

ON PAPERS

Professional Conduct Committee Review Hearing

19 October 2023

Name: ZANDONA, Megan

Registration number: 266098

Case number: CAS-194845-S7Z4G0

General Dental Council: Gift Akinola, IHLPS

Registrant: Unrepresented

Fitness to practise: Impaired by reason of misconduct

Outcome: Indefinite suspension

Committee members: Emily Knapp (Dentist)
Kate Birrell (Lay)
Julie Byrom (DCP)

Legal adviser: Helen Gower

Committee Secretary: Jennifer Morrison

1. This is a Professional Conduct Committee (PCC) review hearing of Ms Zandona's case, pursuant to Section 27C of the *Dentists Act 1984 (as amended)* ('the Act').
2. The purpose of this hearing is for this Committee to review Ms Zandona's case and to determine what action to take in relation to her registration. Her registration is subject to an order of suspension.
3. The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Microsoft Teams in line with current General Dental Council (GDC) practice.
4. Neither party is present today, following a request made by the GDC for the review of the suspension order to be conducted on the papers. The Committee received written submissions from the GDC in respect of the review dated September 2023.
5. The Committee first considered the issues of service and proceeding with the hearing in the absence of Ms Zandona and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

Decision on service of Notice of Hearing

6. The Committee considered whether the Notice of Hearing ('the Notice') had been served on Ms Zandona in accordance with Rules 28 and 65 of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006*' ('the Rules').
7. The Committee received from the GDC an indexed PCC review hearing bundle of 57 pages. This hearing bundle contained a copy of the Notice of Hearing, dated 7 September 2023 ('the notice'), which was sent to Ms Zandona's registered address by Special Delivery and First Class post.
8. 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. However, it noted from the Royal Mail 'Track and Trace' receipt provided, that the notice sent by Special Delivery was delivered and signed for on 8 September 2023.
9. The Committee further took into account that on 7 September 2023, a copy of the notice was sent to Ms Zandona as an attachment within a secure email.
10. The Committee was satisfied that the notice sent to Ms Zandona contained proper notification of this review hearing. Although the notice had requested that Ms Zandona appear before the Committee remotely on 19 October 2023, Ms Zandona was also notified that the Committee had the power to deal with the resumed hearing on the papers in the absence of the parties.
11. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Zandona in accordance with the Rules and the Act.

Decision on whether to proceed with the hearing in the absence of the registrant and on the papers

12. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Ms Zandona, and any representative for either party. 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 affirmed in subsequent regulatory cases.
13. The Committee considered the need to be fair to both Ms Zandona and the GDC, and it also took into account the public interest in the expeditious review of the substantive order.
14. The Committee was satisfied from the information before it that Ms Zandona is aware of this review hearing. It took into account that the notice of 7 September 2023 was received at her registered address. In the notice, Ms Zandona was asked to provide the Committee with written submissions or any documents that she felt are relevant to the review hearing by 15 September 2023. The information before the Committee is that no written submissions or documents have been sent by her.
15. The Committee was satisfied that Ms Zandona's absence from these proceedings is voluntary. It had regard to an email dated 9 August 2023 from Ms Zandona to the GDC, in which she asked the GDC to stop contacting her. In the email, Ms Zandona stated, '*I will never turn up to your hearings you continue to plan*'. The Committee has received no information to indicate that Ms Zandona's position has changed and that deferring the hearing would secure her engagement on a future date. It therefore considered that an adjournment would serve no meaningful purpose. In reaching its decision, the Committee also bore in mind the public interest, and its statutory duty to review the current substantive order.
16. 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 Zandona.

Background

17. This is the third review of a substantive order initially imposed on Ms Zandona's registration on 4 June 2021. Ms Zandona attended the first stage of the hearing in April 2021, but did not attend the conclusion of the hearing in June 2021. At the initial substantive hearing, the PCC considered allegations relating to whether Ms Zandona's fitness to practise was impaired by reason of misconduct. That Committee found proved allegations that Ms Zandona had behaved in an unprofessional and inappropriate manner towards Person A, the mother of a child patient.
18. The initial PCC determined that Ms Zandona's fitness to practise was impaired by reason of misconduct. It found that she had '*demonstrated poor professional conduct*' that raised attitudinal concerns. The initial PCC found no evidence of insight from Ms Zandona into why her conduct was inappropriate or any assurance from her that the behaviour would not be repeated. It considered that the language Ms Zandona used towards Person A would have the effect of undermining public confidence in the profession.

19. The initial PCC imposed a suspension order of four months with a review. It gave the following reasons for making that decision:

'It is in no doubt that Ms Zandona's misconduct was wholly unacceptable and damaging to the reputation of the profession and to the public's confidence in the dental profession. The Committee concluded that Ms Zandona lacks insight and has provided no assurance that the misconduct would not be repeated. However, given that the Committee has determined that the misconduct is remediable, and this is the first time Ms Zandona appeared before a Practice Committee, it considered that to erase her would be disproportionate. Although the Committee has identified a risk of repetition it did not consider that the misconduct was fundamentally incompatible with Ms Zandona remaining on the register. The Committee was of the view that in this case public confidence would be upheld through a period of suspension.'

First review of the order on 12 October 2021

20. The suspension order against Ms Zandona's registration was first reviewed on 12 October 2021. Ms Zandona did not attend and provided no evidence for the reviewing Committee's consideration. The reviewing PCC noted from contemporaneous correspondence between Ms Zandona and the GDC that Ms Zandona blamed others for her actions and failed to accept responsibility. In the absence of any evidence of insight or remediation, the Committee determined that Ms Zandona's fitness to practise remained impaired and imposed a further 12-month period of suspension with a review.

Second review of the order on 18 October 2022

21. The suspension order against Ms Zandona's registration was next reviewed on 18 October 2022. As before, Ms Zandona did not attend and provided no evidence for the reviewing Committee's consideration. The Committee noted that Ms Zandona had not engaged with the GDC in the preceding 12 months. In the absence of any evidence of insight or remediation, the Committee determined that Ms Zandona's fitness to practise remained impaired and imposed a further 12-month period of suspension with a review. The Committee considered that a further period of suspension would allow Ms Zandona another opportunity to engage with these proceedings.

Today's review

22. Today is the third review. In comprehensively reviewing this case today, the Committee considered all the documentation presented to it and took account of the submissions made. The Committee accepted the advice of the Legal Adviser.
23. The GDC submitted that since the last review hearing, Ms Zandona has continued not to engage with these proceedings. She has provided no evidence for the Committee's consideration today. In response to being sent the outcome of the previous review, Ms Zandona informed the GDC in an email dated 6 November 2022 that she did not wish to be contacted at all. The GDC subsequently informed Ms Zandona that she would be sent statutory notices only for her attention, including notices of future hearings.

24. The Committee noted that following a further request from Ms Zandona for no contact, on 12 September 2023, the GDC sent Ms Zandona information about the Voluntary Removal process.
25. The GDC submitted that Ms Zandona's position has remained the same since the previous hearing. In the absence of any evidence to demonstrate her insight and remediation, the GDC submitted that Ms Zandona's fitness to practise remains impaired.
26. The GDC submitted that in the circumstances, an indefinite order of suspension is the appropriate and proportionate order.

Decision on current impairment

27. The Committee considered whether Ms Zandona'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 objectives of the GDC: 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.
28. The Committee 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. The Committee noted Ms Zandona's lack of engagement with these proceedings since the initial PCC hearing. It noted that Ms Zandona has apparently not worked as a dental nurse since the initial hearing and has no intention of returning to the profession.
29. The Committee had no evidence before it to indicate that Ms Zandona has taken any action to address the impairment of her fitness to practise. The Committee considered that Ms Zandona's lack of insight was evident in her email to the GDC of 6 November 2022:

'...Stop seeking remorse. If I could go back I would do everything exactly the same. I did nothing wrong. I am not sorry and never will be sorry. I will not be completing or submitting any CPD ever, at any point. Not now, not in the future...'

30. The Committee concluded that there is a real risk of repetition and accordingly determined that a finding of current impairment is required to protect the public.
31. The Committee considered that a fully informed member of the public would be concerned to learn that a finding of impairment was not made in the circumstances. It therefore determined that a finding of impairment is otherwise in the public interest.

Sanction

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

33. The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Zandona'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.
34. 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. In the light of its finding of current impairment, the Committee concluded that neither action would be appropriate.
35. The Committee next considered whether a period of conditional registration would be appropriate in this case. In the light of Ms Zandona's lack of engagement, the Committee was not satisfied that imposing conditions of practice on her registration would be workable or proportionate.
36. The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It considered that since the initial hearing, Ms Zandona has shown no remorse or insight into her misconduct. She has disengaged with her regulator and has indicated that she will never return to the profession. The Committee has no evidence before it that would indicate that her position is likely to change. It concluded that further reviews would serve no useful purpose and would not be in the public interest.
37. The Committee was satisfied that the power to impose an indefinite suspension under Section 27 C (1)(d) of the Act was available, as submitted by the GDC, as Ms Zandona has been subject to an order for suspension for a period of over two years. The Committee concluded in these circumstances an indefinite period of suspension is necessary, appropriate and proportionate for the reasons outlined above. It is required in order to maintain public protection and to maintain confidence in the profession. It therefore directs that Ms Zandona's registration be suspended indefinitely.
38. The Committee considered that the onus should now rest with Ms Zandona to contact the GDC if and when she is willing to engage with its processes. It noted that she can request a review of the indefinite suspension order when at least two years have elapsed since the date on which the direction takes effect.
39. Unless Ms Zandona exercises her right of appeal, her registration will be suspended indefinitely, 28 days from the date that notice of this direction is deemed to have been served upon her. In the event that she does exercise her right of appeal, the suspension order currently in place on her registration will remain in force until the resolution of the appeal.
40. That concludes this determination.