the public interest.

7. The 2018 Tribunal noted that, whilst this type of behaviour is capable of remediation, Dr Uzoh failed to provide any objective evidence of his remediation, for example, by providing evidence of attending relevant training. In his communications Dr Uzoh merely stated that such behaviour would not happen again as he had met ‘...the love of his life... this is all I was searching for’. Finally the 2018 Tribunal noted that Dr Uzoh had provided no objective evidence of how he has kept his medical knowledge and skills up to date.

8. The 2018 Tribunal determined that it could not be satisfied that Dr Uzoh would not repeat the behaviour which was initially considered by the hearing in 2017. It concluded that there may a risk to patient safety and that public confidence in the profession may be undermined if a finding of impairment was not made. It found Dr Uzoh’s fitness to practise was impaired by reason of his misconduct.

9. The 2018 Tribunal determined to suspend Dr Uzoh’s registration for a further period. In making this decision it noted that it had already found that Dr Uzoh had some insight into his behaviour but it was limited and that he had failed to provide any objective evidence that he has addressed his failings and has kept his medical knowledge and skills up to date. However, the 2018 Tribunal also noted that Dr Uzoh had accepted that he was guilty of misconduct and that he never sought to shift the blame to Patient A. It further noted that there were no other matters of misconduct and no clinical concerns had ever been raised regarding Dr Uzoh’s clinical practice. The 2018 Tribunal determined to suspend his registration for a period of 12 months to give Dr
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Uzoh adequate time to address the concerns raised and provide objective evidence of insight and remediation.

10. The 2018 Tribunal considered that a future Tribunal would be assisted by:

- Evidence of Dr Uzoh’s insight into his past actions, which may take the form of a reflective statement
- Evidence, which may include objective evidence, that Dr Uzoh has addressed, by training or otherwise, his failings, including the issues of personal relationships with patients and the misuse of confidential information
- Evidence, which may include objective evidence, that Dr Uzoh has kept his clinical knowledge up to date
- Any other information that Dr Uzoh considers might assist the Tribunal reviewing his case.

The Evidence

11. This Tribunal has considered all the evidence provided by the GMC and Dr Uzoh which includes:

- A Record of Determinations of the MPT hearing date 26 May 2017
- A Record of Determinations of the MPT Review hearing dated 5 June 2018
- Correspondence between the GMC and Dr Uzoh and the MPTS and Dr Uzoh
- Two Credit Summary Reports from the College of Family Physicians of Canada dated 1 July 2016 – 30 June 2021.

Submissions

12. On behalf of the GMC, Mr Slack submitted that Dr Uzoh’s fitness to practice remains impaired. He told the Tribunal that the areas that the 2018 Tribunal stated would assist a future Tribunal have not been addressed and it seems there has been a ‘wholesale disregard’ for these matters by Dr Uzoh. He has only provided the summaries of his CPD activities which do not provide sufficient evidence. Mr Slack submitted that, bearing in mind the 2018 Tribunal’s concern that Dr Uzoh has failed to understand the concept of sexual misconduct in relation to his case and its request for a reflective statement, it is of concern that no documentary evidence of any reflection has been provided. Mr Slack submitted that this lack of evidence needs to be seen in the context that the 2018 Tribunal also did not receive the information requested by the 2017 Tribunal.

The Relevant Legal Principles

13. The Tribunal reminded itself that the decision of impairment is a matter for the Tribunal’s judgement alone. As noted above, the 2018 Tribunal set out the matters that
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a future Tribunal may be assisted by. This Tribunal is aware that it is for Dr Uzoh to satisfy it that he is safe to return to unrestricted practice.

14. This Tribunal must determine whether Dr Uzoh’s fitness to practise is impaired today, taking into account Dr Uzoh’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

15. The Tribunal noted that, since Dr Uzoh’s case was last reviewed in June 2018, he has failed to engage with the GMC or the MPTS in any meaningful way. Both the 2017 and 2018 Tribunals made a number of recommendations, which Dr Uzoh has not acted upon. He has not provided any evidence of any further development of his insight into his past actions and refuses to acknowledge that there was any sexual motivation in his actions towards Patient A. He has also declined to provide evidence that he has reflected upon the impact of his behaviour on Patient A, on the reputation of the profession or on the public interest. Further, he has not provided any evidence that he has addressed his failings including the issues of personal relationships with patients and misuse of personal information. Dr Uzoh has provided no explanation for his lack of engagement and reflection to this Tribunal and it finds this disregard for the recommendations of the two previous MPT tribunals to be troubling. In particular as it is now two years since the initial hearing took place.

16. The Tribunal acknowledged that Dr Uzoh has provided some limited information in relation to his continued professional development. However, it was not satisfied that the submission of these documents assists it in its determination as it is merely a summary of credits achieved by the doctor rather than identifying any specific content. There is no expansion or evidence of reflection on the study undertaken or how these courses may relate to the issues to be considered by this Tribunal.

17. In view of the absence of any evidence from Dr Uzoh demonstrating that he has remediated and addressed the original concerns in this case and that he has developed any further insight into his misconduct, the Tribunal could not be satisfied that Dr Uzoh would not repeat similar behaviour to that which led to his initial MPT hearing in 2017. The Tribunal considered that there would be a risk to patient safety were he to be allowed to return to unrestricted practice. It also considered that public confidence in the profession would be undermined if a finding of impairment were not to be made in the circumstance of this case.

18. Accordingly, the Tribunal determined that Dr Uzoh’s fitness to practise remains impaired by reason of his misconduct.
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Determination on Sanction - 06/06/2019

1. Having determined that Dr Uzoh’s fitness to practise is impaired by reason of misconduct, the Tribunal now has to decide in accordance with Rule 22(h) of the Rules what action, if any, it should take with regard to Dr Uzoh’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 Uzoh’s registration. The Tribunal has received no further evidence at this stage of the hearing.

Submissions

3. On behalf of the GMC, Mr Slack submitted that Dr Uzoh’s name should be erased from the medical register. Mr Slack reminded the Tribunal of the relevant sections of the Sanctions Guidance (February 2018) (“the SG”).

4. Mr Slack submitted that Dr Uzoh has ‘wholly failed’ to provide evidence that he now fully appreciated the gravity of his misconduct. He has provided no reflective statement or any other material which addresses the issues in this case. Although Dr Uzoh has provided some CPD documents these simply amount to a summary of credits rather than a description of their content or how it related to the issues being considered today. Mr Slack submitted that there remains a risk to patient safety if Dr Uzoh were allowed to return to unrestricted practise. He submitted that Dr Uzoh’s position is materially worse than it was 12 months ago as he has failed, for a second time, to provide the information requested. He submitted that a risk of repetition remains in this case and Dr Uzoh’s insight is still lacking. He submitted that it is an aggravating feature of the case that Dr Uzoh has failed to address the serious concerns identified first by the 2017 Tribunal and then by the 2018 Tribunal and that a further period of suspension is no longer appropriate.

Aggravating and Mitigating Factors

5. The Tribunal first considered the aggravating and mitigating factors in this case. The Tribunal noted a number of aggravating factors as outlined below:

- Dr Uzoh has had ample time to reflect upon his misconduct after being given maximum time possible by two Tribunals but has failed to provide evidence of any remediation or further insight on his behalf
- His misconduct related to his abuse of a position of trust.

The Tribunal also had regard to the mitigating factors as outlined below:
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- Dr Uzoh previously expressed his remorse and apologised to the patient
- His misconduct related to a single patient.

The Tribunal’s Determination

6. In making its decision, the Tribunal had regard to the principle of proportionality, and it weighed Dr Uzoh’s interests with those of the public.

7. The Tribunal is aware that the decision as to the appropriate sanction, if any, to impose on Dr Uzoh’s registration is a matter for this Tribunal exercising its independent judgment. In reaching its decision, the Tribunal has taken account of the guidance, and the three elements of the statutory overarching objective.

8. The Tribunal has also borne in mind that the purpose of a sanction is not to punish or discipline a doctor, although it may have a punitive effect. In deciding what sanction, if any, to impose the Tribunal considered each of the options available, starting with the least restrictive.

No action

9. In coming to its decision as to the appropriate sanction, if any, to impose in Dr Uzoh’s case, the Tribunal first considered whether to conclude the case by taking no action. The Tribunal determined that given the serious nature of Dr Uzoh’s misconduct and his lack of insight and remediation, there were no exceptional circumstances to justify the Tribunal taking no action.

Conditions

10. The Tribunal next considered whether it would be sufficient to impose conditions on Dr Uzoh’s registration. It has borne in mind that conditions need to be appropriate, proportionate, workable and measurable. The Tribunal was of the view that given the seriousness of Dr Uzoh’s conduct and behaviour, and the fact that he has failed to engage with this process and has not provided any of the information as suggested by the previous Tribunals, it would not be possible to formulate a set of appropriate, proportionate, workable or measureable conditions which could adequately address the concerns identified.

Suspension

11. The Tribunal then went on to consider whether to suspend Dr Uzoh’s registration for a further period.

12. It was the view of previous Tribunals that the index matter in this case was capable of remediation. However, the Tribunal was mindful that Dr Uzoh has already been suspended for two years and during this time, despite repeated requests, he
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has not provided any objective evidence which either demonstrates any remediation or would suggest that he has made progress in addressing or acquiring full insight into his misconduct.

13. The Tribunal had regard to paragraph 97 of the SG which provides examples of when suspension may be the appropriate sanction. It has considered particularly the following:

'...

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.’

14. Dr Uzoh has provided no evidence that remediation has been undertaken, let alone been successful. As it has set out above, the Tribunal has not been provided with any evidence of meaningful insight.

15. The Tribunal is of the view that Dr Uzoh’s lack of engagement with the regulatory process, and in particular his failure to address the issues raised by both the 2017 Tribunal and 2018 Tribunal show that he does not have adequate insight into the actions that brought him before his professional regulator. The Tribunal was of the view that there has been no indication from Dr Uzoh that, if he was given a further period of suspension, he would use this time to reflect on his behaviour and provide the information requested by previous Tribunals. Bearing this in mind the Tribunal has determined that suspension is no longer sufficient or appropriate.

Erasure

16. The Tribunal has therefore concluded that erasure is now the proportionate and appropriate sanction. In so doing it has had regard to paragraph 109 of the SG which outlines when erasure may be the appropriate sanction. It determined that the following features are engaged in this case:

'Any of the following factors being present may indicate erasure is appropriate (this list is not exhaustive).

...d Abuse of position/trust
17. The Tribunal notes that factor (d) has always been present in this case, but now, when taken into consideration with feature (j) outlined above, the Tribunal considers that Dr Uzoh’s entrenched lack of insight over a long period of time means that the threshold for erasure has now been met.

18. The Tribunal is satisfied that erasure is the proportionate and appropriate sanction in this case and is required to protect patients and is in the public interest. It is, in all the circumstances of the case, the only sanction that will address the concerns identified by the Tribunal.

19. The Tribunal have directed to erase Dr Uzoh’s name from the Medical Register. The MPTS will send Dr Uzoh a letter informing him of his right of appeal and when the direction and the new sanction will come into effect. The current suspension will remain in place during the appeal period.

Confirmed
Date 06 June 2019

Mr Damian Cooper, Chair
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ANNEX A – 06/06/2019

Service

1. Dr Uzoh is neither present nor represented today. The Tribunal has considered Mr Slack’s submission, on behalf of the GMC, that notification of this hearing has been properly served upon him.

2. Mr Slack drew the Tribunal’s attention to the email from Dr Uzoh dated 29 June 2018 in which, in reply to a request for him to update his GMC registered address as he was now residing in Canada, Dr Uzoh stated:

   ‘I believe I have had effective correspondence with the GMC via email therefore, I will not be sending it my residential address as I do not wish to receive any post from it.’

Mr Slack drew the Tribunal’s attention the GMC’s email dated 12 March 2017 in which Dr Uzoh was informally informed of the date of his hearing. On the same day Dr Uzoh emailed the GMC and stated that he would not be attending the hearing. The GMC sent formal notice of his hearing to Dr Uzoh by email on 25 April 2019.

3. Mr Slack also drew the Tribunal’s attention to the notice of this hearing, dated 02 May 2019, which was sent by the Medical Practitioners Tribunal Service by email to Dr Uzoh.

4. The Tribunal has determined that notice of this hearing has been served in accordance with Rule 40 of the General Medical Council (Fitness to Practise) Rules 2004 (‘the Rules’).

Proceeding in absence

5. The Tribunal has already determined that service is effective and as such is satisfied that all reasonable efforts have been made to serve notice of this hearing on Dr Uzoh. The Tribunal then considered, in accordance with Rule 31 of the Rules, whether to proceed with the case in Dr Uzoh’s absence. The Tribunal has borne in mind that the discretion to proceed in the absence of the practitioner should be exercised with utmost care and caution.

6. Mr Slack drew the Tribunal’s attention to the email from Dr Uzoh dated 12 March 2019 in which he replied to a request to confirm if he would be present or represented at this hearing by stating:

   ‘I won’t be there nor will I be represented’.
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Further in an email dated 30 May 2019 in which Dr Uzoh stated that:

‘The hearing may go ahead without me.’

Mr Slack submitted Dr Uzoh’s is aware of today’s hearing and has made no application to adjourn the hearing. He submitted that there is no likelihood of securing Dr Uzoh’s attendance at a future hearing and no suggestion that there is a reason which has prevented him from attending today. Furthermore, this is not a case where the doctor has indicated any intention or desire to have legal representation and where adjourning would secure representation at a future hearing. Mr Slack told the hearing that Dr Uzoh has been given an opportunity to submit evidence in documentary form and was sent the draft hearing bundle. He has chosen to submit material in advance of today’s hearing. He submitted that Dr Uzoh has voluntarily absented himself from this hearing and it is in the public interest that these matters be considered in his absence, in particular as his suspension need to be reviewed before the end of this month when it is due to expire.

7. The Tribunal has balanced Dr Uzoh’s interests with the public interest in deciding whether to proceed in his absence. The Tribunal was satisfied that Dr Uzoh was fully aware of this hearing, that he has voluntarily absented himself from these proceedings and chosen not to be represented. Dr Uzoh has not requested an adjournment and has stated that he was content for the hearing to go ahead in his absence. Further, it noted that Dr Uzoh has not attended either of his previous MPT hearings. The Tribunal was of the view that there would be no injustice to Dr Uzoh if it were to proceed today in his absence. The Tribunal was also satisfied that it is in the public interest that the hearing proceeds today.

8. Therefore, in accordance with Rule 31, the Tribunal has determined to proceed in Dr Uzoh’s absence.