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.

Mr McCormack,

This was an Interim Orders Committee (IOC) review hearing in respect of an interim order currently in place on your registration. The hearing was conducted remotely via Microsoft Teams video-link in line with the GDC’s current guidance. You attended the hearing and were represented by Mr Paul Renteurs of Counsel. Mr Tom Flavin of Counsel appeared on behalf of the General Dental Council (GDC).

Background

This is the third review of the interim order first imposed on your registration on 4 February 2021 for a period of 15 months. At that hearing, the Committee imposed an interim order of suspension on your registration as it determined that it was necessary for the protection of the public and was otherwise in the public interest.

The Committee which imposed the interim order considered information provided by NHS England and NHS Improvement. The information related to your lack of engagement with NHS England and NHS Improvement, including the Performance Advisory Group, in relation to concerns about your clinical practice. Those concerns arose out of a patient complaint made in 2017. On 15 March 2018, the Performance Advisory Group recommended that you should undertake a number of courses in relation to the concerns that had been raised. On 26 November 2019 the Performers’ List Decision Panel imposed conditions on your inclusion on the NHS Dental Performers’ List. On 7 December 2020 a notice of proposal to remove your name from the list was served on you on the basis of non-compliance with conditions, non-adherence to Continuing Professional Development (CPD) requirements, non-engagement with NHS England and NHS Improvement, potential probity concerns relating to an alleged
failure to provide evidence of health issues, and patient safety concerns. Your name was removed from the list on 26 January 2021.

The interim order was reviewed at a hearing on 20 April 2021 following your request for an early review of the order on the basis that new evidence had become available. That Committee determined that an interim order remained necessary on the grounds of public protection and was otherwise in the public interest. It further determined that the interim order of suspension should be continued on your registration as it considered that interim conditions would be insufficient to meet the risks that it had identified.

The interim order was reviewed at a further hearing on 8 October 2021. That Committee determined that there had been no material change in circumstances since the previous IOC review hearing to undermine the necessity for an interim order on your registration. The Committee therefore determined that an interim order remained necessary for the protection of the public and was otherwise in the public interest. It also determined that the interim order of suspension should be continued on your registration.

Submissions

Mr Flavin, on behalf of the GDC, informed the Committee that you have requested an early review hearing as you believe that an interim order of suspension on your registration is no longer necessary. He took the Committee through the background to your case. He stated that since the previous review hearing, the GDC has received a Clinical Advice Report which concluded that the care you provided to the patient, which resulted in your referral to NHS England, was below the level of professional practice reasonably expected. He submitted that the GDC’s investigation is still ongoing. He also addressed the Committee on the documents you have provided for this hearing. He submitted that some of the remediation documents may not have been put before the IOC previously. The testimonials you have submitted were previously included in the documentation provided to the IOC at the review hearing in April 2021.

Mr Flavin submitted that the interim order of suspension should continue as it remains necessary and proportionate. He submitted that the allegations are serious and on the basis of the available evidence there has been no material change in circumstances since the previous review hearing that would necessitate a change in the order. He submitted that interim conditions would not be workable or appropriate owing to your alleged repeated failure to engage with the NHS investigation and to fully engage with these proceedings. He submitted that the concerns about your clinical practice were widespread and serious, and there remained a real risk to patient safety if you were allowed to return to practise. Furthermore, owing to the seriousness of the concerns, public confidence in the profession and the regulator would be seriously undermined if the interim order of suspension was not continued.

Mr Renteurs, on your behalf, submitted that there were several factors in this case which mitigated the risk to patient safety and the public interest. Firstly, he submitted that the impact of the previous 14 months on you and your family has been devastating. He outlined to the Committee the difficulties you have suffered as a result of your interim suspension. He also described the impact your interim suspension has had on your family. The significance of this, he submitted, was that you are now under no illusion about the cost of your actions. This has led to your renewed determination to engage with the GDC and these proceedings, to enable you to return to practise and provide a stable life for your family.

Mr Renteurs indicated that you were keen to return to practise even if this had to be with conditions. He informed the Committee that when you attended the clinic you discovered that there were outstanding patient referrals and you took action to address those. You now understand and acknowledge that you should not have done this whilst suspended but this
was a misguided attempt to help your patients. However, this increased your determination to return to practise so that continuity of care could be provided to your patients.

Mr Renteurs addressed the Committee on the remediation documents you have provided. He submitted that the remediation that was required by the NHS Performers List Decision Panel was now complete. He informed the Committee that you accepted that this took far too long and that your engagement with NHS England’s investigation was intermittent, but stated that there was a not a complete lack of engagement. He submitted that the risk to patient safety was significantly mitigated by the remediation you have completed. Also, he submitted that when considering the risk to the public interest, it was important for the Committee to consider that an informed member of the public would also take into account the context in which these alleged failures occurred, as you were dealing with serious health concerns at the time.

Mr Renteurs submitted that you had real cause for concern about the progress of the GDC’s investigation. You are approaching the end of the 15-month term of the interim order and you are no clearer as to when the case will be considered by the GDC’s case examiners. He submitted that the delays were unacceptable, and it was wholly disproportionate for you to bear the cost of these delays. He submitted that public confidence in the profession and the regulator would be hugely undermined by the notion of a practitioner of considerable experience with an unblemished record of 20 years being suspended and left in limbo without any sign of progress in the GDC’s investigation.

In conclusion, Mr Renteurs submitted that the continuation of the interim order of suspension was neither necessary nor proportionate. He invited the Committee to revoke the suspension or to replace it with interim conditions.

Committee’s Decision on Interim Order

In comprehensively reviewing the order, the Committee had regard to all the documentary information provided to it. It also took account of the submissions from Mr Flavin and Mr Renteur. The Committee had regard to the GDC’S Interim Order Guidance for Decision Makers – Interim Orders Committee (October 2016). The Committee accepted the advice of the Legal Adviser.

The Committee noted that the concerns raised by NHS England about your clinical practice and your lack of engagement were serious. The Committee also noted that the concerns about your clinical practice were wide-ranging and included fundamental and basic aspects of dental practice. Whilst mindful of the devastating impact that interim suspension has had on you and your family, it concluded that, in clinical terms, there has been no material change in circumstances in this case since the previous review hearing in October 2021 that would negate the need for an interim order. It considered the information you have provided at this hearing, but noted that the majority of the documents had already been considered at previous review hearings. Accordingly, the Committee determined that an interim order remained necessary for public protection and was otherwise in the public interest, for the same reasons as stated by the IOC at the initial hearing and previous review hearings.

The Committee next considered whether to replace the interim order of suspension with one of an interim order of conditional registration.

The Committee was of the view that the clinical concerns raised could be adequately addressed by conditions and noted that you have now completed the remediation that was required of you by NHS England. The Committee noted that you now appear willing to engage fully with these proceedings and the GDC’s investigation, owing to the significant impact the interim order of suspension has had on you and your family. The Committee was mindful of the principle of proportionality, and that in light of your willingness to engage, to continue the interim order of suspension would be disproportionate.
The Committee accepted that you now seem willing to comply with conditions. It accepted that your decision to undertake patient referrals whilst suspended was borne of a misguided wish to help them and was not a reason to think that you would breach conditions in the future.

The Committee was satisfied that conditions could be formulated that would be sufficient to address the risks identified and uphold public confidence in the profession. It therefore determined to replace the current interim suspension order with an interim conditions of practice order.

The Committee considered that owing to the serious nature of the clinical concerns, you should be under close supervision by a dentist who is based at your practice and who should meet with you once a week. The supervisor would be required to provide monthly reports to the GDC to cover any clinical concerns raised and your compliance with these conditions. The Committee was satisfied that these conditions would be appropriate, proportionate and workable.

The interim conditions as they will appear against your name on the Register are as follows:

1. He must notify the GDC promptly of any post he accepts for which GDC registration is required.
2. If employed, he must provide contact details of his employer and allow the GDC to exchange information with his employer or any contracting body for which he provides dental services.
3. He must inform the GDC of any formal disciplinary proceedings taken against him, from the date of this determination.
4. He must inform the GDC if he applies for dental employment outside the UK.
5. He must not engage in single-handed dental practice.
6. a. He must confine his dental practice to general practice posts as a dentist under the close* supervision of a named dentist (*on site and available at all times you are working there).
   b. He must obtain a report from his supervisor on a monthly basis for consideration by the GDC, covering any clinical concerns and his compliance with these conditions.
7. His work must be reviewed by the supervisor at least once a week via one-to-one meetings or case-based discussion (either face-to-face or remotely).
8. He must not work as a locum or undertake any out-of-hours work or on-call duties.
9. He must inform the Regional Director of Public Health that he is subject to investigation by the GDC and of the conditions, (1) to (8), above.
10. He must inform the following parties within 1 week that his registration is subject to the conditions, listed at (1) to (9), above:
    - Any organisation or person employing or contracting with him to undertake dental work;
    - Any prospective employer (at the time of application).
11. He must permit the GDC to disclose the above conditions, (1) to (10), to any person requesting information about his registration status.

This order will run for the period remaining on the original order.
Review of the Order

The current order is due to expire in May 2022 and therefore the GDC would need to make an application to the High Court if the order remained in place and they wished to extend the order further. Should the High Court grant an extension of the current order, it will be reviewed within three months of that extension, in accordance with the GDC’s statutory provisions.

That concludes this determination.