

PUBLIC HEARING**Professional Conduct Committee
Review Hearing****23 January 2025****Name:** KARUNASEKARA, Roshan**Registration number:** 172165**Case number:** CAS-173004

General Dental Council: Represented by Alecsandra Manning-Rees, counsel
Instructed by Sarah Barker, IHLPS**Registrant:** Not present
Not represented

Fitness to practise: Impaired by reason of misconduct**Outcome:** Suspension extended (with a review)**Duration:** 12 months

Committee members: Edythe Murie (Lay) (Chair)
Nosheen Kabal (Dental Care Professional)
Alison Mayell (Dentist)**Legal adviser:** Alastair McFarlane**Committee Secretary:** Gareth Llewellyn

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1. This is a resumed hearing of the Professional Conduct Committee (PCC). The hearing is being conducted remotely using Microsoft Teams in line with the Dental Professionals Hearings Service's current practice. Mr Karunasekara is not present and is not represented in his absence. Alecsandra Manning-Rees of counsel, instructed by Sarah Barker of the GDC's In-House Legal Presentation Service, appears for the GDC.

Purpose of hearing

2. The purpose of today's hearing is to review a substantive direction of suspension imposed on Mr Karunasekara's registration by the PCC for a period of 12 months on 7 February 2024. The hearing is being held in accordance with section 27C of the Dentists Act 1984 (as amended) ('the Act').

Service

3. The Committee first considered whether service has been properly effected in accordance with the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules').
4. Ms Manning-Rees on behalf of the GDC submitted that Mr Karunasekara has been properly notified of today's hearing in accordance with Rule 28 of the Rules. The Committee noted that a notice of hearing was sent to Mr Karunasekara's registered address on 5 December 2024 using the Royal Mail's Special Delivery postal service. The notice set out the date, time and remote nature of the hearing, as well as confirming the nature of the hearing and the powers available to the Committee. The Royal Mail's Track and Trace service records that the notice was delivered on the morning of the following day, namely 6 December 2024. Copies of the notice were also sent to Mr Karunasekara by first class post and email.
5. The notice was also sent to the legal representatives who were at that time understood to be representing Mr Karunasekara, namely the Medical and Dental Defence Union of Scotland (MDDUS). The MDDUS subsequently informed the GDC that they are not instructed in respect of today's hearing.
6. The Committee accepted the advice provided by the Legal Adviser. Having regard to the GDC's submissions and the evidence placed before it the Committee was satisfied that service has been properly effected in accordance with the Rules.

Proceeding in absence

7. The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mr Karunasekara in accordance with Rule 54 of the Rules. It was mindful that the discretion to proceed in the absence of a registrant must be exercised with the utmost care and caution. In their written submissions the GDC invited the Committee to proceed in the absence of Mr Karunasekara.
8. The Committee accepted the advice of the Legal Adviser. It determined that it would be appropriate to proceed in the absence of Mr Karunasekara. The Committee considered that the GDC has made every effort to inform him of these proceedings. The Committee noted that these efforts included a telephone call to Mr Karunasekara on 8 January 2025 in which Mr Karunasekara stated that he would give consideration to attend. A week later on 15 January 2025 the GDC made a further telephone call to Mr Karunasekara, during which he again did not state whether he would be in attendance at today's hearing. The Committee

considered in the circumstances that Mr Karunasekara has voluntarily absented himself from this hearing, and that an adjournment, which has not been sought, would be unlikely to secure his attendance. The Committee considers that no injustice would be caused to him were it to proceed in his absence today. The Committee was also mindful of the public interest in an expeditious review of this case, particularly given the imminent expiry of the direction of suspended registration.

Existing order

9. In July 2016 the PCC held a hearing of inquiry in relation to allegations about Mr Karunasekara's fitness to practise. The allegations specifically related to his care and treatment of 18 patients in the period of 23 April 2014 to 14 May 2014. That Committee went on to determine that Mr Karunasekara's fitness to practise was impaired by reason of misconduct, and that his registration should be made subject to conditions for a period of 18 months, with a review hearing to take place prior to the end of the period of conditional registration.
10. The direction of conditional registration was reviewed by the PCC on 7 February 2018, at which the Committee decided to vary the conditions for a further period of 18 months. A review hearing next took place on 30 July 2019, at which the PCC again decided to vary the direction of conditions for another period of 18 months. The conditions were reviewed by the PCC on 10 February 2021, and that Committee determined to vary the conditions for a further period of 18 months. The conditions were next reviewed by the PCC on 9 August 2022, and were varied for a further period of 18 months.
11. On 7 February 2024, the PCC reviewed the conditions and decided to replace the conditions with a direction of suspended registration for a period of 12 months, with a review hearing to take place prior to the end of the period of suspended registration.
12. It falls to this Committee to review the extant suspension.

Summary of submissions

13. Ms Manning-Rees submitted that Mr Karunasekara's fitness to practise remains impaired on account of his lack of remediation, and that such a finding of impairment is also required in the wider public interest. Ms Manning-Rees invited the Committee to extend the current period of suspension by 12 months, with a review hearing to take place prior to the end of that extended period.

Committee's determination

14. The Committee has carefully considered all the information presented to it, including the submissions of Ms Manning-Rees on behalf of the GDC. The Committee was provided with information about other matters concerning Mr Karunasekara's fitness to practise which have received consideration by the GDC's Case Examiners. The Committee noted those concerns, but it focussed its consideration on the matters that have given rise to the findings of impairment which it is today reviewing.
15. 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 accepted the advice of the Legal Adviser concerning its powers and the principles to which it should have regard. The Committee accepted in particular that Mr Karunasekara in effect bears a persuasive burden to demonstrate that his fitness to practise is no longer impaired.

Impairment

16. The Committee has determined that Mr Karunasekara's fitness to practise remains impaired by reason of his misconduct. The Committee is mindful that Mr Karunasekara has not engaged in a substantive way with these proceedings. The Committee notes that, since the last finding of impairment, Mr Karunasekara has provided no evidence of any insight into, or remediation of, his misconduct. The Committee therefore concludes that the same risks to the public remain because of that unremediated misconduct. Accordingly, the Committee finds that Mr Karunasekara's fitness to practise remains impaired.
17. The Committee has also determined that a finding of impairment is again needed in the wider public interest in order to declare and uphold proper professional standards of conduct and behaviour and to maintain public trust and confidence in the profession in light of the nature and seriousness of the unremediated concerns.

Sanction

18. The Committee next considered whether it would be appropriate to revoke the suspension, or to replace the suspension with a direction of conditional registration.
19. The Committee considered that revoking the suspension would place the public and the public interest at unwarranted risk of harm.
20. The Committee also determined that it could not formulate conditions that would be workable and with which Mr Karunasekara would comply, particularly given Mr Karunasekara's lack of substantive engagement with these proceedings. The Committee also determined that, even if conditions could be identified, such a direction would not be sufficient to declare and uphold proper professional standards of conduct and behaviour and maintain trust and confidence in the profession.
21. The Committee then went on to consider whether to extend the extant direction of suspension. The Committee determined that a further period of suspended registration is necessary and proportionate given the risks to the public and public interest that it considers arise from Mr Karunasekara's unremediated misconduct. It directs that Mr Karunasekara's suspension be extended by a further 12 months. Any lesser period of time would not in the Committee's judgement be sufficient for Mr Karunasekara to develop and demonstrate insight into his misconduct, should he be minded to do so. This period of time is also required to protect the public, to declare and uphold proper professional standards of conduct and behaviour and to maintain public trust and confidence in the profession.
22. Although this Committee in no way wishes to bind or fetter the Committee which will review the suspension, it considers that the reviewing Committee may be assisted by seeing evidence of his insight into and remediation of his misconduct. The Committee wishes to remind Mr Karunasekara that there is a persuasive burden on him to demonstrate that his fitness to practise is no longer impaired¹, and that he may therefore wish to take this further opportunity to provide evidence of his insight and remediation to the future reviewing Committee.
23. The Committee hereby directs that Mr Karunasekara's registration be suspended for a further period of 12 months, with a review hearing to take place before the end of that period.

¹ The previous reference to '*fitness to practise is impaired*' was corrected to '*fitness to practise is **no longer** impaired*' [*emphasis added*] following the conclusion of the hearing and with the agreement of the solicitor acting for the GDC.

Right of appeal

24. Mr Karunasekara will have 28 days from the date on which notice of this decision is deemed to have been served on him to appeal against this decision. Should he decide to appeal, the existing direction of suspension will remain in force until the resolution of any such appeal. Should he decide not to appeal, the current suspension will take effect on the date on which the suspension would otherwise expire.
25. That concludes this case for today.