

**Professional Conduct Committee
Review Hearing**

2 August 2024

Name: SOUHANI, Ali Mohammad

Registration number: 74217

Case number: CAS-197116

General Dental Council: Anna Leathem, Counsel
Instructed by IHLPS

Registrant: Not present and unrepresented

Fitness to practise: Impaired

Outcome: Suspension extended (with a review)

Duration: 12 months

Committee members: Adrian Smith (Chair, lay member)
Jonathan Farmer (Dentist member)
Natalie Lloyd (Dental Care Professional member)

Legal adviser: Margaret Obi

Committee Secretary: Sara Page

1. This is a hearing before the Professional Conduct Committee 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 (GDC) current practice of holding hearings remotely.
2. Mr Ali Souhani was not present and not represented.
3. Ms Anna Leathem, Counsel, appeared as Case Presenter on behalf of the GDC.

Decision on service of Notice of Hearing

4. The Committee was informed at the start of this hearing that Mr Souhani was neither present nor represented at today's hearing.
5. In his absence, the Committee first considered whether the Notice of Hearing ('the Notice') had been served on Mr Souhani in accordance with Rules 28 and 65 of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006*' ('the Rules').
6. The Committee had regard to the indexed hearing bundle of 31 pages, which contained a copy of the Notice, dated 10 June 2024. The Notice was sent to Mr Souhani's registered address by Special Delivery and First Class post on 10 June 2024, in accordance with Section 50A of the '*Dentists Act 1984 (as amended)*' ('the Act') and via email on the same date.
7. Whilst it is not a requirement of the Rules, the Committee had sight of an extract from the Royal Mail 'Track and Trace' service which showed the item was delivered to Mr Souhani's registered address on 11 June 2024. It was signed for against the printed name of 'SOUHANI'.
8. The Committee noted that the Notice informed Mr Souhani that the GDC intended to conduct the review on the papers and in the absence of the parties. However, the Committee had regard to an email from the GDC to Mr Souhani, dated 27 June 2024, in which it stated:

"Thank you for your time on the phone yesterday... As discussed, I have notified the Dental Professionals Hearing Service (DPHS) that you would like to attend and participate in the hearing on 2 August 2024. Please refer to the original notice of hearing sent to you on 10 June 2024 for details. Do let me know if you require a further copy. DPHS will send you a MS Teams link shortly before the hearing date."

9. Having considered all the information before it, the Committee was satisfied that the Notice contained proper and correct information relating the time, date and that it is being conducted remotely via Microsoft Teams.
10. In light of the information available, the Committee was satisfied that Mr Souhani has been served with proper notification of this hearing in accordance with the Rules.

Decision on whether to proceed in the absence of Mr Souhani

11. The Committee next considered whether to exercise its discretion to proceed with the hearing in the absence of Mr Souhani and/or any representative on his behalf. The Committee was mindful that its decision to proceed in the absence of Mr Souhani must be handled with the utmost care and caution. The Legal Adviser reminded the Committee of the requirement to be fair to both parties, as well as considering the public interest in the expeditious disposal of this case.

12. Ms Leathem, on behalf of the GDC, submitted that it was clear from the documents contained within Exhibits 1 and 2, that Mr Souhani is aware of today's hearing, having received the Notice on 11 June 2024. Referring to an email from the GDC to Mr Souhani, dated 27 June 2024, Ms Leathem submitted that it appeared that Mr Souhani contacted the GDC by telephone on 26 June 2024 and requested an oral hearing.
13. Ms Leathem informed the Committee that, subsequent to Mr Souhani's telephone call with the GDC, two further emails were sent to Mr Souhani reminding him of today's review and asking if he wished to provide any documents to be considered by the PCC. Ms Leathem confirmed that no documents had been submitted by Mr Souhani and there has been no correspondence or contact from him since the telephone call on 26 June 2024.
14. Whilst he requested an oral hearing at which he could attend, Ms Leathem submitted that the absence of any communication since the date of the telephone call would effectively contradict Mr Souhani's position of wanting to engage with and attend his review. She stated that Mr Souhani has not provided any information regarding his non-attendance, and he has not requested any adjournment of today's review. Therefore, she submitted, that there is no indication that an adjournment would secure his attendance at a later date.
15. Ms Leathem stated that the Committee has an obligation to conduct these hearings expeditiously and she therefore submitted that it would be both fair and in the interests of the parties and the wider public interest for this review to be conducted as soon as possible.
16. The Committee bore in mind that today's hearing has been arranged as the substantive order imposed on Mr Souhani's registration requires review before its expiry. As advised by the Legal Adviser, the Committee took into account relevant case law in coming to its decision.
17. The Committee noted that Mr Souhani has not engaged with the GDC since the telephone conversation on 26 June 2024 in which it appears that he had requested an oral hearing. However, the Committee bore in mind that Mr Souhani has not provided any documentation for the Committee to consider today, nor has he requested an adjournment of today's proceedings. In addition, the Committee acknowledged Mr Souhani's history of sporadic engagement with the GDC and that he did not attend his previous review.
18. As a result, there was no information before the Committee that adjourning would secure his attendance at a later date. Mr Souhani has voluntarily absented himself from today's hearing.
19. In all these circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Mr Souhani and any representative on his behalf.

Background

20. This hearing was convened to review the current suspension order, which is due to expire on 13 September 2024.
21. This is the second review of a substantive order initially imposed by the Professional Conduct Committee ('the PCC') in October 2022. The original order was one of conditional registration for a period of 12 months.
22. An early review was held in August 2023 at the request of the GDC due to a change of circumstances since the imposition of the conditions of practice order. At that review, the

conditions of practice order was revoked and replaced by a suspension order for a period of 12 months.

23. At the previous review, the PCC found Mr Souhani's fitness to practise remained impaired by reason of misconduct. The PCC's decision can be summarised as follows:

"The Committee bore in mind that Mr Souhani has a fitness to practise history as a result of numerous clinical concerns between 2010 and 2014. This resulted in two warnings in 2014 and an issue of formal advice in 2018. Mr Souhani was also the subject of a PCC hearing in 2019 at which a conditions of practice order was imposed for 12 months. This was revoked upon expiry.

At this review, the Committee acknowledged that the persuasive burden of proof is on Mr Souhani to demonstrate that he has sufficiently developed his insight and demonstrated full remediation of his previous failings. The Committee noted that since the imposition of the order in November 2022, Mr Souhani has obtained a Development Adviser, approved by the GDC. However, despite numerous reminders from the GDC, only one report has been obtained from his Development Adviser.

The Committee noted that in Mr Souhani's correspondence with the GDC, he has provided mixed information about his intentions to practise and has not engaged with today's review of the current order. The Committee also noted that Mr Souhani has sought information regarding voluntary removal from the Register and it appears that he does not intend to return to practice at this time.

Accordingly, the Committee concluded that Mr Souhani has failed to comply with his conditional registration and has failed to engage with the GDC in order to demonstrate remediation of the previous PCC's concerns and therefore there remains an unwarranted risk of harm to patients were he to practise without restriction. In addition, the Committee determined that the public interest would be undermined if the Committee were to conclude that Mr Souhani's fitness to practise was not found to be impaired in these circumstances."

24. The PCC's decision to revoke Mr Souhani's conditions of practice order and to replace it with a suspension order can be summarised as follows:

"As Mr Souhani has failed to demonstrate compliance with the current conditions and has not engaged meaningfully with the GDC, the Committee concluded that conditional registration is no longer workable or appropriate in the circumstances. It has already identified a continuing risk to the public and the necessity to declare and uphold proper standards.

Therefore, the Committee determined that a suspension order, with immediate effect, is now the only appropriate sanction that would both protect the public and satisfy the wider public interest. This shall be for a period of 12 months to allow Mr Souhani sufficient time to either demonstrate that he has gained the requisite insight and demonstrated remediation of his previous failings and engage meaningfully with the GDC, or to pursue his intention to remove himself from the Register, according to the advice of the GDC."

Submissions

25. Ms Leathem, on behalf of the GDC, submitted that Mr Souhani's fitness to practise remains impaired. She submitted that he has not engaged with the GDC and has not provided any evidence of further insight or remediation into his previous misconduct. She confirmed that since his previous application for Voluntary Removal (VR) was refused, he has not sought to pursue this course of action. Ms Leathem submitted that in the absence of any information or engagement, Mr Souhani's intentions to return to practice are mixed.
26. In the absence of any evidence of steps taken to strengthen his practice or of any remediation or insight, Ms Leathem submitted that Mr Souhani's fitness to practise remains impaired.
27. As the persuasive burden of proof is on Mr Souhani to demonstrate that his fitness to practise is no longer impaired, and that he has not provided any evidence to the contrary, Ms Leathem invited the Committee to extend the substantive suspension order for a further period of 12 months.
28. Mr Souhani has not provided any submissions for the Committee's consideration at this hearing.

Decision on impairment

29. The Committee considered whether Mr Souhani's fitness to practise remains impaired. In reaching its decision on the issue of impairment, the Committee exercised its own independent judgement. It bore in mind that its duty is to consider the public interest, which includes the protection of the public, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.
30. The Committee heard and accepted the advice of the Legal Adviser.
31. In deciding whether Mr Souhani's fitness to practise remains impaired, the Committee considered whether he has addressed the concerns identified by the previous PCC, notably that he has been able to demonstrate remediation of his failings and to demonstrate insight into his conduct.
32. At this review, the Committee acknowledged that the persuasive burden of proof is on Mr Souhani and that in the absence of any evidence to the contrary, he has failed to demonstrate that he has sufficiently developed his insight and remediated any of his previous failings. The Committee noted that since imposition of the suspension order, Mr Souhani has engaged only to request an oral review of his substantive order and then failed to attend.
33. The Committee was satisfied that should Mr Souhani be permitted to practise without restriction, it would pose a real risk of harm to patients. Therefore, the Committee concluded that Mr Souhani's fitness to practise remains impaired on the ground of public protection.
34. In addition, the Committee determined that an informed member of the public would be shocked and surprised to find that Mr Souhani was permitted to practise without restrictions given his ongoing lack of engagement with the GDC as his regulator and the public protection risks identified. Therefore, the Committee concluded that Mr Souhani's fitness to practise is also impaired on the ground of public interest.

Decision on sanction

35. The Committee had regard to the '*Guidance for the Practice Committees, including Indicative Sanctions Guidance*' (Revised May 2019). The Committee considered what, if any, sanction to impose in this case. The Committee was aware of the range of sanctions available to it and that it must consider the sanctions in order from the least serious.
36. The Committee was aware that it should have regard to the principle of proportionality, balancing the public interest against Mr Souhani's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.
37. As Mr Souhani has failed to provide any evidence of insight or remediation since the imposition of the suspension order, the Committee concluded that conditional registration would be neither workable nor practical, especially given the ongoing concerns regarding Mr Souhani's engagement.
38. Therefore, the Committee determined that suspension is the only appropriate and proportionate sanction that would protect the public and satisfy the wider public interest. It concluded that a period of 12 months would allow Mr Souhani sufficient time to either demonstrate that he has gained the requisite insight and demonstrated remediation of his previous failings and engage meaningfully with the GDC, or to make a further application for VR.
39. The Committee wished to remind Mr Souhani that he may request an early review of this order at any time. In the absence of any such request, the order will be reviewed before its expiry. At the review hearing, the Committee may revoke the order, it may confirm the order, or it may replace the order with another order.
40. Notification of this decision will be served on Mr Souhani in accordance with the Act.
41. That concludes this determination.