

ON PAPERS**Interim Order Committee
Review Hearing****19 March 2024****Name:** ANDERSON, Kyle Peter O'Neil**Registration number:** 255922**Case number:** CAS-202044-D9C6H3

General Dental Council: Adelita Thursby-Pelham Capsticks**Registrant:** Represented by Joanna Jervis, MDDUS

Outcome: Interim suspension confirmed**Duration:** For the remainder of the 18 month period

Committee members:	Andrea Hammond	(Chair and DCP member)
	Kamaljit Sandhu	(Lay member)
	Alison Mayell	(Dentist member)

Legal adviser: Edward Hosking**Committee Secretary:** Gurjeet Dhuper

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.

1. This is a review hearing of the IOC. Neither party was present at today's hearing, following a request by the GDC for the review of the interim order to be conducted on the papers in the absence of both parties. The Committee first considered the issues of service and whether to proceed with the hearing in the absence of Mr Anderson and any representatives. The Committee accepted the advice of the Legal Adviser on these matters.
2. 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 GDC practice.

Decision on service

3. The Committee considered whether notice of the hearing had been served on Mr Anderson in accordance with Rules 35 and 65 of the *General Dental Council (Fitness to Practise) Rules Order of Council 2006* ('the Rules').
4. The Committee received from the GDC an indexed hearing bundle of 22 pages. The bundle contained a copy of the Notice of Hearing, dated 21 February 2024 ('the notice'), which was sent to Mr Anderson's registered address. The Committee noted that delivery of the notice letter had been delivered on 22 February 2024. It 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. The Committee further noted the evidence that a copy of the notice was sent by email to Mr Anderson and to his legal representatives.
5. The Committee was satisfied that the notice contained proper notification of this review hearing, including its date and time, as well as confirmation that the hearing would be held remotely via Microsoft Teams. Mr Anderson was also notified that the Committee had the power to proceed with the hearing in his absence.
6. On the basis of all the information provided to it, the Committee was satisfied that notice of today's hearing had been served on Mr Anderson in accordance with the Rules. The Committee was also satisfied that the period of notice given was reasonable in all the circumstances.

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

7. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Mr Anderson. It approached this issue with the utmost care and caution. The Committee took into account the factors to be considered in reaching its

decision, as set out in the case of *General Medical Council v Adeogba [2016] EWCA Civ 162*. The Committee remained mindful of the need to be fair to both Mr Anderson and the GDC, taking into account the public interest in the expeditious review of the interim order.

8. The Committee was satisfied that Mr Anderson was aware of this hearing today. It had regard to an email dated 23 February 2024 from his legal representatives, stating *"I am instructed to confirm to you that the registrant is content for the hearing to take place on the papers in the absence of the parties."*
9. Given the indications received from both parties, particularly the confirmation received on behalf of Mr Anderson, the Committee was satisfied that it was fair and in the public interest to proceed with the hearing in his absence and on the papers.

Background

10. Mr Anderson's case was first considered by the IOC on 21 November 2022, when it determined that it was necessary for the protection of the public and was otherwise in the public interest to impose an interim conditions of practice order for a period of 18 months.
11. Mr Anderson's case was referred to the IOC following the GDC's receipt of concerns that he had been providing treatment outside his scope of practice by:
 - Prescribing whitening treatment;
 - Prescribing and placing bite guards; and,
 - Claiming for NHS treatment under another dentist's performer number without patients seeing that dentist for an examination.
12. Mr Anderson's case was reviewed on 25 April 2023. At this review further information was provided to the Committee, including a Clinical Advice Report. In considering the further information, the Committee determined that the current interim conditions of practice order no longer sufficiently protected the public or the wider public interest. The Committee decided to replace the interim conditions of practice order with an interim suspension order.
13. This is the third review of the interim order.

Today's review

14. In comprehensively reviewing the order today, the Committee considered all of the information placed before it, including the written submissions from Capsticks on behalf of the GDC and those from Mr Anderson's representatives, MDDUS. It accepted the advice of the Legal Adviser.
15. In its written submissions, Capsticks submitted that the concerns in this case are serious, investigations are still ongoing and the interim order remains necessary for the reasons set out in the previous IOC decisions.

16. The Committee had regard to an email dated 13 March 2024 from Mr Anderson's representatives in which they state *"I have taken instructions from the registrant and confirm that we have no submissions to make in response."*
17. In reaching its decision in respect of the interim order, the Committee remained mindful that its task is not to find facts, but to conduct an assessment of risk based on the information before it. In all its considerations, the Committee applied the principle of proportionality, balancing the public interest with Mr Anderson's own interests. It had regard to the GDC Fitness to Practise: Guidance for the Interim Order Committee (December 2023).
18. This Committee is not bound by the decision of the previous Committees. However, the information before it indicates that there has been no material change of circumstance to undermine the ongoing requirement for an interim order on Mr Anderson's registration. Mr Anderson still faces outstanding fitness to practise allegations in relation to both clinical and probity concerns. The Committee was of the view that the concerns identified were serious and present a real risk of harm to the public. Further, given the nature of the allegations, the Committee considered that a fully informed member of the public would expect an order to remain in place until the conclusion of the matters in this case. In all the circumstances, the Committee was satisfied that an order remains necessary for the protection of the public and is otherwise in the public interest.
19. The Committee notes that the substantive hearing is scheduled to take place in January and February 2025.
20. The Committee gave consideration as to whether it is appropriate to replace the order of suspension with an order of conditions. The Committee considered that there has been no material change in the circumstances that might justify a different order since the imposition of the order of interim suspension. The Committee has determined that an interim suspension order remains the appropriate and proportionate order necessary to protect the public and the wider public interest.
21. The Committee notes that the continuation of this interim suspension order prevents Mr Anderson from practising as a dental hygienist/dental therapist/dental nurse pending the GDC's investigation into the allegations. However, given the serious nature of the allegations against him, the Committee is satisfied that the need to protect the public and the wider public interest outweighs his own interests.
22. Unless there has been a material change of circumstances, a Committee will review the interim order on the papers in the absence of both parties within the next six months. That Committee will be invited by the GDC to confirm the order and Mr Anderson will be asked whether there are any written submissions to be put before the Committee on his behalf. He will then be notified of the outcome in writing following the decision of the Committee.

23. Alternatively, Mr Anderson is entitled to have the interim order reviewed at a 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 interim order continues to be necessary. Mr Anderson must inform the GDC if he would like the interim order to be reviewed at a hearing.
24. Even if Mr Anderson does not request a hearing, where there has been a material change of circumstances that might mean that the interim order should be revoked or replaced, a Committee will review the order at a hearing to which he will be invited to attend.
25. That concludes this determination.