

## **HEARING HELD IN PRIVATE**

### **Interim Orders Committee Review Hearing**

**25 April 2024**

**Name:** BEHANAN, Ajith George

**Registration number:** 152908

**Case number:** CAS-201167

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**General Dental Council:** Katherine Higgs, Counsel  
Instructed by Rosie Geddes, IHLPS

**Registrant:** Not present  
Represented by Matthew McDonagh, Counsel  
Instructed by Carolyn Stevenson, Kennedys solicitors

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**Outcome:** Interim suspension confirmed

**Duration:** Remainder of the extended term of 12 months

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**Committee members:** Marnie Hayward (Chair) (Dental Care Professional)  
Robin Barber (Dentist)  
Fiona Abbott (Lay)

**Legal adviser:** Richard Ferry-Swainson

**Committee Secretary:** Gareth Llewellyn

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**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 has been removed.**

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1. The role of the Interim Orders Committee (IOC) is to undertake a risk assessment based on the information before it. Its role is to assess the nature and substance of any risk to the public in all the circumstances of the case and to consider whether it is necessary for the protection of the public, is otherwise in the public interest, or is in the registrant's own interests to impose an interim order on their registration. It is not the role of the IOC to make findings of fact in relation to any charge. That is the role of a differently constituted committee at a later stage in the process.
2. The hearing is being conducted remotely via Microsoft Teams in line with current practice.
3. This is a review hearing of the IOC. Mr Behanan is not present but is represented in his absence by Matthew McDonagh of Counsel, instructed by Carolyn Stevenson of Kennedys solicitors. Katherine Higgs of Counsel, instructed by Rosie Geddes of the General Dental Council's (GDC's) In-House Legal Presentation Service, appears for the GDC.

#### **Preliminary matters**

4. The Committee first considered whether all or part of the hearing should be held in private in accordance with Rule 53 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). Ms Higgs on behalf of the GDC invited the Committee to hold the hearing in private for the purposes of avoiding any prejudice being caused to any potential ongoing third-party investigations that may relate to this case. Mr McDonagh supported the application. Having accepted the advice of the Legal Adviser, the Committee decided to accede to the application in order to avoid prejudicing any such potential ongoing investigations. The hearing was thereafter held in private.

#### **Background to review**

5. This is the fourth review of an interim order of suspension that was imposed on Mr Behanan's registration for a period of 18 months on 8 August 2022. The order was considered to be necessary to protect the public and was otherwise in the public interest.

#### **IN PRIVATE**

6. [text omitted].
7. [text omitted].

#### **IN PUBLIC**

8. The interim order was reviewed and continued by the IOC on 25 January 2023, 19 July 2023 and 17 November 2023. The interim order was extended by 12 months on application to the High Court on 5 February 2024.
9. It falls to this Committee today to review the interim order. The hearing has been listed to be heard orally at Mr Behanan's request.

**Submissions**

10. Ms Higgs on behalf of the GDC submitted that an interim order remains necessary to protect the public and is otherwise in the public interest. Ms Higgs submitted that there remains an ongoing risk of harm to the public and the public interest, notwithstanding the developments referred to in private as summarised above. Ms Higgs submitted that an interim order of suspension remains the appropriate order, and that an interim order of conditions could not adequately deal with the risks that arise from the concerns in this case.
11. Mr McDonagh on behalf of Mr Behanan submitted that an interim order of suspension is not needed to protect the public and is not otherwise in the public interest. Mr McDonagh invited the Committee to revoke the interim order, or to replace the extant interim order of suspension with an interim order of conditions.
12. Mr McDonagh submitted that the concerns are not such to warrant the maintenance of an interim order. Mr McDonagh referred to the developments referred to in private as summarised above.

IN PRIVATE

13. [text omitted].

IN PUBLIC

14. Mr McDonagh submitted that the passage of time since the concerns are said to have taken place, with the concerns having weakened since they were referred, should be seen to lower any perceived risks to the public. Mr McDonagh submitted that the risk assessment that the Committee is required to conduct now falls in Mr Behanan's favour.

IN PRIVATE

15. [text omitted].
16. [text omitted].

IN PUBLIC

**Committee's consideration**

17. In reviewing this order, the Committee considered all the documentation contained within the hearings bundle, as well as the submissions made. The Committee had regard to the GDC's *Guidance for the Interim Orders Committee* (December 2023) and accepted the advice of the Legal Adviser. The Committee bore in mind its overarching objectives to protect, promote and maintain the health, safety and wellbeing of the public; to promote and maintain public confidence in the dental and dental care professions; and to promote and maintain proper professional standards and conduct for members of the dental and dental care professions.
18. The Committee has borne in mind that its purpose is to assess the nature and substance of any risk to the public in all the circumstances of this case, and not to determine the facts of the case. It has to consider whether it is necessary for the protection of the public, is otherwise in the public interest or is in Mr Behanan's own interests to continue the extant interim order

in place on Mr Behanan's registration. In its considerations the Committee applied the principle of proportionality, balancing the public interest with Mr Behanan's own interests.

### **Decision on interim order**

19. The Committee first considered whether an interim order remains necessary to protect the public and is otherwise still in the public interest.
20. The Committee has determined that an interim order remains necessary to protect the public. The Committee is mindful of the developments in the case as referred to above. The Committee is similarly mindful that its role is not to determine facts or to resolve issues that there may be with the evidence. The Committee has heard that the GDC's substantive investigation continues according to the GDC's processes and procedures. The Committee notes that there appears to be some acceptance from Mr Behanan that an incident of the sort that has been reported did take place. The Committee considers that the concerns that have been raised are of a nature and seriousness to suggest that the public would be at risk of harm were Mr Behanan to be permitted to practise without restriction. Having considered all of the information before it, including the respective accounts of, and Mr Behanan's reflections upon, what may have taken place, the Committee considers that there is a real risk of a repetition of the alleged concerns. In conducting its risk assessment, having regard to the weight of the information available, the Committee considers that the information placed before it suggests that an interim order is necessary to protect the public.
21. The Committee also considers that an interim order remains otherwise in the public interest. The Committee considers that a reasonable and informed observer would be shocked and troubled if an interim order were not in place. The Committee considers that an interim order is required to declare and uphold proper professional standards of conduct and behaviour, and to maintain trust and confidence in the profession. The Committee considers that the need to protect the public, and the public interest, outweigh the consequences for Mr Behanan of the maintenance of an interim order in the particular circumstances of this case.

### **Type of order**

22. The Committee then went on to determine whether an interim order of suspension remains the appropriate and proportionate order. The Committee determined that an interim order of conditions cannot adequately address the risks that it has identified. The Committee was not able to formulate conditions which in its judgment would be practicable and verifiable, and thereby meet the risks arising from the concerns. Accordingly, the Committee has concluded that an interim order of suspension remains the appropriate and proportionate order. The Committee hereby confirms the interim order of suspension for the remainder of the extended term of 12 months.

### **Next review**

23. Unless there has been a material change of circumstances, the IOC will review the interim order on the papers at a hearing within the next six months. The Committee will be invited by the GDC to confirm the order, and Mr Behanan will be asked whether there are any written submissions to be put before the Committee on his behalf. Mr Behanan will then be notified of the outcome in writing following the decision of the Committee.
24. Alternatively, Mr Behanan is entitled to have the interim order reviewed at an oral hearing. This means that he will be able to attend and make representations, send a representative on his behalf or submit written representations about whether the order continues to be

necessary. Mr Behanan must inform the GDC if he would like the interim order to be reviewed at a hearing. Even if Mr Behanan does not request a hearing, where there has been a material change of circumstances that might mean that the order should be revoked or replaced, the Committee will review the order at a hearing to which he and his representatives will be invited.

25. That concludes this hearing.