

**Hearing part-held in private  
PUBLIC DETERMINATION**

**Summary**

<b>Name:</b>	<b>HORNSBY, Emma Louise [Registration number: 161979]</b>
<b>Type of case:</b>	<b>Health Committee (review)</b>
<b>Outcome:</b>	<b>Suspended indefinitely</b>
<b>Date:</b>	<b>9 March 2023</b>
<b>Case number:</b>	<b>CAS-186584</b>

At this hearing, the Committee made a determination that includes some private information. That information has been omitted from the public version of this determination and that document has been marked to show where private material has been removed.

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The purpose of today's hearing is to review a substantive direction of suspension first imposed on Mrs Hornsby's registration by the Health Committee (HC) on 20 February 2020. The matter was last reviewed on 4 March 2022. The hearing is being held in accordance with section 36Q of '*Dentists Act 1984*' (as amended), 'the Act'.

The hearing is being conducted remotely using Microsoft Teams in line with the current practice of the General Dental Council (GDC). Neither party is present at this hearing of the HC. The GDC has invited the Committee to conduct the hearing on the papers in the absence of both Mrs Hornsby and a Case Presenter on behalf of the GDC.

**Preliminary matters**

**Application for the hearing to be held partly in private**

At the beginning of the hearing, the Committee considered an application on behalf of the GDC under Rule 53 of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006*' ('the Rules') that this hearing be held partly in private since the matters under consideration include Mrs Hornsby's health. The GDC invited the Committee to only hear the parts of the hearing relating to health in private as the matters relating to misconduct are not so inextricably linked that the whole hearing required being held in private session.

The Committee bore in mind that, as a starting point, hearings should be conducted in public session. However, due to the nature of the matters in this case, and having regard to the information before it, the Committee was satisfied that the personal interests of Mrs Hornsby relating to her personal or family life outweighed the public interest in this case.

The Committee was satisfied that the hearing should be held in private session when discussing matters relating to Mrs Hornsby's health. It therefore acceded to the GDC's application.

### **Decision on service of Notice of Hearing**

The Committee was informed at the start of this hearing that Mrs Hornsby was neither present nor represented at today's hearing.

In her absence, the Committee first considered whether the Notice of Hearing ('the Notice') had been served on Mrs Hornsby in accordance with Rules 28 and 65.

The Committee had regard to the indexed hearing bundle of 45 pages, which contained a copy of the Notice, dated 30 January 2023. The Notice was sent to Mrs Hornsby's registered address by Special Delivery and First Class Post on 30 January 2023, in accordance with Section 50A of the *'Dentists Act 1984' (as amended)* ('the Act') and via email on the same date.

The Committee was satisfied that the Notice contained proper and correct information relating to today's hearing. This included the time, date and that it is being conducted remotely via Microsoft Teams, as well as notification that the GDC intended to hear the case on the papers.

In light of the information available, the Committee was satisfied that Mrs Hornsby has been served with proper notification of this hearing, at least 28 days before its commencement, in accordance with the Rules.

### **Decision on whether to proceed in the absence of Mrs Hornsby and on the papers**

The Committee next considered whether to exercise its discretion to proceed with the hearing in the absence of Mrs Hornsby and any representative for either party. The Committee was mindful that its decision to proceed in the absence of Mrs Hornsby must be handled with the utmost care and caution. The Legal Adviser reminded the Committee of the requirement to be fair to both parties, as well as considering the public interest in the expeditious disposal of this case.

The Committee noted that there has not been any engagement by Mrs Hornsby in relation to today's hearing and that no application for an adjournment had been made by Mrs Hornsby, and as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

On the basis of the information before it, the Committee concluded that Mrs Hornsby had voluntarily absented herself from today's hearing.

The Committee noted that the current order is due to expire on 24 March 2023 and needs to be reviewed before this date.

In all these circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Mrs Hornsby.

### **Background**

This is the third review of a substantive order initially imposed by the Health Committee (the HC) on Mrs Hornsby's registration in February 2020.

It was reviewed on the following occasions:

- 5 March 2021 (Suspension order extended, with a review, for 12 months); and
- 4 March 2022 (Suspension order extended, with a review, for 12 months).

At the most recent review hearing, the HC found Mrs Hornsby's fitness to practise impaired by reason of her adverse health conditions and misconduct. The HC gave the following reasons for its finding on impairment:

*"In consideration of the misconduct, the Committee noted that since the last review, Ms Hornsby has not engaged with the GDC. She has therefore not provided any evidence of insight into her failings or evidence that she had remediated the fundamental failings in her practice relating to cross-infection control. The Committee concluded that on this basis, there remains a significant risk of harm to patients.*

*In consideration of her health condition...It noted that the GDC sent Ms Hornsby a letter, dated 13 October 2021, in which it enclosed a consent form inviting Ms Hornsby to undertake a health assessment.*

*The letter also reminded Ms Hornsby that the previous reviewing HC had asked her to engage and co-operate with the GDC [PRIVATE].*

*Despite this letter, and the information contained within the previous HC's determination, Ms Hornsby has not consented to a health assessment and has not provided [PRIVATE] ... any update regarding her current health status.*

*In the light of the lack of evidence to the contrary, the Committee concluded that Ms Hornsby's fitness to practise remains impaired on the grounds of her health...."*

The HC directed that Mrs Hornsby's registration be subject to a further suspension for a period of 12 months, with a review, stating:

*"The Committee noted that Ms Hornsby [PRIVATE] ... is yet to provide any evidence of insight or remediation. This period would allow her time to provide the evidence required, to develop her insight, and to engage with the GDC."*

## **Submissions**

In its written submissions, the GDC invited the Committee to impose an indefinite order of suspension. It stated that there is no evidence to show any material change in position since the last review. Despite the previous HC requesting materials demonstrating insight and addressing the concerns raised, no material has been received from Mrs Hornsby to date. In the absence of any and/or sufficient evidence to demonstrate insight and/or engagement, the GDC submitted that Mrs Hornsby's fitness to practise remains impaired.

Mrs Hornsby has not provided any written submissions for the Committee to consider at today's review.

### **Decision on today's review**

The Committee has carefully considered all the information presented to it, including the documentation and written 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* (updated December 2020)', 'the Guidance'. The Committee has heard and accepted the advice of the Legal Adviser.

### **Impairment**

The Committee first considered whether Mrs Hornsby's fitness to practise remains impaired by reason of her health conditions and misconduct.

In reaching its decision, the Committee was mindful of the need to protect the public and to maintain public confidence in the profession.

In consideration of the misconduct, the Committee noted that since the order was last reviewed, Mrs Hornsby has not engaged with the GDC. She has therefore not provided any evidence of insight into her failings or evidence that she had remediated the fundamental failings in her practice relating to cross-infection control. The Committee concluded that on this basis, there remains a significant risk of harm to patients.

In order to fulfil the regulatory objective to protect patients, whilst maintaining confidence in the profession, the Committee finds Ms Hornsby's fitness to practise remains impaired by reason of her misconduct.

In the light of the lack of evidence to the contrary, the Committee concluded that Mrs Hornsby's fitness to practise also remains impaired on the grounds of her health.

### **Sanction**

In coming to its decision on sanction, the Committee took account of the options available to it at this stage; namely, to terminate the suspension order, to replace the current order with conditions of practice, to extend the current order, or to indefinitely suspend the registrant.

As the Committee has found Mrs Hornsby's fitness to practise to be currently impaired, it concluded that it would be inappropriate to terminate the order as she has not engaged and has shown no evidence of insight into her clinical failings relating to cross-infection control. **[PRIVATE]**.

The Committee next considered whether Mrs Hornsby should be permitted to return to restricted practice under the provision of conditions of practice. Due to her lack of engagement, and lack of information relating to her management of her health conditions and lack of insight into her misconduct, the Committee concluded that conditions would be unworkable as Mrs Hornsby has not demonstrated that she is willing or able to comply with conditional registration.

In respect of the above, the Committee considered that indefinite suspension is the appropriate and proportionate outcome because in the last three years since the order was imposed, Mrs Hornsby has failed to engage meaningfully with her regulator and has not produced up to date evidence of her health condition or insight into her misconduct. This will enable Mrs Hornsby to seek a review as and when (subject to the minimum period) she is ready to provide the reviewing committee with the evidence that might enable her return to practice.

Mrs Hornsby may request a review of the indefinite suspension two years after the imposition of this order, namely 24 March 2023, which is the date upon which this order will take effect.

**Right of appeal**

Mrs Hornsby will have 28 days from the date on which notice of this decision is deemed to have been served on her to appeal against it. Should she decide to appeal, the existing direction of suspension will remain in force until the resolution of any such appeal. Should she decide not to appeal, the indefinite suspension order will take effect on the date on which the current suspension order would otherwise expire, that is to say on 24 March 2023.

That will be confirmed to Mrs Hornsby in writing.

That concludes this determination.