

Public Minutes of the Investigation Committee

Date of hearing: 17 December 2019

Name of Doctor	Dr Thomas Edwards
Doctor's UID	7284359

Committee Members	Mr Pradeep Agrawal
	Mr Geoff Baines
	Professor Jennifer Adgey

Legal Assessor	Mr David Marshall
Panel Secretary	Ms Gemma Wolstenholme

Attendance and Representation

GMC Representative	Mr Stephen Grattage
Doctor's representative	Mr Scott Ivill

Outcome	Warning
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Investigation Committee (Oral hearing)

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Location of Hearing	St James's Buildings, 79 Oxford Street, Manchester, M1 6FQ

Determination

Dr Thomas Edwards,

- 1 At today's hearing the Investigation Committee carefully considered all the material before it including the submissions made by **Mr Scott Ivill** on your behalf, and those made on behalf of the GMC by **Mr Stephen Grattage**. It has accepted the advice of the Legal Assessor.

Background

- 2 On 01 May 2019, the GMC received a referral from NHS England advising that on the 31 January 2019, NHS England received a letter from a Leicester City Practice (GP practice) alleging that you were using the clinical system 'SystemOne', which is a messaging service, inappropriately. The messages sent by you showed disregard to patients, specifically vulnerable patients.
- 3 The letter sent from the GP practice to NHS England dated 31 January 2019 stated that there were over 20,000 messages sent and provided examples of messages and offensive language you had exchanged regarding vulnerable patients and colleagues' beliefs.
- 4 NHS England also advised that on 17 April 2019, a Performance Assessment Group (PAG) reviewed your case and found that since, you had shown significant remorse and regret, your case could be closed with no further action in this regard. However, the panel also agreed that due to the number of messages sent using an NHS IT system and the content of the messages, it would serve public confidence to refer you to the GMC.
- 5 On 12 August 2019, the GMC informed you that they had completed their investigation and invited you to provide comments on the allegations, before deciding on the outcome of the case. Based on the information available, the Case Examiners felt that this case could be concluded with a warning in accordance with Rule 11(2).

- 6 On 19 September 2019, the GMC received a Rule 7 response from your legal representatives indicating that you did not wish to accept a warning as they submitted it not to be necessary nor proportionate. You provided evidence of remediation and reflection. They proposed that this case be reconsidered, or if the matter was not reconsidered, a referral should be made to the Investigation Committee in accordance with Rule 11(3).
- 7 On 11 November 2019 the GMC responded to acknowledge you were not prepared to accept the warning and that the Case Examiners have considered your comments and decided to refer the matter to the Investigation Committee.

GMC Submissions

- 8 Mr Grattage took the Committee through the background of the case as outlined above and submitted that there has been a clear and specific breach of paragraphs 36, 37 and 65 of Good Medical Practice (GMP), particularly paragraph 37.

'You must treat colleagues fairly and with respect.' (36)

'You must be aware of how your behaviour may influence others within and outside the team.' (37)

'You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.' (65)

Mr Grattage directed the Committee's attention to the test for issuing a warning at paragraph 16 of the GMC's Guidance on Warnings and submitted that a warning is appropriate when there has been a significant departure from GMP and that a formal response by way of a warning is an appropriate mechanism for the GMC to declare and uphold standards of behaviour expected from doctors and maintain the public's trust in the profession.

- 9 Mr Grattage submitted that the documents provided by NHS England demonstrated consistently that you requested your colleague to look at entries you had made in order to *'amuse you both'*. Mr Grattage submitted that your conduct was in breach of the practice's policy *'Computer, Internet and Email Usage Policy'*, specifically in regard to the SystmOne Instant Messaging (IM) software where the policy states *'IM's (both internal and external) must not contain unsuitable information for example, defamatory, discriminatory, bullying or harassing material or comments'*, and that, *'IM content may be monitored to ensure compliance with the policy.'*
- 10 Mr Grattage noted your Rule 7 response in which your legal representatives deny the allegation that you were in breach of the computer policy described. You had explained to NHS England that you were unaware of the policy and that it had come into effect in July 2018, whereas these messages date back to 2017. Mr Grattage submitted that the messages continued thereafter, and for that reason you did

breach that policy. Practitioners should acquaint themselves with policies such as this and the fact you didn't see the policy does not make the allegations less serious.

- 11** Mr Grattage submitted that you did offer clear and comprehensive reflection on your behaviour and indeed remorse of your conduct. However, he also offered that it was of concern that you reflected if you realised your messages could be seen, you would change what you wrote. Mr Grattage submitted that the content of what you said should not even be discussed in private. Mr Grattage also drew the Committees attention to the PAG response in which they considered your referral to the GMC. The PAG had documented that your messages indicate behaviour that shows disrespect to patients, such behaviour could have considerable impact on eroding trust in the doctor patient relationship, and potentially lead to adverse publicity damaging the reputation of the profession.
- 12** Mr Grattage also submitted that following your reflection, the likelihood of this behaviour being repeated was unlikely, however the PAG still documented the severity of your conduct as *'major'*.
- 13** Mr Grattage drew the Committees attention to your Rule 7 response which, in his opinion, ignored the tone of the messages. Mr Grattage submitted your behaviour is consistent and repeated over a period of two years, which is evidenced by the documentation provided by NHS England.
- 14** Mr Grattage submitted that, in all of the circumstances of this case and notwithstanding any mitigation present, a warning was necessary and proportionate. Your conduct did not meet the standards expected of a doctor and a warning would serve to maintain the public's confidence in the profession, promote the standards expected of a doctor and send a message to the wider profession that this conduct is not acceptable.

Defence Submissions

- 15** Mr Ivill acknowledged that whilst the letter from the GP practice to NHS England in January 2019 referred to *'over 20,000 screen messages in the last 2 years'* no evidence has been provided either to NHS England or to the GMC to substantiate this. Mr Ivill drew the Committee's attention to the bundle of information and advised there are 126 messages over the 2 year period and submitted that whilst it is accepted that several of the messages in the bundle demonstrate inappropriate and unprofessional conduct, unrelated to your clinical duties, it is not accepted that all of the messages can be categorised in that way. Some of the messages are entirely neutral or consist of just a few words which are incapable of being considered either inappropriate or unprofessional therefore it is denied that you sent an "excessive" number of messages to your colleague.
- 16** Mr Ivill submitted that you had given context to some of the messages documented in your reflective statement to the PAG and that you had explained *'at no point did*

you convey any of this to the patients'. In your reflective statement you also conveyed regret and accepted some of the inappropriateness of those messages, however for part of that time, you were a junior doctor and you have since matured.

- 17** Mr Ivill drew the Committees attention to the glowing testimonials provided by patients and colleagues who describe your competence and professionalism and also to the review conducted by the Clinical Advisor who documents your remediation and concludes that repetition is extremely unlikely. The Clinical Advisor further supported your remediation by concluding that you had shown insight and regret, that you have apologised on *'a number of occasions'*, that you have since had successful appraisals and that he had *'no reason to doubt [you] would [not] behave in this manner again.'*
- 18** Mr Ivill submits that the PAG discussed closing your case with No Further Action. There were no concerns regarding the overall clinical management of patients in this case, nor had any harm occurred and you had provided insight, acknowledged the impact of your behaviour and apologised for some of the language used. Mr Ivill also submitted that you have an unblemished professional history and had taken extensive remedial steps including rehabilitative steps in the training courses you have completed. You have also displayed genuine regret regarding your behaviour which has no likelihood of repetition.
- 19** Mr Ivill submitted that a warning is viewed as a serious response for those who fall just short of a finding of impairment which is disclosable indefinitely to employers. Mr Ivill submitted that your conduct did not meet the threshold for a warning and to impose a warning today would be inappropriate and disproportionate. Not to take away from his submissions on the appropriateness of a warning, Mr Ivill did request that if the Committee did believe the test to be met, that amendments be made to the wording of the warning to reflect your conduct more accurately.

Committee Determination

- 20** The Committee is aware that it must have in mind the GMC's role of protecting the public, which includes:
- a. Protecting, promoting and maintaining the health, safety and well-being of the public
 - b. Promoting and maintaining public confidence in the medical professions, and
 - c. Promoting and maintaining proper professional standards and conduct for members of that profession.
- 21** The Committee restricted itself to considering the messages in the bundle. It found the language used in your IM's in relation to colleagues, and more deplorably vulnerable patients, to be extremely inappropriate in nature. There is indication that these messages could be disclosed to the public, specifically the patients involved and thus risks bringing the profession into disrepute. The Committee determined that your conduct in relation to messages exchanged between you and your colleague

during January 2017 and September 2018 represented a clear and specific breach of paragraphs 36, 37 and 65 of Good Medical Practice (GMP).

- 22** The Committee acknowledges that there is no definition of '*significant*' in the Medical Act 1983 or in the Fitness to Practise Rules 2004, but that examples must be considered on their own merit. The Committee found that the type of language exchanged in the IM's of which you participated in, particularly the swear words used to describe patients and colleagues, combined with the length of conduct was completely unacceptable of a medical professional. The content of the messages could be viewed as derogatory and for these reasons the Committee determined your conduct represented a significant departure from GMP.
- 23** The Committee must be satisfied that the particular conduct, behaviour or performance approaches, but falls just short of, the threshold for the realistic prospect test. The realistic prospect test requires a genuine possibility of a finding of impaired fitness to practise, justifying action on the doctor's registration. The Committee is satisfied that the concerns displayed in this case are sufficiently serious that if there were repetition, they would result in a finding of impairment, thus the test for a warning is met. Repetition of your behaviour could affect patient and public confidence in the profession and the reputation of the profession.
- 24** In deciding whether to issue a warning the Committee must apply the principle of proportionality, and balance the interests of the public with those of the practitioner.
- 25** The Committee determined that it is fair and reasonable for a professional such as yourself to have an awareness of policies such as the one described in this case. Although the Committee has noted your explanation that you were not made aware of the policy and had not had sight of it, it is reasonable you would be aware that such messages were clearly inappropriate and could be audited as with all other computer systems.
- 26** The Committee accepts even if you may have perceived your messages to be '*private*', the language used was so unacceptable, it should have not been used in any context during your clinical duties whether private verbal conversation or otherwise.
- 27** The Committee carefully considered the mitigating factors as outlined by Mr Ivill and the documentation provided today. It took into consideration your clear reflection and remorse shown from an early stage in the investigation. The Committee accepts that your behaviour does not constitute a patient safety issue and the risk of repetition is low. The Committee also considered the positive testimonials provided that attest to your professionalism and feedback provided that describes you as respectful and caring. The Committee took into account your growing maturity since the incident.
- 28** The Committee have concluded that the public would be shocked at the language used in the messages and that your conduct was consistent and repeated over a

substantial amount of time. The language used and the context it was used in was completely unacceptable and thus the Committee determined, on balance, the aggravating features of this case far outweigh the mitigation provided. Your conduct did not meet the standards expected of a doctor and a warning would serve to maintain the public's confidence in the profession, promote the standards expected of a doctor and send a message to the wider profession that this conduct is not acceptable. In conclusion, the Committee have determined that a warning is both necessary and proportionate in this case.

- 29** The Committee have accepted Mr Ivill's submissions that some changes be made to the wording of the warning to more accurately describe your conduct. Therefore, the Warning will be documented as follows:

'Between January 2017 and September 2018, you exchanged numerous electronic instant messages with a GP colleague via your Practice's SystmOne IT platform, some of which included inappropriate disparaging comments about patients, as well as colleagues.

Your conduct as outlined above does not meet with the standards required of a doctor. It risks bringing the profession into disrepute and it must not be repeated. The required standards are set out in Good medical practice and associated guidance. In this case, paragraph 37 of Good medical practice is particularly relevant:

36 *You must treat colleagues fairly and with respect.*

37 *You must be aware of how your behaviour may influence others within and outside the team.*

65 *You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession*

Whilst these failings in themselves are not so serious as to require any restriction on your registration, it is necessary in response to issue this formal warning.

This warning will be published on the List of Registered Medical Practitioners (LRMP) in line with our publication and disclosure policy, which can be found at www.gmc-uk.org/disclosurepolicy.

- 30** You will be notified of this decision in writing within the next two working days.

That concludes the determination of the Investigation Committee in this case.