

ON PAPERS

Interim Orders Committee Review Hearing

26 February 2024

Name: VYAS, Nicky

Registration number: 66111

Case number: CAS-200433-T3S0X3

General Dental Council: Rochelle Williams, IHLPS

Registrant: Represented by Buxton Coates

Outcome: Interim conditions confirmed

Duration: For the remainder of the term of the order

Committee members: Peter Watson (Chair, Lay member)
Duncan Smith (Dentist member)
Priya Sharma (DCP member)

Legal adviser: Nicola Gordelier

Committee Secretary: Jennifer Morrison

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 an Interim Orders Committee (IOC) review hearing in respect of an interim order currently in place on Mr Vyas' registration. The hearing is being conducted remotely by Microsoft Teams video-link.

2. Neither party is present today, following a request made by the General Dental Council (GDC) for the review of the interim order to be conducted on the papers. The Committee received written submissions from the GDC in respect of the review.
3. The Committee first considered the issues of service and proceeding with the hearing in the absence of Mr Vyas and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

Decision on service

4. The Committee considered whether notice of the hearing had been served on Mr Vyas in accordance with Rules 35 and 65 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules') and section 50A of the *Dentists Act 1984 (as amended)* ('the Act').
5. The Committee received from the GDC an indexed IOC review hearing bundle of 49 pages. This hearing bundle contained a copy of the Notice of Hearing, dated 15 February 2024 ('the notice'), which was sent to Mr Vyas' registered address by Special Delivery and First Class post. A copy of the notice was also emailed to Mr Vyas's representative on 15 February 2024.
6. The Committee 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. However, it noted from the Royal Mail 'Track and Trace' receipt provided, that the notice sent by Special Delivery was delivered and signed for in the name of 'VYAS' on 17 February 2024.
7. The Committee further took into account that on 15 February 2024, a copy of the notice was sent to Mr Vyas as an attachment within a secure email.
8. The Committee was satisfied that the notice sent to Mr Vyas contained proper notification of this review hearing, including that the hearing was scheduled to take place between 26 February and 1 March 2024 via Microsoft Teams. Mr Vyas was informed of his right to request an oral hearing and to present evidence. He was also informed of the Committee's power to proceed with the hearing in his absence.
9. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Vyas in accordance with the Rules and the Act. 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 the registrant and on the papers

10. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Mr Vyas, and any representative for either party. The Committee took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones* [2003] 1 AC 1HL, and as affirmed in subsequent regulatory cases.

11. The Committee considered the need to be fair to both Mr Vyas and the GDC, and it also took into account the public interest in the expeditious review of the interim order.
12. The Committee was satisfied from the information before it that Mr Vyas is aware of this review hearing. On 21 February 2024, in response to the notice, Mr Vyas confirmed that he was content for the hearing to proceed in his absence.
13. In its written submissions, the GDC submitted that *'the Committee can be confident in exercising their discretion as set out in Rule 54, in proceeding with this review on the papers, in the absence of the parties.'*
14. The Committee was satisfied that Mr Vyas' absence from these proceedings is voluntary. It has not received a request for an adjournment from either party. Furthermore, there has been no information to indicate that deferring the hearing would secure Mr Vyas' attendance on a future date. The Committee therefore considered that an adjournment would serve no meaningful purpose. In reaching its decision, the Committee also bore in mind the public interest and its statutory duty to review the current interim order.
15. In all the circumstances, the Committee determined to proceed with the review hearing on the papers in the absence of both parties.

Background

16. Mr Vyas' case was first considered by the IOC on 26 April 2022, when an interim conditions of practice order was imposed on his 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.
17. In imposing the interim order, the initial IOC considered information received by the GDC which raised concerns about Mr Vyas' fitness to practise as a dentist.
18. The concerns were summarised in the determination of the initial IOC as follows:

'In October 2021, a dental nurse at the Practice had approached Practice management to explain that she was missing some screwdrivers from your Neodent kit, and that you had told her you had not seen them and did not know where they were;

- *Practice Management subsequently found some sterilisation bags poking out of your laptop bag, which contained three Neodent screwdrivers, a torque wrench and several missing copings;*
- *When asked whether you may have borrowed the existing instruments, you stated you would never take anything from the Practice without asking;*

- *When you were informed that the missing instruments had been seen in your personal laptop bag, you first stated that they were yours and that you had bought them, then that they were bought by the other practice you worked at and then that there was bound to be an explanation from the practice, and you would revert with the answer once you had the opportunity to correct the confusion and misunderstanding;*
- *On 21 October 2021, you said you had thought that the screwdrivers you had in your laptop bag were from the other practice, but you had later realised that they must be from the Practice. You apologised for causing confusion and on the following day, which was your day off, you attended the Practice with two screwdrivers and a conical screw asking for them to be given to your nurse;*
- *On 2 November 2021, during a meeting with the Practice Principal you explained that you were not confident placing implants at the other practice as they did not have a complete kit, but that two patients complained so you felt pressured. When asked about the implants themselves, you initially said you used a “legacy kit” from your other practice. The Practice Principal pointed out to you that if the implants turned out to be his from the Practice, it meant you had placed medical devices that belong to him in someone else’s mouth other than his patients and if anything went wrong, these would be traceable to him. At the conclusion of the meeting, you said that you would get the log numbers;*
- *Later that day, you requested a private meeting with the Practice Principal and produced the box (with references and lot number) for the implants and admitted you had taken these from the Practice Principal’s stock. In light of concerns about the impact on patients and the fact that the theft had been going on over a three-to-four-month period, the Practice Principal terminated your contract with immediate effect.”*

In addition to the above, a concern was also raised by the Practice about an implant that you had placed on a former patient. The Practice contacted you for advice on the ongoing management of the patient but you have not responded. The practice stated that the implant you had placed was “in entirely the wrong position and out by over 40 degrees”.

Previous reviews and extensions of the interim order

19. Mr Vyas’s case was reviewed on the following occasions:

- 21 October 2022 – Interim order of conditions confirmed.
- 6 April 2023 – Interim order of conditions confirmed.
- 6 July 2023 – High Court extension of the interim order to 28 March 2024.
- 18 September 2023 - Interim order of conditions confirmed.

Today's review

20. Today, the Committee comprehensively reviewed the interim order imposed on Mr Vyas' registration. In doing so, the Committee considered all the information provided. It accepted the advice of the Legal Adviser.
21. The information before the Committee was as follows:
 - The indexed IOC review hearing bundle of 49 pages.
 - An indexed IOC core hearing bundle of 49 pages.
 - An addendum review bundle of 2 pages.
 - The written submissions of the GDC in respect of this review.
22. The GDC submitted that an interim order remains necessary on the grounds of public protection and is otherwise in the public interest.
23. The GDC further submitted that there has been no material change in circumstances that would necessitate an amendment to the current interim order of conditions. It submitted that there are no concerns about Mr Vyas' compliance with the conditions.
24. The Committee noted that the substantive hearing of this case, which had been listed from 29 January 2024 to 2 February 2024, had been postponed, and that new dates were being sought.

Decision on review of the interim order

25. 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 Vyas' own interests. It had regard to the GDC's *Guidance for the Interim Orders Committee (December 2023)*.
26. This Committee is not bound by the decisions of previous Committees. However, it was satisfied from the information before it that there has been no material change in circumstances to undermine the necessity for an interim order on Mr Vyas' registration. He continues to face allegations that raise concerns about his probity and clinical practice, which pose a risk of harm to the public. The Committee therefore determined that an interim order remains necessary for the protection of the public.
27. The Committee also determined that an interim order is otherwise in the public interest. It considered that an informed member of the public would be concerned if an interim order were not maintained on Mr Vyas' registration whilst the serious allegations in this case are being determined. The Committee was satisfied that an interim order remains necessary to maintain public confidence in the dental profession and to declare and uphold standards of performance and conduct for members of the profession.

28. The Committee went on to consider the type of interim order. It noted the report from Mr Vyas' Reporter dated 12 February 2024, which confirmed that Mr Vyas was compliant with the interim conditions of practice. The Committee has received no information to justify any variation to the current interim conditions or a change of order.
29. Accordingly, the Committee determined to confirm the interim order of conditions on Mr Vyas' registration for the remainder of the term of the order.
30. The interim conditions will remain as follows:
 1. He must notify the GDC within 7 days of any post he accepts for which GDC registration is required.
 2. If employed, he must provide contact details of his employer to the GDC within 7 days of this determination 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 within 7 days of any formal disciplinary proceedings taken against him, from the date these conditions take effect.
 4. He must inform the GDC within 7 days of any complaint made against him, from the date these conditions take effect.
 5. He must inform the GDC if he applies for dental employment outside the UK, within 7 days of such an application being made.
 6. At any time, he is employed or providing dental services which require him to be registered with the GDC, he must appoint a reporter nominated by him and agreed by the GDC. The reporter shall be a GDC registered dentist and shall be based at the practice where he is placing implants. He must restrict his placement of implants to the practice where the reporter is based.
 7. He must allow the reporter to provide written reports to the GDC every 3 months and at least 14 days prior to any review hearing. The reports will include the following:
 - Confirmation that he has complied with his conditions since the previous report was provided;
 - Confirmation that the reporter has seen the log referred to at 8 below;
 - Details of any complaints received since the previous report was provided and once known, the outcome of each complaint;
 - Any concerns regarding implant treatment that have arisen since the previous report was provided and any actions points agreed as a result.
 8. He shall maintain a log detailing every case where an implant is placed and, in each case, make a record of the owner of the implant and the associated lot number. The

log should include the name of the patient, the dates and the clinic where the implants were placed.

9. He must provide a copy of this log, signed by his reporter, to the GDC at least 14 days prior to any review or alternatively, confirm that there have been no such cases.
10. He must inform within 7 days the following parties that his registration is subject to the conditions, listed at 1 to 9, above:
 - a. Any organisation or person employing or contracting with him to undertake dental work;
 - b. Any prospective employer (at the time of application); and
 - c. The Commissioning Body or Health Board in whose Dental Performers List he is included or seeking inclusion (at the time of application).
11. He must permit the GDC to disclose the conditions, listed at 1 to 10, above to any person requesting information about his registration status.

Next review of the interim order

31. 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 Vyas will be asked whether there are any written submissions to be put before the Committee on his behalf. Mr Vyas will then be notified of the outcome in writing following the decision of the Committee.
32. Alternatively, Mr Vyas is entitled to have the interim order reviewed at an oral 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 Vyas must inform the GDC if he would like the interim order to be reviewed at a hearing.
33. Even if Mr Vyas does not request a hearing, where there has been a material change of circumstances that might mean that the order should be revoked or replaced, a Committee will review the interim order at a hearing to which he and any representative will be invited. At the review hearing the Committee may revoke the order, it may confirm the order, it may vary any condition of the order, or it may replace it with an interim suspension order.
34. That concludes this determination.