

HEARING PART-HELD IN PRIVATE

Professional Conduct Committee Initial Hearing

25 to 27 March 2024

Name: AZAM, Zeeshan
Registration number: 229829
Case number: CAS-194639-X2W6J2

General Dental Council: Sam Thomas, Counsel
Instructed by Saba Khan, IHLPS

Registrant: Present
Unrepresented

Fitness to practise: Impaired by reason of conviction and misconduct

Outcome: Fitness to Practise Impaired. Reprimand Issued

Duration: N/A

Immediate order: N/A

Committee members: Marnie Hayward (Dental Care Professional) (Chair)
Miranda Carruthers-Watt (Lay)
Amit Gadhavi (Dentist)

Legal adviser: Paul Moulder

Committee Secretary: Gareth Llewellyn

At this hearing the Committee made a determination that includes some private information. That information shall be omitted from this public version of the determination and the document marked to show where private material is removed.

Determination on preliminary matters – 25 March 2024

Name: AZAM, Zeeshan

Registration number: 229829

Mr Azam

1. This is a hearing before the Professional Conduct Committee (PCC). The hearing is being held remotely using Microsoft Teams in line with the Dental Professionals Hearings Service's current practice.
2. You are present and are not represented. Sam Thomas of Counsel, instructed by Saba Khan of the General Dental Council's (GDC's) In-House Legal Presentation Service (IHLPS), appears for the GDC.

Amendment to charge

3. At the outset of the hearing on 25 March 2024 Mr Thomas applied to amend the charge pursuant to Rule 18 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). Mr Thomas sought to amend the stem of heads of charge 5 (a) and 5 (b) in order to correct typographical errors. You did not oppose the application. The Committee, having accepted the advice of the Legal Adviser, determined to amend the stem of heads of charge 5 (a) and 5 (b) on the basis that it was fair and appropriate for the amendments to be made. The schedule of charge was duly amended.

Hearing to be part-held in private

4. Mr Thomas invited the Committee to hold part of the hearing in private in accordance with Rule 53 of the Rules on the occasions when you deal with matters relating to your health, family life and private life. You opposed the application on the basis that you wish to be open about such matters. The Committee, having accepted the advice of the Legal Adviser, determined to hold the hearing partly in private for the purposes of protecting your private and family life. The Committee understood the reasons for your submission, but it considered that it would not be appropriate for information about your private and family life to be heard in public, particularly as the sensitive information also relates to people other than you. The Committee considers that you will be able to give evidence and make submissions in an open and unfettered manner, albeit in private session.

Admissions

5. You tendered admissions to some of the heads of charge that you face. The heads of charge were, namely, 1, 2 (a), 2 (b), 3, 4 (a), 4 (b) (i) and 4 (b) (ii). The Committee, having accepted the advice of the Legal Adviser, determined and announced that the facts alleged at those heads of charge were proven on the basis of your admissions in accordance with Rule 17 (4) of the Rules.

Findings of fact – 26 March 2024

Background to the case and summary of allegations

6. The allegations giving rise to this hearing arise out of your criminal convictions and your alleged failure to declare those to the GDC.
7. On 26 April 2019 you appeared before North Essex Magistrates' Court and were convicted of an offence of dangerous driving. On 31 May 2019 you appeared before Chelmsford Crown Court and were sentenced to a period of six months' imprisonment, suspended for two years, and were, amongst other disposals, disqualified from driving for three years.
8. On 15 July 2019 you appeared before North Essex Magistrates' Court and were convicted of two offences, namely driving without insurance and driving whilst disqualified. The Court committed you to Chelmsford Crown Court for sentencing in respect of the previous suspended sentence order imposed by Chelmsford Crown Court on 31 May 2019 as referred to in the preceding paragraph. You later appeared before Chelmsford Crown Court and were, amongst other disposals, sentenced to a total period of imprisonment of six months.
9. It is alleged that you failed to immediately inform the GDC of your convictions, and that such conduct was misleading. The GDC further contends that such conduct was also dishonest, in that you knew you were required to disclose these convictions and did not disclose them in order to hide these convictions from your regulator.
10. At the opening of the GDC's case on the facts, Mr Thomas clarified that heads of charge 1, 2 (a) and 2 (b) are conviction allegations, whereas the remaining heads of charge, namely heads of charge 3, 4 (a), 4 (b) (i), 4 (b) (ii), 5 (a) and 5 (b), are misconduct allegations.

Evidence

11. The Committee has been provided with documentary material in relation to the heads of charge that you face, including the Memoranda of Convictions relating to your criminal convictions; the sentencing remarks of the judge who sentenced you; the witness statement and documentary exhibits of a former GDC lawyer with knowledge of the case; and your written responses and previous observations on the heads of charge that you face.
12. The documents referred to in the preceding paragraph were contained in a bundle of documents which the Committee exhibited as Exhibit 1. Having accepted the advice of the Legal Adviser, and with the agreement of parties, the Committee refrained from reading pages 356 to 385 at this factual stage of the proceedings so as to avoid any potential risk of prejudice.
13. The Committee heard oral evidence from you.

Committee's findings of fact

14. The Committee has taken into account all the evidence presented to it, both written and oral. It has considered the submissions made by Mr Thomas on behalf of the GDC and those made by you. The Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020) and the GDC's *Guidance on reporting criminal proceedings* (September 2013).

15. The Committee has accepted the advice of the Legal Adviser. The Committee is mindful that the burden of proof lies with the GDC, and has considered the heads of charge against the civil standard of proof, that is to say, the balance of probabilities. The Committee has considered each head of charge separately, although some of its findings will be announced together.

16. I will now announce the Committee's findings in relation to each head of charge:

1.	<i>On 26 April 2019, you were convicted at North Essex Magistrates Court of Dangerous Driving, an offence contrary to section 2 of the Road Traffic Act 1988 ("The 1988 Act").</i> Admitted and proved
	The Committee found this head of charge, and the other heads of charge to which you made admissions, proved on the basis of your admissions at the preliminary stage of the hearing.
2.	<i>On 15 July 2019, you were convicted at North Essex Magistrates Court of;</i>
2. (a)	<i>Using a vehicle without insurance, an offence contrary to section 143(2) of the 1988 Act; and</i> Admitted and proved
2. (b)	<i>Driving whilst disqualified other than by reason of age, an offence contrary to section 103(1)(b) of the 1988 Act.</i> Admitted and proved
3.	<i>On 15 July 2019, at North Essex Magistrates Court, you were found to be in breach of a suspended sentence order, in relation to an offence of Dangerous Driving contrary to section 2 of the 1988 Act, which was imposed in the Crown Court at Chelmsford on 31 May 2019.</i> Admitted and proved
4.	<i>You failed to immediately inform the General Dental Council that;</i>
4. (a)	<i>On 26 April 2019 you were convicted of Dangerous Driving.</i> Admitted and proved
4. (b)	<i>On 15 July 2019 you were convicted of;</i>
4. (b) (i)	<i>Using a vehicle without insurance; and/or</i> Admitted and proved
4. (b) (ii)	<i>Driving whilst disqualified other than by reason of age.</i> Admitted and proved

5.	<i>Your actions in relation to allegations 4 (a), and/or 4 (b) (i) and/or 4 (b) (ii) were:</i>
5. (a)	<p><i>Misleading; and/or</i></p> <p>Proved in relation to heads of charge 4 (a), 4 (b) (i) and 4 (b) (ii)</p>
	<p>You have admitted, and the Committee has found proved, that you failed to immediately inform the GDC of your convictions for offences of dangerous driving on 26 April 2019 and offences of using a vehicle without insurance and driving whilst disqualified on 15 July 2019. The Committee has now gone on to consider whether such conduct was misleading.</p> <p>In your oral evidence to the Committee you accepted that the consequence of your failure to declare your criminal convictions meant that it would have been reasonable for the GDC to believe that you had not been so convicted, when in fact you had been so convicted. You accepted that the GDC was misled in that regard, and that your conduct was, objectively, misleading.</p> <p>The Committee finds the facts alleged at head of charge 5 (a) proved. The Committee finds from the evidence presented to it that the effect of you not declaring your convictions was that the GDC was misled into believing that you had not been so convicted, whereas in fact you were so convicted. The Committee has determined that your conduct was therefore misleading, and accordingly it finds the facts alleged at head of charge 5 (a) proved.</p>
5. (b)	<p><i>Dishonest in that you knew you were required to disclose these convictions and did not disclose them in order to hide these convictions from your regulator.</i></p> <p>Not proved in relation to heads of charge 4 (a), 4 (b) (i) and 4 (b) (ii)</p>
	<p>You have admitted, and the Committee has found proved, that you failed to immediately inform the GDC of your convictions for offences of dangerous driving on 26 April 2019 and offences of using a vehicle without insurance and driving whilst disqualified on 15 July 2019. The Committee has found above that such conduct was misleading. The Committee went on to consider whether such conduct was also dishonest.</p> <p>In approaching this head of charge the Committee applied the test set out in <i>Ivey v Genting Casinos (UK) Ltd. t/a Crockfords</i> [2017] UKSC 67. The test is that the Committee must decide subjectively the actual state of an individual's knowledge or belief as to the facts, and must then apply the objective standards of ordinary and decent people to determine whether the conduct was dishonest by those standards.</p> <p>The Committee, therefore, first considered your actual state of knowledge or belief as to the facts.</p> <p>The Committee has had regard to your previous response to the allegations dated 6 May 2022. In that letter you stated:</p>

	<p>IN PRIVATE</p> <p>[text omitted]</p> <p>IN PUBLIC</p> <p>In accordance with the test set out above, the Committee first decided subjectively the actual state of your knowledge or belief as to the facts.</p> <p>IN PRIVATE</p> <p>[text omitted]</p> <p>IN PUBLIC</p> <p>The Committee then applied the objective standards of ordinary and decent people to determine whether the conduct was dishonest by those standards.</p> <p>IN PRIVATE</p> <p>[text omitted]</p> <p>IN PUBLIC</p> <p>The Committee therefore finds the facts alleged at head of charge 5 (b) not proved.</p>
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17. We move to stage two.

Determination on misconduct, impairment and sanction - 27 March 2024

18. Following the handing down of the Committee’s findings of fact on 26 March 2024, the hearing proceeded to stage two; that is to say, misconduct, impairment and sanction.

Proceedings at stage two

19. The Committee has considered all the evidence presented to it, both oral and documentary. It has taken into account the submissions made by Mr Thomas on behalf of the GDC and those made by you. In its deliberations the Committee has had regard to the GDC’s *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020). The Committee has also had regard to the GDC’s *Guidance for decision makers on the impact of criminal convictions and cautions* (May 2014), with particular reference to paragraphs (8) to (13). The Committee has accepted the advice of the Legal Adviser.

Evidence at stage two

20. The Committee received no further oral or documentary evidence following its findings of facts. Nonetheless, it had regard to all of the evidence presented at the factual inquiry stage of the hearing, again save for pages 356 to 385 of the main hearing bundle, which bears the designation Exhibit 1.

Fitness to practise history

21. Mr Thomas addressed the Committee in accordance with Rule 20 (1) (a) of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). Mr Thomas stated that you have some fitness to practise history, but that those matters are not directly relevant to this case.

Misconduct

22. The Committee first considered whether the facts that it has found proved at heads of charge 3, 4 (a), 4 (b) (i), 4 (b) (ii) and 5 (a) constitute misconduct. The Committee has heard that Mr Thomas on behalf of the GDC submits that those facts amount to misconduct. It also heard that you accept that those facts constitute misconduct. In considering this and all other matters, the Committee has exercised its own independent judgement.

23. In its deliberations the Committee has had regard to the following paragraphs of the GDC's *Standards for the Dental Team* (September 2013) in place at the time of the incidents giving rise to the facts that the Committee has found proved at heads of charge 3, 4 (a), 4 (b) (i), 4 (b) (ii) and 5 (a). These paragraphs state that as a dentist you must:

9.1 Ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.

9.3 Inform the GDC if you are subject to criminal proceedings or a regulatory finding is made against you anywhere in the world.

9.3.1 You must inform the GDC immediately if you are subject to any criminal proceedings anywhere in the world. See our guidance on reporting criminal proceedings for more information.

24. The Committee's findings at heads of charge 3, 4 (a), 4 (b) (i), 4 (b) (ii) and 5 (a) relate to two matters.

25. First, on 15 July 2019 at North Essex Magistrates Court you were found to be in breach of a suspended sentence order. The suspended sentence order had been imposed on 31 May 2019 at Chelmsford Crown Court following your conviction for an offence of dangerous driving.

26. Second, you failed to immediately inform the GDC of your conviction on 26 April 2019 for an offence of dangerous driving and your conviction on 15 July 2019 for offences of driving without insurance and driving whilst disqualified. The Committee has found that your failure amounted to conduct that was misleading.

27. In light of the findings of fact that it has made, the Committee has determined that the proven facts amount to misconduct. The Committee considers that your breach of a suspended sentence order is a serious matter. The Committee also considers that your failure to immediately inform the GDC of your convictions, which the Committee has found was misleading, was also serious. In addressing the latter conduct the Committee has had regard to the following paragraph from the *Guidance for the Practice Committees, including Indicative Sanctions Guidance*:

'The Registrar must be able to carry out their function of scrutiny effectively, including consideration of the implications of any convictions or cautions on an applicant or registrant's

suitability to be on the register. If a registrant fails to disclose a conviction or caution at the point of registration or, if already registered, at any point after receiving it, it strikes at the very heart of the registration process and the reliability and integrity of the register i.e. to ensure that only fit and proper persons are registered as dental professionals. Therefore, a failure to disclose a conviction or caution may not only impact on the protection of the public, but it may also undermine the public's confidence in the profession and its regulation [...]

28. The Committee considers that your conduct fell far short of the standards reasonably to be expected of a registered dental professional, and that your acts and omissions would be viewed as deplorable by your fellow practitioners.
29. The Committee has therefore determined that the facts that it has found proved at heads of charge 3, 4 (a), 4 (b) (i), 4 (b) (ii) and 5 (a) amount to misconduct.

Impairment

30. The Committee next considered whether your fitness to practise is currently impaired by reason of the convictions and misconduct that it has found. In doing so, the Committee again exercised its own independent judgment. The Committee heard that Mr Thomas on behalf of the GDC submits that a finding of impairment is required for public interest considerations because of your convictions and your misconduct. You addressed the question of impairment and argued that such a finding is not required, particularly in light of the rehabilitation and remediation that you have undertaken.
31. Throughout its deliberations, the Committee has borne in mind that its overarching objective is to protect the public, which includes the protection of patients and the wider public, the maintenance of public confidence in the profession and in the regulatory process, and the declaring and upholding of proper standards of conduct and behaviour.

BY REASON OF CONVICTION

32. The Committee first considered whether your fitness to practise is currently impaired by reason of your criminal convictions.
33. The Committee reminded itself of the criminal convictions that it found proved at the factual inquiry stage. These were, namely, heads of charge 1, 2 (a) and 2 (b).
34. On 26 April 2019 you appeared before North Essex Magistrates' Court and were convicted of an offence of dangerous driving. On 15 July 2019 you appeared before North Essex Magistrates' Court and were convicted of two offences, namely driving without insurance and driving whilst disqualified.
35. The Committee has determined that, although you have demonstrated considerable insight into your offences, and have undertaken extensive rehabilitation and remediation, a finding of impairment is required to maintain public confidence in the profession and to declare and uphold proper professional standards of conduct and behaviour. In the Committee's judgment the public's trust and confidence in the profession, and in the regulatory process, would be significantly undermined if a finding of impairment was not made, given the nature of your convictions which resulted in a total period of six months' imprisonment. Accordingly, the Committee finds that your fitness to practise is currently impaired by reason of your convictions.

BY REASON OF MISCONDUCT

36. The Committee next considered whether your fitness to practise is also currently impaired by reason of the misconduct that it has found in respect of heads of charge 3, 4 (a), 4 (b) (i), 4 (b) (ii) and 5 (a).
37. The Committee's findings of misconduct relate to two matters. First, on 15 July 2019 at North Essex Magistrates Court you were found to be in breach of a suspended sentence order. The suspended sentence order had been imposed on 31 May 2019 at Chelmsford Crown Court following your conviction for an offence of dangerous driving. Second, you failed to immediately inform the GDC of your conviction on 26 April 2019 for an offence of dangerous driving and your conviction on 15 July 2019 for offences of driving without insurance and driving whilst disqualified. The Committee has found that your failure amounted to conduct that was misleading.
38. Again, you have demonstrated significant insight into your misconduct, and have undertaken extensive rehabilitation and remediation. This includes detailed reflections, personal development plans (PDPs) and continuing professional development (CPD). You have provided evidence of being open and honest for a number of years since the matters giving rise to the Committee's factual findings, and you have set out how you would act differently in the future. You have engaged with these proceedings in a positive and purposeful manner, including at this hearing. The Committee is in no doubt as to the salutary effect that these proceedings have had on you, and that this has given focus to the commendable and comprehensive remediation that you have undertaken. The Committee considers that you have remedied your misconduct to a sufficient extent, and that, accordingly, a repeat of your misconduct is now highly unlikely. As the Committee considers that you no longer pose a risk to the public, it therefore finds that your fitness to practise is no longer impaired on a personal level.
39. However, the Committee considers that a finding of impairment is, nonetheless, required to maintain public confidence in the profession and to declare and uphold proper professional standards of conduct and behaviour. In the Committee's judgment the public's trust and confidence in the profession, and in the regulatory process, would be significantly undermined if a finding of impairment was not made given the serious nature of your misconduct. Accordingly, the Committee finds that your fitness to practise is currently impaired by reason of your misconduct.

Sanction

40. The Committee then determined what sanction, if any, is appropriate in light of the findings of facts, misconduct and impairment that it has made. The Committee recognises that the purpose of a sanction is not to be punitive, although it may have such an effect, but is instead imposed to protect patients and safeguard the wider public interests mentioned above.
41. In reaching its decision the Committee has again taken into account the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020). It has also had regard to the submissions made by Mr Thomas on behalf of the GDC that the appropriate and proportionate sanction is one of reprimand. You submitted that, although you consider that a finding of impairment is not required, you understand that the Committee may find otherwise and that, were it to find impairment, you agree that a direction of a reprimand would be appropriate. The Committee has applied the principle of proportionality, balancing the public interest with your own interests. The Committee has once more exercised its own independent judgment.

42. The Committee has paid careful regard to the mitigating and aggravating factors present in this case.
43. In respect of the mitigating factors that are present, the Committee notes your considerable insight into and remediation of the matters in this case. You also made extensive admissions to the heads of charge which the Committee went on to find proved. The Committee has also had regard to the matters relating to your health which were relevant at the material times as set out in detail in its findings of fact. The Committee notes that you are of previous and subsequent good character, that your actions were not motivated by financial gain, and that a considerable period of time has elapsed since the matters giving rise to these proceedings occurred.
44. In terms of aggravating factors, the Committee notes that the offence of dangerous driving for which you were convicted resulted in actual harm to an individual, and that the harm could, according to the presiding judge, have been much worse. Your actions in breaching a suspended sentence order also suggest a breach of the trust that was placed in you by the Court. Your actions in failing to notify the GDC of the fact of your convictions also suggest a disregard for the GDC, although not a blatant and wilful one.
45. The Committee has considered the range of sanctions available to it, starting with the least serious. In the light of its findings, the Committee considers that taking no action would not be sufficient in the particular circumstances of this case. In the Committee's judgment public trust and confidence in the profession and in the regulatory process would be significantly undermined if no action were taken.
46. The Committee next considered whether it would be appropriate to conclude the case with a reprimand. After careful consideration the Committee has concluded that it would be appropriate and proportionate to issue a reprimand. The Committee has found that you do not pose a risk to the public, that you have shown remorse for, insight into and remediation of your misconduct and convictions, and that your conduct was limited to your convictions and their implications, The Committee considers that a reprimand is sufficient to declare and uphold proper professional standards of conduct and behaviour, and to maintain public trust and confidence in the profession in the particular circumstances of this case.
47. The Committee did consider whether a higher sanction such as a period of conditional or suspended registration would be appropriate. It considered that no higher sanction than that of reprimand is needed in order to address the public interest considerations referred to above.
48. This reprimand, and a copy of the public determination, will appear alongside your name in the Register for a period of 12 months. The reprimand forms part of your fitness to practise history and is disclosable to prospective employers and prospective registrars in other jurisdictions.
49. That concludes this case.