

**PUBLIC HEARING****Professional Conduct Committee  
Review Hearing****18 October 2023**

**Name:** CULLEN, Francis  
**Registration number:** 172972  
**Case number:** CAS-170541-Y6L7L3

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**General Dental Council:** Mr Joe O'Leary, Counsel.  
Instructed by Rosie Geddes, IHLPS

**Registrant:** Present  
Represented by a friend, Mr Rob Monhemius

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**Fitness to practise:** Impaired by reason of misconduct

**Outcome:** Indefinite suspension confirmed

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**Committee members:** Aysha Ahmed-Kibria  
Julie Byrom  
Corinna Kershaw

**Legal adviser:** Angus Macpherson

**Committee Secretary:** Andrew Keeling

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Mr Cullen,

1. This was a review hearing before the Professional Conduct Committee (PCC) in accordance with Section 36Q(4) of the Dentists Act 1984 (as amended) ('the Act'). The purpose of this hearing has been for this PCC to review your case and determine what action to take in relation to your registration.
2. You were present at the hearing and represented by your friend, Mr Rob Monhemius, who was not legally qualified. Mr Joe O'Leary, Counsel, appeared on behalf of the General Dental Council (GDC). The hearing was held remotely on Microsoft Teams.

## **Background**

3. In October 2016, the PCC held a hearing to consider allegations relating to your practice as a dental technician. The Committee found that on two separate occasions you had offered to provide full and new dentures to patients without the involvement of a dentist. The Committee found that such conduct fell outside of your scope of practice as a dental technician, and that your conduct was misleading and dishonest. The Committee also found that you had placed advertisements in local newspapers which offered services that were outside your scope of practice. The Committee found that such proven conduct amounted to misconduct, and that your fitness to practise was impaired as a result. The Committee determined to suspend your registration for a period of nine months, with a review hearing to take place prior to the end of that period. An immediate order of suspension was also imposed to cover the period before the substantive direction of suspension took effect.
4. The substantive suspension was reviewed by the PCC at a hearing on 18 July 2017, which you did not attend and were not represented. That PCC found your fitness to practise remained impaired and your suspension was extended for a further period of six months, with a further review hearing to take place before the end of that extended period.
5. The suspension was reviewed by the PCC at a resumed hearing that took place on 18 January 2018, which you did not attend and were not represented. That PCC found your fitness to practise remained impaired and your suspension was extended for a further period of 12 months, with a further review hearing to take place before the end of that period. That Committee also reminded you about the importance of you engaging with the proceedings and providing adequate evidence of your remediation, which might include:
  - *“A written reflective piece detailing:
    - a. What he has learnt from this process
    - b. The impact of his conduct on the public and the profession
    - c. His intentions for his future in the profession*
  - *Evidence of relevant continuing professional development (CPD).*
  - *Appropriate character references from other professionals who are aware of these proceedings.*
  - *The development of a script explaining the process and his decision on why a patient must be referred to a dentist.*
  - *Examples of proposed advertising material that reflects understanding of ethical advertising in the context of his scope of practice.”*

6. On 15 January 2019, the PCC reviewed your case. You did not attend the hearing and you were not represented. That Committee determined that your fitness to practice remained impaired by reason of your misconduct for the following reasons:

*“The Committee has determined that Mr Cullen’s fitness to practise remains impaired. It notes that Mr Cullen has provided no information whatsoever about any steps taken to remedy the misconduct that was previously found, or to develop and demonstrate insight into his actions. Mr Cullen has not engaged in any substantive way with these proceedings since his registration was suspended by the PCC despite having had a considerable period of time in which to do so. The Committee has concluded that the same risks to the public persist, and that Mr Cullen’s fitness to practise remains impaired. The Committee also considers that a further finding of impairment is required to maintain public trust and confidence in the profession and to declare and uphold proper professional standards of conduct and behaviour.”*

7. That Committee further determined that your registration should be suspended indefinitely:

*“The Committee then went on to consider whether it would be appropriate to extend the current period of suspension. The Committee concluded that a further period of suspension is unlikely to serve any meaningful purpose. Mr Cullen has not engaged in these proceedings in any meaningful way for a considerable period of time. In particular the Committee notes that Mr Cullen has not provided any evidence to demonstrate that he has taken steps to develop insight into and remediation of his misconduct since his registration was suspended. In light of Mr Cullen’s ongoing lack of engagement, the absence of any evidence from him to demonstrate that he has acknowledged, addressed and remedied the matters giving rise to these proceedings, and the risks to the public and the wider public interest arising from his misconduct, the Committee considers that indefinite suspension is the appropriate and proportionate outcome.”*

8. This hearing was convened following your request to the GDC by email on 1 September 2023 to review your indefinite suspension.

## **Today’s Review**

9. It was the role of the Committee today to undertake a comprehensive review of this case. In so doing, the Committee had careful regard to all the documentary evidence before it and the submissions made by both parties. The Committee also heard and accepted the advice of the Legal Adviser. The Committee had regard to

the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016, updated December 2020) ("the Guidance").

10. Mr O'Leary submitted that there is a persuasive burden on you to satisfy the Committee that your fitness to practise is no longer impaired. However, he submitted that despite the fact that you have been suspended since 2016, you have produced no tangible evidence of your insight into your failings or evidence of remediation. He referred the Committee to the recommendations made by the reviewing Committee in 2018 in respect of evidence of remediation that you could provide at a future review hearing. However, he submitted that you have not provided any evidence of CPD courses undertaken or any testimonials. In respect of your written statement, he submitted that this does not show that you possess any real insight into your failings as it does not go beyond assurances that you would not repeat your misconduct and the lessons you have learned. He submitted that it does not show that you understand the risks to patients of your misconduct.
11. Mr O'Leary further submitted that it is unclear what you have been doing in the seven years since the substantive hearing. He informed the Committee that you did not attend any of the previous review hearings. He submitted that it appears from the documents you have submitted for this hearing that you have engaged in some sort of practice. However, it is not clear in which jurisdiction this took place. He submitted that without evidence of remediation, the risk that you might repeat the misconduct is high and places patients at risk. Furthermore, he submitted that the public would be shocked if you were allowed to continue to practise unrestricted without showing any insight or providing evidence of remediation into your misconduct, and following your limited engagement with these proceedings. He submitted, therefore, that your fitness to practice remains impaired on the grounds of public protection and the public interest.
12. In respect of sanction, Mr O'Leary invited the Committee to continue the indefinite suspension on your registration. He submitted that a conditions of practice order would not be effective in reducing the risk to the public.
13. Mr Monhemius, on your behalf, referred the Committee to your written statements you provided for this hearing. He submitted that these address the recommendations made at the PCC review hearings in respect of the evidence of remediation you should submit. He invited the Committee to consider these documents again. In respect of the work you have undertaken since the substantive hearing, he submitted that you have not practised within the GDC's jurisdiction. He submitted that you have not made the same mistakes again regarding the matters found proved at the substantive hearing and that the duration of the suspension is now disproportionate. He submitted that although you did not attend any of the review hearings, you should not be blamed for this. He submitted that you would like to work with other dentists again and therefore having your licence is a

necessity. He submitted that this could also be beneficial to your reputation if you wanted to work elsewhere.

14. In response to questions from the Committee, you stated that since the substantive hearing you have been working as a Dental Technician for a practice in Ireland. In respect of why you have not provided any evidence of CPD courses you have undertaken, you stated that you do not have these courses in Ireland. You also stated that you attended a course in Manchester several years ago.

### **Decision on Current Impairment**

15. In making its decision, the Committee first sought to determine whether your fitness to practise was currently impaired by reason of your misconduct. It exercised its independent judgement and was not bound by the decision of the previous committee. It balanced your interests with those of the public and bore in mind that its primary duty is to protect the public, including maintaining public confidence in the profession and declaring and upholding proper standards and behaviour.
16. The Committee bore in mind that there was a persuasive burden on you to satisfy the Committee that your fitness to practise was no longer currently impaired. It carefully considered your written statements, which you provided in response to the recommendations made at the previous review hearings. The Committee was of the view that although this showed that you have taken some steps to engage with the process, it did not show that you had full insight into your misconduct. The Committee considered that a finding of dishonesty is a serious matter. However, your written reflections provided no details to show that you fully understood the reasons for your dishonest conduct and the impact this could have had on patients and the dental profession as a whole. Furthermore, you have provided no evidence of CPD courses you have undertaken or any appropriate character references, as also recommended by the previous reviewing Committees. The Committee noted that your substantive hearing took place in 2016 and, therefore, you have had sufficient time to provide this information.
17. The Committee noted that you requested this review hearing as you would like to return to work as a Dental Technician and work with dentists again. However, the Committee considered that little has changed since the substantive hearing in 2016. You have provided no evidence of remediation and demonstrated that you only have limited insight into the reasons for your misconduct. Therefore, it considers that there remains a risk of repetition of the failings found proved. In relation to the public interest, the Committee concluded that, in the absence of any evidence of remediation and full insight from you, public confidence in the profession would be undermined if a finding of impairment was not made.

18. In conclusion, the Committee determined that your fitness to practise remains currently impaired by reason of your misconduct on the grounds of public protection and in the public interest.

### **Decision on Sanction**

19. The Committee next considered what sanction to impose on your registration.
20. The Committee has found that your fitness to practise remains impaired. In these circumstances, the Committee concluded that terminating the current indefinite suspension order would not be appropriate or sufficient for the protection of the public and would not satisfy the wider public interest considerations in this case.
21. The Committee next considered whether to replace the current suspension order with one of conditions. In so doing, it noted that you have only just begun to engage with these proceedings. You did not attend any of the previous review hearings, following your substantive hearing in 2016, and have provided no reasons for your lack of engagement. The Committee was therefore not satisfied that there was sufficient evidence to show that you would comply with an order of conditions. Furthermore, you have provided no evidence of remediation of your misconduct that addresses the concerns identified. In these circumstances, the Committee was satisfied that conditions were not appropriate, workable or sufficient for this case.
22. Accordingly, the Committee directs that your registration continues to be indefinitely suspended. The Committee considered that this was necessary to protect the public and safeguard public confidence in the dental profession. It noted that this direction meant that a review of the order could only take place if you request a review and a minimum of two years has elapsed since this direction takes effect.
23. You will have 28 days, from the date that notice is deemed to have been served upon you, to appeal this Committee's direction.
24. Further, the Committee reflected that as you have started to engage with these proceedings, you may derive assistance from appointing a GDC approved mentor, who is able to offer you guidance concerning resolving the matters that have brought you to the attention of the GDC. Although such an appointment must be approved by the GDC, no reports have to be provided as it is a confidential relationship.

25. In the event that you choose to request a review of this indefinite suspension after the elapse of two years, it may also assist a future reviewing Committee if you provided the following information:

- A written reflective piece detailing:
  - a. The mistakes you have made and how you could learn from them;
  - b. The importance of the requirement to practise under the direction of a dentist or a clinical dental technician.
- Evidence of relevant continuing professional development (CPD) – online or face-to-face courses;
- Appropriate testimonials.

26. That concludes the hearing of your case today.