

PUBLIC HEARING**Professional Conduct Committee
Review Hearing****12 July 2024**

Name: Folland, Stuart

Registration number: 65146

Case number: CAS-200881-H7K5X0

General Dental Council: Ms Rosie Geddes, IHLPS.

Registrant: Not present and unrepresented

Fitness to practise: Impaired by reason of misconduct

Outcome: Suspension extended (with a review)

Duration: 12 months

Committee members: Adrian Smith (Chair and lay member)
Sharon Allen (DCP member)
James Maughan (Dentist member)

Legal adviser: Matthew Corrie

Committee Secretary: Jamie Barge

1. Neither party is present at this resumed hearing of the Professional Conduct Committee (PCC). The hearing is being conducted remotely using Microsoft Teams in line with the GDC's current practice. The GDC has invited the Committee to conduct the hearing on the papers in the absence of both parties.

Purpose of hearing

2. The purpose of today's hearing is to review a substantive direction of suspension first imposed on Mr Folland's registration by the PCC on 26 July 2023. The hearing is being held in accordance with section 36Q 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. In their written submissions the GDC submitted that Mr Folland 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 Folland's registered address on 4 June 2024 using the Royal Mail's Special Delivery postal service. The notice set out the date, time and venue 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 attempted to be delivered on 6 June 2024. Copies of the notice were also sent to Mr Folland by first class post and email.
5. 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

6. The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mr Folland 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 Folland.
7. The Committee accepted the advice of the Legal Adviser. It determined that it would be appropriate and fair to proceed with the hearing in Mr Folland's absence. The Committee considered that Mr Folland has voluntarily absented himself from these proceedings and that no injustice would be caused to him by proceeding in his absence. The Committee considered that an adjournment, which has not been requested, would be most unlikely to secure his attendance at a relisted hearing. The Committee is also mindful of the public interest in the expeditious consideration of this case, particularly given the imminent expiry of the extant direction of suspension.

Existing order

8. In July 2023 the PCC held a hearing of inquiry in relation to allegations pertaining to the fitness to practice of Mr Folland. The Committee heard, and went on to find proved, allegations that:

- failure to have paid the approximately £80,000 in compensation and legal costs awarded to Patient A in a default judgement following a claim for clinical negligence (charge 1);
 - failures to have provided any substantive responses to the Firm acting for Patient A in respect of that litigation (charges 2(a)-(b));
 - failures to have cooperated with the GDC's corresponding investigation into his fitness to practise, including by not providing the GDC with requested proof of his indemnity arrangements (charges 3(a)-(c)).
9. That Committee went on to determine that the facts that it had found proved amounted to misconduct. In turning their minds to the question of impairment the Committee found little in the way of remediation and insight and determined that Mr Folland's fitness to practice was impaired. The Committee also determined that a finding of impairment was required in the public interest. The Committee determined to suspend Mr Folland's registration for a period of 12 months, with a review hearing to take place prior to the expiry of his suspension. The Committee also made recommendations to Mr Folland about the information that a future reviewing Committee might find helpful when reviewing his suspension.
10. It falls to this Committee to review the suspension.

Committee's determination

11. The Committee has carefully considered all the information presented to it, including the submissions of the GDC and the correspondence provided by Mr Folland. It noted that in their written submissions the GDC submitted that Mr Folland's fitness to practise remains impaired, and that a further period of 12 months' suspension with a review would be a suitable outcome.
12. 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.

Impairment

13. The Committee has determined that Mr Folland's fitness to practise remains impaired by reason of his misconduct. The Committee notes that Mr Folland has not engaged in any meaningful way with these proceedings, and that he stated that he has retired as a dentist. Mr Folland has not provided any of the evidence suggested by the previous Committee, and has not indicated that he has any intention of doing so. The Committee has no evidence of any insight into or remediation of his misconduct, and it concludes that the same risks to the public persist by reason of that unremediated misconduct. The Committee is satisfied that there has been no material change since the initial PCC hearing. Accordingly, the Committee finds that Mr Folland's fitness to practise remains impaired.
14. 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.

Sanction

15. The Committee next considered whether it would be appropriate to revoke the suspension, or to replace the suspension with a direction of conditional registration.

16. The Committee considered that revoking the suspension would place the public and the public interest at unwarranted risk of harm. It noted that Mr Folland has indicated that he has retired from the dental profession. The Committee considered that it could not formulate conditions that would be workable and be capable of being complied with given the nature of the facts that were found proved by the index PCC, Mr Folland's lack of meaningful engagement and his absence from practice. 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.
17. 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 Folland's unremediated misconduct. It directs that his suspension be extended by a further 12 months. Any lesser period of time would not in the Committee's judgment be sufficient for Mr Folland 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.
18. 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 the evidence proposed by the index Committee. This evidence is, namely, detailed written reflections from him on the attitudes which led to his misconduct and the impact his misconduct had on: (i) Patient A; (ii) the GDC and its ability to carry out its regulatory role; and (iii) the reputation of the profession. He should also provide evidence of any Continuing Professional Development activity he has undertaken to keep his skills and knowledge up to date.
19. The Committee hereby directs that Mr Folland's registration be suspended for a further period of 12 months, with a review hearing to take place before the end of that period.

Right of appeal

20. Mr Folland 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 it would otherwise expire.
21. That concludes this case for today.