

**PUBLIC HEARING****Interim Orders Committee  
Review Hearing****26 March 2024****Name:** BROWN, Andrew Duncan Roy**Registration number:** 68412**Case number:** CAS-204634-L3H3W9

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**General Dental Council:** Natalie Bird, Counsel  
Instructed by Carla Marie Clough, IHLPS**Registrant:** Present  
Represented by Keara Bowgen-Nicholas, Weightmans LLP  
Instructed by Weightmans LLP

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**Outcome:** Interim conditions varied**Duration:** For the remainder of the term of the order

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**Committee members:** Martin Isherwood (Chair, Dental Care Professional Member)  
Carson Black (Dentist Member)  
Paul Hepworth (Lay Member)**Legal Adviser:** Tanveer Rakhim**Committee Secretary:** Lola Bird

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*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.*

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Mr Brown,

1. This is an Interim Orders Committee (IOC) review hearing in respect of an interim order currently in place on your registration.
2. The hearing is being conducted remotely by Microsoft Teams video-link.
3. You are represented at these proceedings by Ms Keara Bowgen-Nicholas of Weightmans Solicitors. The Case Presenter for the General Dental Council (GDC) is Ms Natalie Bird, Counsel.

#### **Background to the imposition of the interim order**

4. Your case was first considered by the IOC at a hearing held on 2 October 2023, when an interim conditions of practice order was imposed on your registration for a period of 15 months. This was on the basis that an interim order was necessary for the protection of the public and was otherwise in the public interest.
5. In imposing the interim order, the initial IOC considered information arising from a complaint made to the GDC on 31 August 2023 by the Informant in this case.
6. The GDC's understanding from the information received is that you had worked at a dental practice ('the Practice') for 23 years before leaving in June 2022. The Informant then started providing care to your former patients at the Practice and noted a "*high percentage of patients being neglected in some form*" under your care. The areas of reported concern include:
  - Radiographic practice. The Informant stated that "*radiographs have not been taken for, on average, the past 10 years, and some adult patients have never had them taken even though they are regular attenders. This has contributed to many patients needing extensive treatment plans from findings on radiographs I've taken at their first examination with me*". The Informant also stated that there had been a failure to take radiographs before extractions or placing crowns.
  - BPEs not recorded – ever or very infrequently.
  - PMPR used for periodontitis rather than referring onwards.
  - Record keeping: failing to update charts, take medical histories or keep clinical notes of appointments – "*either no notes, empty templates or minimal records*".

- Caries missed and left untreated.
- Temporary restorations placed with no future treatment plan.
- Crowns placed on teeth where infections had been left untreated.

7. The Informant provided the GDC with a list of 40 patients affected but stated that there are more. It was noted that almost all of the patients are described as regular attenders for the past 10 to 20 years, with an absence of radiographs, BPEs or appointment records. There were said to be several patients with missed periodontitis or caries, some of which may require removal that could have been avoided if it had been detected earlier. Two patients are recorded as having lost teeth already due to these conditions.

### **Today's review**

8. This is the first review of the interim order imposed on your registration in October 2023. In comprehensively reviewing the order today, the Committee considered all the information provided. It took account of the submissions made by Ms Bird on behalf of the GDC and those made by Ms Bowgen-Nicholas on your behalf. The Committee accepted the advice of the Legal Adviser.

9. By way of an update since the initial IOC hearing, Ms Bird told the Committee that the GDC's fitness to practise investigation into the concerns raised by the Informant is ongoing. Ms Bird stated that it is anticipated that the Council will shortly receive a Clinical Advice Report in relation to the allegations which, she said, will facilitate the progress and assessment of this case. Ms Bird submitted that the interim conditions of practice order currently in place on your registration would ensure the continued protection of the public and the wider public interest whilst matters are being investigated.

10. Accordingly, Ms Bird invited the Committee to maintain the current interim conditions of practice order in its present form. She drew the Committee's attention to the relevant paragraphs on public protection and the wider public interest, as set out within the '*GDC Fitness to Practise: Guidance for the Interim Orders Committee (18 December 2023)*' ('the IOC Guidance').

11. In relation to public protection, Ms Bird endorsed the determination of the initial IOC, submitting that there would be a real risk of significant harm to members of the public if the current interim order was not maintained on your registration, given that the allegations relate to a high number of patients and the variety of concerns raised about fundamental aspects of dentistry.

12. With regard to the wider public interest, Ms Bird submitted that the allegations against you are wide-ranging, clinical in nature, and potentially involve the treatment of up to 40 patients over a number of decades. It was Ms Bird's submission that should the allegations be later proven, a well-informed member of the public would be surprised to learn that the current interim order was not maintained on your registration given the number of patients allegedly involved and the seriousness of the concerns.

13. Ms Bowgen-Nicholas submitted that no interim order is necessary in this case, and certainly not one of supervision.

14. Ms Bowgen-Nicholas stated that the complaint received by the GDC is from a registrant who has never worked with you, as far as you are aware, and that you had worked at the Practice for 23 years without any complaints. Ms Bowgen-Nicholas contended that there is no evidence to support the allegations, other than the Informant's own review of the clinical records. She also told the Committee that you no longer undertake the activities that form the basis of the complaint, as your current clinical practice is limited to patient referrals.

15. Ms Bowgen-Nicholas drew the Committee's attention to the testimonials tendered on your behalf, many of which, she said, are from clinicians who have had experience working with you. She also invited the Committee to consider the evidence of your Continuing Professional Development and the positive patient comments you have received. In addition, Ms Bowgen-Nicholas highlighted the positive comments of your Workplace Supervisor under the current interim conditions and noted that no concerns are raised in his reports. She asked the Committee to have regard to the recent email from your Workplace Supervisor dated 22 March 2024, in which he stated that he does not believe ongoing supervision of your work is required.

16. Ms Bowgen-Nicholas submitted that you have engaged fully with the fitness to practise process, reflected on the concerns raised, and you have worked closely with your Workplace Supervisor. She reiterated that you no longer perform the activities included in the Informant's complaint, save for record keeping, and that your record keeping has been audited with no issues.

17. It was Ms Bowgen-Nicholas' submission that the current interim order should be revoked. She stated, however, that should the Committee be minded to continue an interim conditions of practice order, there was no need for the ongoing supervision of your work, given the nature of your current clinical practice. She stated that, if the Committee considered it necessary, a condition could be included which would require you to inform the GDC if your role changed.

### **Decision on review of the interim order**

18. 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 your own interests. It had regard to the IOC Guidance.

19. The Committee was satisfied that the complaint made by the Informant includes cogent and consistent information suggesting that there were serious, wide-ranging failings in your clinical practice. The allegations relate to fundamental aspects of patient care and dentistry and appear to have involved your treatment of multiple patients over many years.

20. In assessing current risk, the Committee took into account the information that the nature of your clinical practice is now different, in that you no longer work in general dental practice. It also had regard to the material drawn to its attention on your behalf, including the positive reports from your Workplace Supervisor, which suggest that you are performing well in your current role.

21. However, the allegations in this case, which relate to your work at the Practice over a protracted period of time, have not yet been fully investigated by the GDC. The Committee took into account that in the absence of an interim order, you would be permitted to return to work in general dentistry, without any restriction, should you wish to do so.

22. In all the circumstances, given the serious and extensive nature of the outstanding concerns, the Committee considered that there would be a real risk of harm to patients if some form of restriction was not maintained on your registration. It therefore determined that an interim order remains necessary for the protection of the public.

23. The Committee also determined that an interim order continues to be in the wider public interest. It considered that a well-informed member of the public would be shocked and troubled if an interim order was not maintained on your registration pending full resolution of the serious matters in this case. In the Committee view, an interim order is required to maintain public confidence in the dental profession and to uphold proper professional standards.

#### **Type of interim order**

24. The Committee next considered the type of interim order. It considered whether the current interim conditions of practice order remains appropriate and proportionate to meet the risks identified in this case.

25. The Committee was satisfied from the information provided that the present interim conditions are working and that they are mitigating the risk posed to the public and the wider public interest. The Committee was also satisfied that the current interim conditions are proportionate, given that you have been able to work effectively under them. It noted that no issues have been raised regarding your compliance with the requirements. Whilst the Committee took into account the submissions made on your behalf about the level of supervision imposed, in its view, the current supervision element is necessary given the serious and wide-ranging nature of the allegations.

26. However, the Committee noted from the documentation provided that you have previously raised an issue about the workability of the current Condition 10, which restricts you from all out of hours work. You brought to the attention of the GDC the difficulty that this restriction poses in emergency situations. Having taken into account the need to ensure that the conditions remain proportionate and workable to protect the public, the Committee concluded that it was reasonable and practical to vary the current Condition 10 to allow for emergency out of hours work only at your own practice. The Committee considered that all the other conditions remain appropriate, proportionate, and workable.

27. In reaching its decision to maintain an interim conditions of practice order, the Committee was satisfied that an interim suspension order would be disproportionate, given that the current conditions are working, and you are complying with them.

28. Accordingly, the Committee determined to vary and continue the current interim conditions of practice order for the remainder of the 15-month term.

29. The interim conditions, with the variation to Condition 10, will continue to appear against your name in the Dentists Register as follows:

1. He must notify the GDC within 7 days of any professional appointment he accepts or is currently undertaking and provide the contact details of his employer, any organisation for which he has a contract or arrangement to provide dental services and all the NHS regional teams/Health Boards with whom he has an arrangement, either as a contract holder or by being on their Dental Performers' List.
2. He must allow the GDC to exchange information with his employer, any organisation for which he has a contract or arrangement to provide dental services, all the NHS regional teams/Health Boards with whom he has an arrangement.
3. He must inform the GDC within 7 days of any formal disciplinary proceedings taken against him from the day these conditions take effect.
4. He must inform the GDC within 7 days of any complaints made against him from the date these conditions take effect.
5. He must inform the GDC within 7 days if he applies for dental employment outside the UK from the day these conditions take effect.
6. He must inform the GDC if he is registered or applies for registration with any overseas regulator/relevant authority, within 7 days of the date of the application or 7 days from the date of this determination if already registered.
7. At any time he is employed, or providing dental services, which require him to be registered with the GDC, he must place himself and remain under the supervision\* of a workplace supervisor nominated by himself and agreed by the GDC. He must not start or restart working until a workplace supervisor has been approved by the GDC.

*\* Supervised The registrant's day to day work must be supervised by a person who is registered with the GDC in their category of the register or above. The supervisor need not work at the same practice as the registrant, but must make themselves available to provide advice or assistance should they be required. The registrant's work must be reviewed at least once fortnightly by the supervisor via one to one meetings and case-based discussion. These fortnightly meetings must be focused on all areas of concern identified by the conditions/undertakings. These meetings should take place face to face however, as a minimum, at least one of the two meetings must be face to face per month.*

8. He must allow his workplace supervisor to provide reports to the GDC every 3 months and at least 14 days prior to any review hearing. The workplace supervisor should provide information and/or feedback concerning:
  - Radiographic practice;
  - BPEs;
  - PMPR (assumed to be Professional Mechanical Plaque Removal);
  - Dental charting;
  - Tooth extractions;
  - Taking medical history;
  - Assessment and treatment of caries;
  - Periodontal assessment and treatment;
  - Oral hygiene;

- Restorative treatment including crowns; and,
  - Record keeping.
9. He must maintain a log, detailing the areas identified in Condition 8, which must be signed by his workplace supervisor and provided to the GDC every 3 months and at least 14 days prior to any review hearing.
10. He must not undertake locum or out of hours work other than dealing with emergencies in his own practice.
11. He must not engage in single-handed dental practice.
12. He must inform within 7 days the following parties that his registration is subject to the conditions listed at 1 to 11 above and confirm to the GDC that this has been done:
- Any organisation or person employing or contracting with him to undertake dental work;
  - Any prospective employer (at the time of application);
  - The Commissioning Body or on whose Dental Performers List he is included or seeking inclusion (at the time of application); and,
  - His workplace supervisor.
13. He must permit the GDC to disclose the above conditions 1 to 12 to any person requesting information about his registration status.

**Next review of the interim order**

30. 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 you will be asked whether there are any written submissions to be put before the Committee on your behalf. You will then be notified of the outcome in writing following the decision of the Committee.

31. Alternatively, you are entitled to have the interim order reviewed at an oral hearing. This means that you will be able to attend and make representations, send a representative on your behalf, or submit written representations about whether the order continues to be necessary. You must inform the GDC if you would like the interim order to be reviewed at a hearing.

32. Even if you do not request an oral hearing, where there has been a material change of circumstances that might mean that the order should be revoked, varied, or replaced, the Committee will review the order at a hearing to which you and any representative will be invited.

33. That concludes this determination.