## Public Minutes of the Investigation Committee

**Date of hearing:** 02 December 2021

<table>
<thead>
<tr>
<th>Name of Doctor</th>
<th>Dr Jacek Stanislaw Bugala</th>
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<tr>
<td><strong>Doctor’s UID</strong></td>
<td>6132882</td>
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<tr>
<th>Committee Members</th>
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<td>Dr Richard Khoo</td>
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<td>Professor Jennifer Adgey</td>
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<td>Ms Helen Potts</td>
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<tr>
<th>Legal Assessor</th>
<th>Mr Robin Hay</th>
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<td>Panel Secretary</td>
<td>Ms Gemma Wolstenholme</td>
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### Attendance and Representation

<table>
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<tr>
<th>GMC Representative</th>
<th>Ms Katie Nowell</th>
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<tr>
<td><strong>Doctor’s attendance</strong></td>
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<td><strong>Doctor’s representative</strong></td>
<td>Not represented</td>
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<th><strong>Outcome</strong></th>
<th>Warning</th>
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Determination

Dr Jacek Bugala,

1 The Legal Assessor advised you about the law and procedure with GMC Counsel present.

Background

2 In January 2020 you applied to the GMC to have your licence to practise medicine in the UK restored ("the Application"). In the Application you explained that you had previously worked at the Prince Charles Hospital from where you said you had retired in July 2017 and then returned to live in Poland.

3 In the Application you disclosed that on 6 July 2017 you had been arrested and were subsequently convicted by a court in Poland of driving under the influence of alcohol. Further details were provided by you, which revealed that you were convicted on 16 January 2018 and banned from driving for four years. You appealed your sentence in July 2019 and in September 2019 the court decided that you could drive a car fitted with Alcoblock until 6 July 2021, when your ban ended.

4 The GMC arranged for your certificates of conviction to be translated and legal advice was obtained which confirmed that your conviction in Poland was equivalent to a conviction for drink driving in the UK.

5 Following the conclusion of the investigation process, the GMC wrote to you on 08 September 2021 to inform you that the Case Examiners were minded to issue you with a warning.

6 Your confirmed that should the Case Examiners decide to issue a warning, you would not accept the warning and instead, request the case be heard by the Investigation Committee (IC).

7 On 18 October 2021, 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 Ms Katie Nowell on behalf of the GMC, took the Committee through the history of the case as outlined above. Ms Nowell submitted that driving under the influence of alcohol is a clear and specific breach of Paragraph 65 of Good Medical Practice (GMP) and has the power to erode public trust in the profession. Ms Nowell stated that
Paragraph 75 of GMP ‘speaks for itself’ in that it was over two years before you declared your conviction which is clearly not ‘without delay’ representing a clear and specific breach.

9 Taken together, these breaches are very serious and approach the threshold for a finding of impairment of your fitness to practise. Ms Nowell stated that there is no current realistic prospect of finding your fitness to practise impaired, however were there to be a repetition of your behaviour such as a further conviction, this could be sufficient to amount to a finding of impairment.

10 Ms Nowell submitted that the GMC accepted that there has been an apology for the delay in reporting but that the GMC considered there had been a lack of insight in your response in that you appeared to downplay the conviction on the ground that it happened a long time ago. She further submitted that there has been no evidence of rehabilitative steps, no references or testimonials provided today and little remediation present. She stated that you engaged in illegal behaviour for which you were convicted, that conviction represents a significant departure from Paragraph 65 of GMP, the resulting delay in notifying your regulator represents a significant departure of Paragraph 75 of GMP.

11 Ms Nowell submitted that although your conviction is not sufficiently serious enough on its own to meet the realistic prospect test, but that a warning is an appropriate and serious response to guard against the risk of repetition and to help promote and maintain public confidence in the profession and proper standards and conduct for members of the profession.

12 Ms Nowell submitted that this behaviour 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 (GMP) and associated guidance. In this case, paragraphs 65 and 75 of GMP are particularly relevant:

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

75. You must tell us without delay if, anywhere in the

world: […]

b. you have been charged with or found guilty of a criminal

offence […]’

13 Ms Nowell pointed the Committee to Paragraphs 22 and 23 on the GMC guidance on warnings which indicates that convictions or cautions should usually be referred to
the Medical Practitioners Tribunal Service. However, a one-off drink driving offence, in the absence of health concerns, is conduct that may fall within the category of behaviour suitable for a warning.

14 Ms Nowell submitted that in all the circumstances and notwithstanding any mitigation, a warning was necessary and proportionate. Your conduct did not meet the standards expected 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 such conduct is not acceptable.

Defence Submissions

15 You began your submissions by accepting that you received a conviction and that although you did disclose this to the GMC, you did not do so in a timely fashion. You disclosed the conviction when you applied to restore your licence to practise. You advised that there were personal circumstances occurring at the time of this conduct that provide mitigating circumstances. The failure to disclose the conviction occurred at a time of personal distress and you simply didn’t think of reporting the matter to the GMC.

16 XXX. You said that you were at the time, you were under great stress and as you were now a pensioner, you had decided to move back to Poland. On the day in question, you drank alcohol as you were unable to sleep and when you awoke you hadn’t made the link between drinking and driving the car. Following your conviction, the whole situation was so distressing for you that it did not occur to you to disclose it to the GMC.

17 You assured the Committee that your insight is good. Your behaviour happened at a time when you were under stress and you understood it was wrong. You submitted that you have already paid a ‘big price’ as a result of the conviction and subsequent ban on driving. Furthermore, the GMC investigation had also been lengthy. You emphasised to the Committee that you were sorry, although you were not ashamed as you could not ‘live in the past’.

18 You understand that the GMC requires a doctor to adhere to GMP and to justify a patient’s trust in the doctor. You now understand that a doctor must disclose convictions without delay to keep this trust. Having passed the necessary examinations in Poland, you confirmed that your driving licence has been restored and the Alcoblock removed.

19 When asked about the risk of repetition, you stated that this conduct will never happen again as you are not addicted to alcohol. You said that you drove for a period of two years with the Alcoblock in place without incident. You told the Committee that drink as it is not a source of happiness for you and that you drink infrequently. You
have confirmed that you are not addicted, you will not repeat this behaviour and
certainly will not receive a conviction again, it was a one-off event and no similar
concerns have been raised prior to your arrest nor since. You reassured the
Committee that you take a different approach to life.

20 You said that you were aware that you could submit testimonials from colleagues, but
you had chosen not to do so.

21 You submitted that a warning would be more detrimental to you in obtaining future
employment than the conviction itself. You stated that you have always demonstrated
good patient care and now because of this situation which was caused by a
distressing time in your life, your practice is now in question.

22 You drew the Committee’s attention to The GMC Guidance on Warnings which states
that each case must be considered on its own merits and particular circumstances.
You requested that the Committee use its judgement in applying the principles.

Committee Determination

23 In reaching its decision, the Committee considered all the material before it, together
with the submissions made by you and those made by Ms Nowell. It has accepted the
advice of the Legal Assessor. The Committee has had in mind the Guidance on
Warnings and the requirements of GMP.

24 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 profession, and
   c. Promoting and maintaining proper professional standards and conduct for
      members of that profession.

25 You were convicted of driving while over the prescribed level of alcohol. You also
failed to disclose this conviction to the GMC without delay. This conduct represents
clear and specific breaches of Paragraphs 65 and 75 of GMP.

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

75. You must tell us without delay if, anywhere in the

world: […]
b. you have been charged with or found guilty of a criminal

offence [...]’

26 The Committee accepts there is no definition of ‘significant’ in the Medical Act or in the Fitness to Practice Rules, however, driving under the influence of alcohol, whatever the circumstances, represents a significant departure from GMP Paragraph 65 in that it puts members of the public at risk of serious harm. Further, it does not meet the standards expected of a doctor and could serve to damage the public’s trust and confidence in the profession. The Committee determined that your delay in notifying the GMC of your conviction renders your conduct all the more significant, as the guidance is clear that you must tell the GMC without delay if, anywhere in the world you have been charged with or found guilty of a criminal offence; this is central to the GMC’s ability to perform its statutory role to protect the public and represents a significant departure from Paragraph 75 of GMP.

27 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 realistic prospect test is not met. It is satisfied that it is unlikely that the conduct would be repeated and has concluded that a finding of impaired fitness to practice is not indicated.

28 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.

29 At the outset the Committee acknowledges your clear passion and commitment to your profession and that the conduct which has brought you before it today is entirely unrelated to your clinical practice.

30 The Committee accepts that you have insight into the circumstances that led to your conduct and that there is nothing to indicate a history of alcohol misuse. The Committee found however that you have not demonstrated full insight into the dangers to others of driving whilst under the influence of alcohol.

31 The Committee is aware that you have taken some rehabilitative steps insofar as you attended an alcohol rehabilitation clinic. It has not had the benefit of seeing any testimonials today to attest to your character or otherwise but has heard that there has been no repetition of your conduct, accepting that during this period you were under significant stress. The Committee is satisfied that you are unlikely to repeat this conduct and is reassured by your submissions that you have now familiarised yourself with your obligations under GMP.
32 In considering whether a warning would be a proportionate response, the Committee took into account the effect it may have on your employment opportunities. The Committee concluded that any detriment to your career by issuing you with a warning is considerably reduced by the fact that, when seeking employment, you must disclose your conviction. The Committee has determined a warning, although a serious response, is nevertheless proportionate.

33 The Committee must balance the interest and safety of the public with proportionality. On the specific facts, the Committee has determined that your conduct did not justify your patients’ trust in you and the public’s trust in the profession.

34 Driving under the influence of alcohol is the type of conduct where a warning would be appropriate, and whilst you have provided significant personal mitigation to the Committee, your failure to inform the GMC without delay compounds this behaviour. The Committee has determined that your behaviour is likely to damage public confidence in the profession and does not meet with the standards required of a doctor. The Committee has determined that a warning would be appropriate and proportionate to maintain public confidence in the profession, promote the standards expected of a doctor and send a message to the wider profession that this conduct is unacceptable.

35 The warning will be documented as follows:

‘On 16 January 2018, you were convicted in Poland of the offence of driving under the influence of alcohol.

You failed to tell the GMC about this conviction without delay.

This conduct 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, paragraphs 65 and 75 of Good medical practice are particularly relevant:

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

75. You must tell us without delay if, anywhere in the world:

[ …]

b. you have been charged with or found guilty of a criminal offence

[ …]
Whilst these failings 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.

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

That concludes the determination of the Investigation Committee.