

Hearing held partly in private

PUBLIC DETERMINATION

Summary

Name:	IVANOVA, Ivelina Yordanova [Registration number: 116199]
Type of case:	Professional Conduct Committee (Review)
Outcome:	Suspended indefinitely
Date:	21 July 2022
Case number:	CAS-187638

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

This is a resumed hearing before the Professional Conduct Committee (PCC) pursuant to section 27C of the *Dentists Act 1984 (as amended)* ('the Act'). Members of the Committee, as well as the Legal Adviser and the Committee Secretary, are participating via Microsoft Teams in line with the General Dental Council's current practice of holding hearings remotely.

The purpose of this hearing has been for the Committee to review Ms Ivanova's case and determine what action should be taken in relation to her registration. Neither party is participating in today's hearing, following a request for the review to be conducted on the papers via Microsoft Teams.

The Committee first considered the issues of service and whether to proceed with the hearing in the absence of Ms Ivanova and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

Decision on service

The Committee considered whether notice of the hearing had been served on Ms Ivanova in accordance with Rules 28 and 65 of the *General Dental Council (Fitness to Practise) Rules 2006 Order of Council* ('the Rules').

The Committee received from the GDC an indexed hearing bundle of 69 pages. The bundle contained a copy of the Notice of Hearing dated 08 June 2022 ('the notice'), which was sent to Ms Ivanova's registered address. A copy of the notice was also sent to her by email. The Committee noted from the associated Royal Mail 'Track and Trace' receipt, also within the hearing bundle, that delivery of the notice letter had been attempted, however, the item was redirected back to the sorting office. The Committee took into account that there is no requirement within the Rules for the GDC to prove delivery of the notice, only that it was sent.

The Committee was satisfied that the notice sent to Ms Ivanova complied with the required 28 day notice period. It was also satisfied that it contained proper notification of today's hearing, including its date and time, as well as confirmation that the hearing would be held remotely via Microsoft Teams. Ms Ivanova was further notified that the Committee had the power to proceed with the hearing in her absence.

On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Ivanova in accordance with the Rules and the Act.

Decision on whether to proceed with the hearing in the absence of Ms Ivanova

The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Ms Ivanova. It approached this issue with the utmost care and caution. The Committee took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones [2003] 1 AC 1HL* and as explained in the cases of *General Medical Council v Adeogba [2016] EWCA Civ 162*. The Committee remained mindful of the need to be fair to both Ms Ivanova and the GDC, taking into account the public interest in the expeditious review of this case.

The Committee was satisfied that Ms Ivanova was aware of this hearing today. It had sight of an email dated 12 July 2022 from Ms Ivanova to the GDC stating *"I acknowledge the receipt of the documents you are sending with this e-mail. On the 21 July 2022 I will not be represented and I will not attend the hearing, because there is nothing I could, personally, add to what I have testified before in front of the GDC. Kind regards, Ivelina Ivanova."*

The Committee noted that there has been no request by Ms Ivanova for an adjournment and therefore concluded that she had voluntarily absented herself from today's proceedings. The Committee noted there was no information before it to indicate that an adjournment was likely to secure her attendance on a future date. It noted that Ms Ivanova did not attend and was not represented at the review hearings on 14 December 2021 and 09 March 2022.

In all the circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Ms Ivanova and on the papers.

Decision on application for matters to be heard in private under Rule 53

The Committee noted the GDC's application made in its written submissions that the matters relating to misconduct in this case are not so inextricably linked to Ms Ivanova's private life to require the whole hearing to be in private session. In reaching its decision on the application, the Committee accepted the advice of the Legal Adviser. The Committee took into account that, in the absence of both parties, its review would be conducted on the papers without any public observers present. However, it noted the principle of the GDC's Rule 53 application, and it agreed to hold the hearing partly in private and produce both a private version of its determination and a suitably redacted public version.

Background

On 10 December 2019, the PCC found Ms Ivanova's fitness to practise to be impaired by reason of (i) misconduct and (ii) convictions, and directed that her registration be suspended for a period of 12 months with an immediate order and a review.

The misconduct found by the December 2019 PCC related to:

- (i) [IN PRIVATE] ;
- (ii) Ms Ivanova's failure in breach of her professional obligations to have immediately informed the GDC of the criminal charges leading to her convictions and of the convictions themselves; and
- (iii) Ms Ivanova's failure to have cooperated with an ensuing investigation by the GDC into her fitness to practise.

In finding impairment by reason of misconduct, the December 2019 PCC stated in its determination:

[IN PRIVATE:].

"The Committee considers that your failure to co-operate with and notify the GDC is remediable, and that you have demonstrated evidence of your insight into and reflections upon your particular failure to inform the Council of your criminal charges and criminal convictions. The Committee considers that in the circumstances it is unlikely that there will be a repeat of your failure to notify the GDC of future matters that you are required to declare. However, the Committee notes that there is evidence to suggest that there has been some continuation of your failure to co-operate with the GDC, notwithstanding your participation in this hearing. This suggests that you have not sufficiently remedied the misconduct that has been found in relation to that failure to co-operate.

The Committee considers that your lack of insight into, and remediation of, the misconduct arising from the facts found proved at heads of charge 1, 2 (a), 2 (b) and 6 means that it cannot be said that a repetition is highly unlikely. The Committee therefore considers that your fitness to practise is therefore currently impaired.

The Committee also considers that 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. The public's trust and confidence in the profession, and in the regulatory process, would be undermined if a finding of impairment was not made given the misconduct that the Committee has identified."

In relation to the finding of impairment by reason of Ms Ivanova's convictions, the December 2019 PCC stated:

"The Committee has determined that your fitness to practise is currently impaired by reason of your convictions. The Committee is particularly concerned by your offence of failing to stop after an accident that you had caused. The Committee considers that in the circumstances 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. The public's trust and confidence in the profession, and in the regulatory

process, would be undermined if a finding of impairment was not made given the serious nature of the criminal offences for which you were convicted.”

The PCC in 2019 determined that a period of suspended registration was a sufficient and proportionate sanction for the purposes of protecting the public, declaring, and upholding proper professional standards, and maintaining public trust and confidence in the profession. In directing a review of Ms Ivanova’s case, to take place before the expiry of the 12-month suspension imposed, the PCC in 2019 stated as follows:

“Although the Committee in no way wishes to bind or fetter the reviewing Committee, that future Committee may be assisted by evidence of you having developed and demonstrated insight into your misconduct. That Committee may in particular be assisted by a reflective piece setting out your reflections on how and why you should have behaved differently and what measures and steps you have put in place to prevent of repeat of conduct which is so damaging to your fitness to practise.”

First review of the order 23 December 2020

The order of suspension was reviewed by the PCC on 23 December 2020, when it was determined that Ms Ivanova’s fitness to practise remained impaired by reason of her misconduct and her convictions. The December PCC stated in its determination:

“...Aside from your oral evidence there is no other material before this Committee that you have addressed your past misconduct/conviction or provided any information as recommended to you by the PCC on 10 December 2019. The Committee notes you were sent a reminder of the recommendations made at the initial hearing in August 2020, but no response was received. The Committee considers that your oral evidence is not sufficient to satisfy it that you have addressed all of the concerns identified by the PCC at the initial hearing. The Committee also has concerns as to your level of insight, given that there is no evidence of reflection to demonstrate a full understanding of your failures and the wider impact of those failures on your practice and the profession generally and your actions to date to address them. Given its concerns regarding your level of insight, the absence of any meaningful remediation, the Committee considers that the risk of repetition remains. It notes that it is for you to satisfy this Committee that you have addressed all aspects of impairment found by the initial PCC and it is not persuaded that you have done so. Accordingly, the Committee has concluded that your fitness to practise remains currently impaired by reason of your misconduct and conviction.”

The PCC in December 2020 extended the suspension order on Ms Ivanova’s registration by a period of 12 months. In directing a further review, that Committee reiterated the recommendations made by the initial PCC in 2019.

Second review of the order 14 December 2021

A further review of the suspension order was undertaken by the PCC on 14 December 2021. Ms Ivanova was neither present nor represented on that occasion, although the PCC had before it a copy of her witness statement, which she had provided in an email dated 12 December 2021. In her witness statement, Ms Ivanova addressed the matter of her convictions and her misconduct in failing to notify the GDC. She stated that:

“Regarding the criminal charges and conviction after the accident in November 2016, when I collided with another car, I realize that I did not follow the rules and I was wrong. From now on, I will stop and notify the police authorities immediately, or I will find a suitable place to park the car, to be possible wait for the police, while not obstructing the traffic. I know, that I am obliged to inform the GDC about the imposed sanctions. In case, something like this happens again, which I sincerely hope not to happen, I will have to inform the GDC. I understand, that my actions affect people's trust and my position in the dental profession”.

It was noted by the PCC in December 2021 that Ms Ivanova had not provided any *“further reflective statement or other evidence of remediation for the Committee’s consideration today”*. That Committee determined that Ms Ivanova’s fitness to practise remained impaired by reason of her misconduct and her convictions *“for substantially the same reasons expressed by the previous PCCs”*. The PCC in December 2021 extended the suspension order by a period of three months, stating in its determination:

“In the Committee’s judgment, the suspension of Ms Ivanova’s registration remains necessary and proportionate. The Committee considers that extending the suspension by 3 months is sufficient to allow Ms Ivanova an opportunity to engage in further reflection and to provide the reviewing Committee with evidence of further remediation. The period is also sufficient to give the reviewing Committee the power to direct indefinite suspension, if it considers that to be appropriate.”

Third review of the order 09 March 2022

A third review of the suspension order was undertaken by the PCC on 09 March 2022. Ms Ivanova was neither present nor represented on that occasion. In relation to the PCC’s decision on Ms Ivanova’s impairment by reason of her convictions it determined:

“The Committee took into account that Ms Ivanova specifically addressed her convictions in her witness statement provided at the last PCC review. Her witness statement included her recognition of her wrongdoing, and reference to how she would behave differently in future if faced with similar circumstances with the police. This Committee acknowledged the concerns raised at the previous hearing about the extent of Ms Ivanova’s insight and remediation in general in this case. Whilst it considered that Ms Ivanova could have addressed her reflection on her convictions more comprehensively in her witness statement, in terms of today’s review, the Committee considered that there was not much more that she could have added in respect of the criminal matters. Taking this into account, and having had regard to the time elapsed since her convictions, with no evidence of repetition, the Committee determined that Ms Ivanova’s fitness to practise is no longer impaired by reason of her convictions.”

In relation to Ms Ivanova’s misconduct, the PCC determined that:

“The Committee was satisfied for the same reasons as given in relation the convictions, that Ms Ivanova’s fitness to practise is no longer impaired in relation to the second aspect of her misconduct. It considered that there is

evidence in her witness statement provided in respect of the last PCC review, that Ms Ivanova appreciates the importance of keeping her regulatory body informed of matters such as criminal proceedings. In this regard she stated, *“In case, something like this happens again, which I sincerely hope not to happen, I will have to inform the GDC. I understand, that my actions affect people's trust and my position in the dental profession”*. The Committee again considered that, for the purposes of this review, there would not have been much more that Ms Ivanova could have added to demonstrate her insight and understanding.

However, the Committee was greatly concerned about the absence of any evidence from Ms Ivanova's reflection or insight in relation to the first aspect of her misconduct. She was completely silent on this matter in her witness statement provided on the last occasion. The Committee noted that it was stated to Ms Ivanova by PCC in December 2020 that, [IN PRIVATE:]

In the absence of any evidence of remorse, reflection or insight into the first aspect of her misconduct, the Committee considered that there was an ongoing risk of repetition. It considered that the nature of this aspect of Ms Ivanova's misconduct, [IN PRIVATE], raised serious concerns about public safety. The Committee therefore determined that a finding of impairment was necessary on the grounds of public protection.

The Committee also considered that a finding of impairment was required in the wider public interest, to maintain public confidence in the dental profession, and to declare and uphold proper professional standards of behaviour. The Committee had regard to Standard 9.1 of the GDC's Standards for the Dental Team (September 2013), which states that: *“You must: 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”*. In the Committee's view, a reasonable and informed member of the public would be concerned if a finding of impairment were not made in the circumstances, given Ms Ivanova's breach of this fundamental requirement of the profession.

Accordingly, the Committee determined that Ms Ivanova's fitness to practise remains impaired on the basis of the first aspect of her misconduct only, [IN PRIVATE].

In relation to sanction the PCC determined:

“The Committee determined to extend the current order of suspension on Ms Ivanova's registration by a period of 4 months. It considered that a 4-month period would continue to provide protection the public, and that it would satisfy the public interest, particularly given that the Committee also directs a further review.

...

This Committee wishes to make clear that its outstanding concerns relate to [IN PRIVATE]. In this regard, the Committee considered that a reviewing Committee may be assisted by the following:

- Ms Ivanova's attendance at the resumed hearing, which would enable that Committee to ask her questions.

- A written reflective piece from Ms Ivanova demonstrating her current insight into [IN PRIVATE].
- [IN PRIVATE]
- Evidence of any Continuing Professional Development (CPD) undertaken by Ms Ivanova [IN PRIVATE].
- Any other evidence that Ms Ivanova considers relevant to this case.”

Today’s review

Today is the fourth review. In comprehensively reviewing this case today, the Committee considered all the evidence presented to it. It took account of the written submissions provided by the GDC. The Committee accepted the advice of the Legal Adviser. No written representations were provided on behalf of Ms Ivanova.

In its written submissions, the GDC submits that there is no evidence to show any material change in position since the last hearing. Ms Ivanova has failed to engage with the GDC despite the attempts to contact her. Ms Ivanova has not provided the GDC with any reflections or evidence of remediation. Therefore, the GDC submits that Ms Ivanova’s fitness to practise remains impaired by reason of her misconduct. In relation to sanction, the GDC submits that it would be appropriate and proportionate to consider imposing an indefinite suspension on Ms Ivanova’s registration. Ms Ivanova has been suspended for more than two years from the date in which the direction will take effect.

Aside from the email from Ms Ivanova to the GDC dated 12 July 2022 stating that she will not be attending the hearing and there is nothing more she can add, no written representations were received.

Decision on impairment

The Committee considered whether Ms Ivanova’s fitness to practise remains impaired by reason of her misconduct. In doing so, it exercised its own independent judgement. It had regard to the over-arching objective of the GDC, which is: the protection, promotion and maintenance of the health, safety and well-being of the public; the promotion and maintenance of public confidence in the dental profession; and the promotion and maintenance of proper professional standards and conduct for the members of the dental profession.

The Committee notes that since the last review hearing in March 2022 the GDC emailed Ms Ivanova on 10 March 2022 to inform her of the outcome. On 16 March 2022 the GDC further contacted Ms Ivanova to remind her of the recommendations made by the reviewing Committee and stated *“In light of the possible date of your review hearing, I would be grateful if you would submit the aforementioned evidence to me, if you wish to do so, by **29 June 2022**”*. The Committee notes that there has been no response from Ms Ivanova.

The Committee went on to consider whether Ms Ivanova’s fitness to practise is still impaired by reason of her misconduct. It bore in mind that at a review hearing the onus is on the registrant to demonstrate that their fitness to practise is no longer impaired. There is no evidence before this Committee that Ms Ivanova has recognised the seriousness of her misconduct, demonstrated insight or provided any information as recommended to her by the previous reviewing PCC. It also notes that Ms Ivanova

has not meaningfully engaged with the GDC in relation to these proceedings over a protracted period of time, despite repeated attempts by the GDC to secure her involvement. Given its concerns regarding Ms Ivanova's lack of insight and remediation the Committee considers that Ms Ivanova's fitness to practise remains impaired by reason of her misconduct.

Sanction

The Committee next considered what direction, if any, to make. It has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (Effective October 2016, revised December 2020).

The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Ivanova's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct and performance within the profession.

The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to terminate it with immediate effect. Given Ms Ivanova's lack of engagement with the GDC and the absence of any remediation or insight into her misconduct, the Committee has concluded that it would not be appropriate to terminate the current order or to allow it to lapse.

The Committee next considered whether a period of conditional registration would be appropriate in this case. It considered that it could not formulate any conditions to address its remaining concerns which, relate to Ms Ivanova's attitude and behaviour. The Committee considered that conditional registration would not be workable, appropriate, or proportionate to protect the public and the wider public interest. Further, even if the Committee could formulate appropriate and workable conditions there would need to be some measure of positive engagement from Ms Ivanova. To date, she has not meaningfully engaged with the GDC or provided any evidence of remediation, despite being given ample opportunity to do so. In these circumstances, the Committee has concluded that replacing the suspension order with a conditions of practice order would not be workable or appropriate.

The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It has borne in mind Ms Ivanova's lack of engagement with the GDC over a sustained period of time. Ms Ivanova did not attend the last two review hearings and aside from her witness statement dated 12 December 2021 which was provided to the second reviewing Committee, Ms Ivanova has not provided any information as set out in all the previous PCC's recommendations. In these circumstances, the Committee has concluded that a further time limited period of suspension is unlikely to achieve her engagement or delivery of material requested to assist any future Committee. Further, Ms Ivanova's email to the GDC dated 12 July 2022 suggests to the Committee that Ms Ivanova has no apparent intention of engaging with this case or undertaking any remediation. The Committee also notes that this matter has been on-going since 2019. The Committee concluded therefore in these circumstances an indefinite period of suspension is the appropriate and proportionate outcome and is required in order to maintain public protection and to maintain confidence in the profession. It therefore directs that Ms Ivanova's registration be suspended indefinitely.

The effect of the foregoing direction is that, unless Ms Ivanova exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect; she will not be able to seek a review until at least two years have elapsed from that date.

That concludes this hearing.