

HEARING HEARD IN PRIVATE *

*The Committee has made a determination in this case that includes some private information.
That information has been omitted from this text.

BOWDEN, Alison Mary

Registration No: 202241

HEALTH COMMITTEE

JULY 2018 - JULY 2020

Most recent outcome: Suspended indefinitely**

** See page 7 for the latest determination

Alison Mary BOWDEN, a dentist, BDS Manc 2010, was summoned to appear before the Health Committee on 16 July 2018 for an inquiry into the following charge:

Charge

“That, being registered a dentist:

1. You suffer with the adverse health condition set out in Schedule A¹.
2. [Private material removed] I:
 - i. [Private material removed];
 - ii. [Private material removed].
3. From 30 June 2017 to 22 March 2018 you failed to adequately co-operate with an investigation conducted by the General Dental Council.

And that, by reason of the above, your fitness to practise is impaired by reason of your adverse health and/or misconduct.”

On 16 July 2018 the Chairman made the following statement regarding the finding of facts:

“Ms Bowden

Preliminary applications

Decision on service of notification of hearing

Ms Bowden was neither present nor represented in this hearing. At the commencement of the hearing Mr Middleton, Case Presenter for the General Dental Council (GDC) submitted that the notification of hearing had been sent to the Registrant in accordance with Rules 13 and 65 of the General Dental Council (Fitness to Practise) Rules 2006 (the Rules).

The Committee had before it a copy of the notification of hearing letter dated 14 June 2018 which was sent to Ms Bowden’s address as it appears on the Register, by special delivery. It was satisfied that the letter contained all the components necessary for a notice of hearing to be valid as set out in the Rules. The Committee noted the Royal Mail track and trace proof of delivery document which showed that the letter was delivered on 15 June 2018 at 07:35am and signed for in the printed name “A BOWDEN”.

¹ The Schedule is a private document and is not disclosed to the public.

The notification of hearing was also sent to Ms Bowden via email. Having heard the advice of the Legal Adviser, the Committee was satisfied that the notification of hearing had been served in accordance with Rules 13 and 65.

Decision on proceeding in the Registrant's absence

Mr Middleton then made an application under Rule 54 that the hearing should proceed in Ms Bowden's absence. He referred to the case of Regina v Jones [2002] UKHL 5 and General Medical Council v Adeogba; General Medical Council v Visvardis [2016] EWCA Civ 162. The Committee bore in mind that its discretion to proceed with a hearing in these circumstances should be exercised with the utmost care and caution. It took account of Mr Middleton's submissions and it accepted the advice of the Legal Adviser.

The Committee noted the multiple correspondence sent by the GDC to Ms Bowden during the course of its investigations. Ms Bowden has not responded to the notice of hearing she was sent. The Committee concluded that Ms Bowden has waived her right to attend this hearing. There is no request for an adjournment or postponement from Ms Bowden and the Committee concluded that, based on the information before it, an adjournment was unlikely to secure her attendance at a future date. It concluded that fairness to the GDC and the public interest in the expeditious disposal of this case require the hearing should proceed, notwithstanding that Ms Bowden is absent.

Decision on application to proceed in private

Mr Middleton made an application under Rule 53(2) for this hearing to be held in private because the charges relate mainly to the Registrant's health. The Committee accepted the advice of the Legal Adviser and granted the application and directed that the hearing should proceed in private to protect Ms Bowden's private life.

Background

Ms Bowden worked as a part time, fixed term dental officer at Bridgewater Community NHS Foundation Trust.

[Private material removed]

Witnesses

The Committee received witness statements from two GDC employees who had tried to contact Ms Bowden during the GDC's investigation of the case. The GDC sought to rely on their witness statements as their evidence in chief. The Committee did not have questions for these witnesses as their evidence was predominantly to produce documents that showed the attempts by the GDC to contact Ms Bowden.

The Committee also received witness statements from Ms Bowden's colleagues at the time.

[Private material removed]

The Committee carefully considered all the evidence before it. It took account of the submissions made by Mr Middleton on behalf of the GDC. The Committee accepted the advice of the Legal Adviser. In accordance with that advice it considered each head of charge separately.

The burden of proving the facts alleged is on the GDC and the standard of proof is the civil standard which is "on the balance of probabilities". Ms Bowden is not required to prove anything.

I will now announce the Committee's findings in relation to each head of charge:

1.	You suffer with the adverse health condition set out in Schedule A Found Proved [Private material removed]
2. i.	[Private material removed] Found Proved [Private material removed]
2. ii.	[Private material removed] Found Proved [Private material removed]
3.	From 30 June 2017 to 22 March 2018 you failed to adequately co-operate with an investigation conducted by the General Dental Council. Found Proved The Committee had regard to two witness statements from GDC employees. The Committee noted that Ms Bowden had been called on 30 June 2017 and 6 July 2017. There was no response to the telephone calls. The Committee had regard to further correspondence sent to Ms Bowden thereafter, but noted that she did not respond. [Private material removed] The Committee had no evidence before it that Ms Bowden had responded to the GDC in regard to its investigation. Based on the evidence before it, the Committee concluded that Ms Bowden had failed to adequately cooperate with an investigation conducted by the GDC. Therefore this charge is found proved.

We move to Stage Two.”

On 17 July 2018 the Chairman announced the determination as follows:

“The Committee having announced its decision on the facts, Mr Middleton proceeded to make submissions pursuant to Rule 20 of the General Dental Council (GDC) (Fitness to Practise) Rules 2006. He informed the Committee that Ms Bowden has no previous fitness to practise history. He then made submissions on misconduct and impairment in relation to the charges found proved. He submitted that the facts found proved amount to misconduct and that Ms Bowden’s fitness to practise is impaired by reason of her misconduct and her adverse health condition and that the appropriate sanction to impose is one of suspension for a period of between 9-12 months.

The Committee took account of the submissions made by Mr Middleton on behalf of the GDC. It accepted the advice of the Legal Adviser.

The Committee bore in mind that its decisions on misconduct and impairment are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings. The Committee was referred to several authorities including *Roylance (no 2) v GMC* [2000] AC 311 and *Nandi v GMC* [2004] EWHC 2317 (Admin).

Misconduct

[Private material removed]

The Committee was satisfied that the facts found proved do not amount to misconduct.

Impairment

[Private material removed]

It therefore determined that Ms Bowden's fitness to practise is impaired by reason of her adverse health condition,

[Private material removed]

Sanction

The Committee next considered what action, if any, to take in relation Ms Bowden's registration. It reminded itself that the purpose of a sanction is not to be punitive although it may have that effect. The Committee has considered carefully the submissions made by Mr Middleton. It also had regard to the evidence of Dr Garvey. The Committee bore in mind the principle of proportionality. The Committee then considered the available sanctions in ascending order. It had regard to the Guidance for the Practice Committees, including Indicative Sanctions Guidance (1 October 2016).

[Private material removed]

The Committee therefore determined that a period of suspension was the only appropriate sanction available to it.

[Private material removed]

Accordingly, the Committee determined that the suspension should be for a period of 12 months.

[Private material removed]

A Committee will review Ms Bowden's case shortly before expiration of the suspension.

[Private material removed]

The Committee now invites submissions from Mr Middleton as to whether Ms Bowden's registration should be suspended immediately. "

"The interim order of suspension on Ms Bowden's registration is hereby revoked.

The Committee has considered whether to make an order for the immediate suspension of Ms Bowden's registration. Mr Middleton, on behalf of the GDC, submitted that such an order is necessary for the protection of the public, is otherwise in the public interest and is in Ms Bowden's own interests.

The Committee has considered the submissions made by Mr Middleton. It has accepted the advice of the Legal Adviser.

In accordance with Section 30 of the Dentists Act 1984 (as amended) the Committee has determined that it is necessary for the protection of the public that Ms Bowden's registration be suspended forthwith. In reaching its decision, the Committee is satisfied that Ms Bowden currently poses a risk to the public and that immediate action is necessary for the protection of the public. The Committee has concluded that it would be inconsistent to allow Ms

Bowden to practise during the 28 day appeal period, or, if an appeal is lodged, until it has been disposed of.

The effect of this direction is that Ms Bowden's registration will be suspended immediately. Unless Ms Bowden exercises her right of appeal, the substantive order of suspension will come into effect 28 days from the date on which notice of this decision is deemed to have been served on her. Should Ms Bowden exercise her right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

That concludes the hearing of Ms Bowden's case."

At a review hearing on 29 July 2019 the Chairman announced the determination as follows:

"At this hearing the Committee made a determination that includes some private information. That information shall be omitted from any public version of this determination and the document marked to show where private material is removed.

Neither parties is present as this matter is on the papers at the request of the General Dental Council (GDC).

Purpose of hearing

The purpose of today's hearing is to review a substantive direction of suspension imposed on Ms Bowden's registration by the Health Committee (HC) on 17 July 2018. The hearing is being held in accordance with section 27C of the Dentists Act 1984 (as amended) ('the Act'). The Committee accepted the advice provided by the Legal Adviser.

Service

The Committee first considered whether service has been properly effected in accordance with the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules').

The Committee had regard to the written submissions from the GDC which stated that Ms Bowden 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 Ms Bowden's registered address on 27 June 2019 using the Royal Mail's Special Delivery service. That 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.

Having regard to all the information placed before it the Committee was satisfied that service had been properly effected in accordance with the Rules.

Proceeding in absence

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Ms Bowden in accordance with Rule 54 and Rule 65 of the Rules. It was mindful that its discretion to proceed in the absence of a registrant must be exercised with the utmost care and caution. The GDC, submitted in their written submissions, that the Council has complied with its duty to inform Ms Bowden of this hearing and that it would be fair and appropriate to proceed in her absence.

The Committee determined that it would be appropriate and in the interests of justice to proceed with the hearing in Ms Bowden's absence. The Committee considered that Ms Bowden has voluntarily and consistently absented herself from these proceedings. The Committee considered that an adjournment would serve no useful purpose, as there is no indication that to do so would secure Ms Bowden's attendance. The Committee also

considered that there is a clear public interest in ensuring that the suspension order is reviewed before its expiry.

Preliminary matters

The GDC in their written submissions made an application under Rule 53 of the Rules for the hearing to be held in private given that the case relates to Ms Bowden's health. Having accepted the advice of the Legal Adviser, the Committee decided to accede to the application. The hearing was thereafter held in private.

Existing order

[PRIVATE]

The Health Committee in July 2018 found that Ms Bowden's fitness to practise was impaired by reason of her adverse health condition. The Committee determined to suspend her registration for a period of 12 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.

It falls to this Committee today to conduct the statutory review.

Submissions

[PRIVATE]

The Council submit that the current suspension order should be extended for a period of 12 months. The Committee will note that the Registrant has not provided any information during the last 12 months. It is unlikely that she will provide evidence in the future on the basis she has not engaged since 2018. The Council submit that it would be appropriate and proportionate in this instance to extend the order for a further 12 months with a review.

Committee's determination

The Committee has carefully considered all the information presented to it, including the written documentation and submissions provided by the GDC. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016). The Committee has accepted the advice of the Legal Adviser.

Impairment

The Committee has determined that Ms Bowden's fitness to practise remains impaired. It notes that Ms Bowden has not provided any information to suggest that she has taken steps to acknowledge, address and remediate the matters that gave rise to the finding of impairment, or that she has any intention of doing so. Instead, Ms Bowden has continued to take no part in these proceedings. [PRIVATE]. The Committee has concluded that the same risks to the public persist, and that Ms Bowden'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 behaviour.

Sanction

The Committee next considered what sanction, if any, should be imposed on Ms Bowden's registration. It bore in mind the need to protect patients and the public interest. The Committee once again had regard to the principle of proportionality, weighing the interests of the public with her own interests.

The Committee first considered whether it would be appropriate to terminate the current order of suspension and take no further action. It determined that given the lack of evidence that Ms Bowden's is fully co-operating with the regulator, such action would neither serve to protect the public nor safeguard public confidence in the profession.

It next considered whether it should terminate the current order of suspension and impose conditions of practice upon Ms Bowden's registration. However, conditions of practice would require her full engagement in order to be workable. The Committee therefore determined that such an order would be neither appropriate nor proportionate given her non engagement since 2018.

The Committee then went on to consider whether to extend the order of suspension. There is no evidence before the Committee to demonstrate that Ms Bowden is engaging meaningfully with the GDC, or that she has insight. The Committee has therefore determined that it is necessary for the protection of the public, is otherwise in the public interest, as well as in Ms Bowden's own interests, to direct that her registration be suspended for a further period of 12 months.

The Committee considers that this period of time will ensure that the public is protected and public confidence in the profession is maintained, whilst allowing Ms Bowden the opportunity to gain insight [PRIVATE].

A future committee will review Ms Bowden's case at a resumed hearing to be held shortly before the end of the period of suspension. That committee will consider what action to take in relation to her registration and would be greatly assisted by:

[PRIVATE].

That concludes this case for today."

At a review hearing on 24 July 2020 the Chairman announced the determination as follows:

"This is a resumed hearing pursuant to Section 27C of the Dentists Act 1984 (as amended) ('the Act'). The purpose of this hearing has been for this Health Committee (HC) to review Ms Bowden's case and determine what action to take in relation to her registration. Ms Bowden did not attend the hearing and was not represented. Ms Vanya Headley appeared on behalf of the General Dental Council (GDC).

The hearing was held remotely and all parties attended via Skype video-link in line with Her Majesty's Government's current advice concerning COVID-19.

Decision on Service of the Notice of Hearing

The Committee first considered whether notice of the hearing had been served on Ms Bowden in accordance with Rules 28 and 65 of the GDC's Fitness to Practise Rules 2006 ('the Rules') and Section 50A of the Dentists Act 1984 (as amended) ('the Act'). The Committee received from the GDC an indexed hearing bundle of 45 pages, which contained a copy of the Notice of Hearing ('the notice'), dated 4 June 2020, thereby complying with the 28-day notice period. The notice was sent by special delivery and first-class post to Ms Bowden's registered address. The Committee had before it a copy of a Royal Mail track and trace document which showed that the notice of hearing letter was delivered to this address and signed for on 5 June 2020. The notice was also emailed to Ms Bowden on 4 June 2020.

The Committee was satisfied that the notice sent to Ms Bowden contained proper notification of today's hearing, including its time, date and that it will be conducted remotely by Skype video-link, and the other prescribed information including notification that the Committee had the power to proceed with the hearing in Ms Bowden's absence.

On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Bowden in accordance with the Rules and the Act.

Decision on Proceeding in the Registrant's Absence

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Ms Bowden. The Committee heard the submissions made by Ms Headley on behalf of the GDC. It accepted the advice of the Legal Adviser. The Committee approached the issue of proceeding in absence with the utmost care and caution. It took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones [2003]* and *GMC v Adeogba & Visvardis [2016]* EWCA Civ 162. It remained mindful of the need to be fair to both Ms Bowden and the GDC, taking into account the public interest and Ms Bowden's own interests in the expeditious review of the suspension order imposed.

It first concluded that all reasonable efforts had been taken to send the notification of hearing to Ms Bowden in accordance with the Rules. It noted that Ms Bowden has not engaged in these proceedings and did not attend either the substantive hearing or previous review hearing. The Committee concluded that to adjourn the hearing would not secure Ms Bowden's attendance. It also noted that the current order of suspension is due to expire on 19 August 2020 after which the GDC will no longer have jurisdiction of the case. In those circumstances, the Committee determined that it was fair and appropriate to proceed with the hearing in the absence of Ms Bowden.

Application for hearing to be held in private

The GDC submitted an application pursuant to Rule 53 for the hearing to be held in private as the matters today relate to Ms Bowden's health. The Committee heard and accepted the advice of the Legal Adviser.

The starting point for the Committee is for all hearings to be held in public as it is in the interests of justice to do so. However, a hearing may be held in private where it concerns matters that are inextricably linked to the health or private and family life of the Registrant concerned, under Rule 53(2) of the General Dental Council (Fitness to Practise) Rules Order of Council ("the Rules"). The Committee agreed that as the matters in this case relate to Ms Bowden's health it was in her interests that the hearing should be held in private. The Committee therefore acceded to the application.

Background

Ms Bowden first appeared before the HC at a hearing in July 2018. She did not attend the hearing and was not legally represented. At that hearing it was alleged and found proved that she suffered from an adverse health condition, [IN PRIVATE]. It was also alleged, and found proved, [IN PRIVATE] and that she failed to adequately co-operate with the GDC's investigation into these matters between June 2017 and March 2018. [IN PRIVATE]

The Committee considered a medical report from [IN PRIVATE], dated 23 February 2018 and an addendum report dated 20 March 2018. It also considered oral evidence from [IN PRIVATE]. [IN PRIVATE]. The Committee further noted that Ms Bowden did not attend a

GDC health assessment and ceased co-operating with its investigation in June 2017. It therefore had no current evidence of the status of her health. [IN PRIVATE].

The Committee concluded that Ms Bowden's fitness to practise was impaired by reason of her adverse health condition. It determined that a suspension of 12 months was the most appropriate sanction with a review hearing before the end of the period. [IN PRIVATE].

A review hearing took place on 29 July 2019. Neither Ms Bowden nor the GDC were present as the hearing took place on the papers. The Committee considered that, as Ms Bowden had continued to take no part in the proceedings and there was no evidence to show that she no longer suffered from her health condition, the same risks to the public remained. It concluded that Ms Bowden's fitness to practise remained impaired by reason of her adverse health condition. The Committee also considered that a further finding of impairment was required to maintain public trust and confidence in the profession and to declare and uphold proper professional standards of behaviour. It determined that it is necessary for the protection of the public, is otherwise in the public interest, as well as in Ms Bowden's own interests, to direct that her registration be suspended for a further period of 12 months with a review hearing before the end of the order.

[IN PRIVATE]

Today's Review

This Committee has comprehensively reviewed Ms Bowden's case today. In doing so, it has considered all the evidence presented to it. It has taken account of the submissions of Ms Headley, on behalf of the GDC, and Ms Bowden's email to the GDC dated 30 December 2019. It has accepted the advice of the Legal Adviser.

Ms Headley submitted that there is no evidence to suggest that there has been a material change in the circumstances since the previous review hearing as Ms Bowden has provided no update on her medical condition. Ms Headley, therefore, invited the Committee to find that Ms Bowden's fitness to practise remains currently impaired. Ms Headley also invited the Committee to consider whether Ms Bowden should be indefinitely suspended from the register.

Decision on Impairment

In making its decision, the Committee first sought to determine whether Ms Bowden's fitness to practise is still currently impaired by reason of her health. It exercised its independent judgment and was not bound by the decision of the previous committee. It balanced Ms Bowden's needs with those of the public and bore in mind that its primary duty is to protect the public, including by maintaining public confidence in the profession and declaring and upholding proper standards and behaviour.

The Committee noted that Ms Bowden has not engaged in these proceedings and therefore has not provided any evidence recommended by the previous Committees and by [IN PRIVATE] in his health report dated 23 February 2018. It noted Ms Bowden's email to the GDC dated 30 December 2019 in which she stated that she is suffering from a further health condition and therefore unable to practise dentistry again, but noted that no evidence has been provided of this health condition. It further noted that the GDC has enquired with her whether she would like to apply to be voluntarily removed from the register. However, no response has been received from Ms Bowden. In light of her lack of engagement and the absence of any evidence to demonstrate that she has shown insight into her health condition the Committee considered that there has been no material change since the previous review

hearing and there is a continuing risk to patient safety. The Committee therefore determined that Ms Bowden's fitness to practise is currently impaired by reason of her adverse health.

Committee's Decision on Sanction

The Committee next considered what sanction should be imposed on Ms Bowden's registration. It bore in mind the need to protect patients and the public interest. The Committee once again had regard to the principle of proportionality, weighing the interests of the public with Ms Bowden's own interests.

The Committee has found that Ms Bowden's fitness to practise remains impaired. In these circumstances, the Committee concluded that terminating the current suspension order would not be appropriate or sufficient for the protection of the public.

The Committee considered whether to replace the current suspension order with one of conditions. In so doing, it had regard to the fact that Ms Bowden has not engaged in these proceedings and has also stated that she will be unable to practise dentistry again. In these circumstances, the Committee was not satisfied that conditions are appropriate, workable or sufficient for the protection of the public.

The Committee considers that it is necessary to maintain the current suspension in order to protect the public and safeguard public confidence in the dental profession. However, the Committee considers that it would not be in the public interest for the suspension to be subject to a review in 12 months' time as Ms Bowden has not previously engaged with these proceedings or co-operated with the GDC's investigation since June 2017. The Committee considers, therefore, that further reviews of Ms Bowden's suspension would be unlikely to serve any purpose.

Accordingly, the Committee directs that Ms Bowden's registration be indefinitely suspended. It is satisfied that the provisions of Section 27C(1)(d)(i) and (ii) of the Act are met. It notes that this direction means that a review of the order can only take place if Ms Bowden requests a review and a minimum of two years has elapsed since the direction took effect. Given that Ms Bowden has indicated that she will be unable to practise dentistry again it is satisfied that this direction is appropriate and proportionate.

The effect of the foregoing direction is that, unless Ms Bowden exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect.

That concludes this case for today."