

**IN PRIVATE (Partial)
ON PAPERS****Professional Conduct Committee
Review Hearing****22 November 2023**

Name: PATEL, Shilpa
Registration number: 241043
Case number: CAS-190996-S9F4R6

General Dental Council: Manuel Cao Hernandez, IHLPS
Registrant: Unrepresented

Fitness to practise: Impaired by reason of misconduct
Outcome: Indefinite suspension

Committee members: Emily Knapp (Chair, dentist member)
Liz Avital (Lay member)
Tanya Viehoff (DCP member)
Legal adviser: Barrie Searle
Committee Secretary: Jennifer Morrison

1. This is a Professional Conduct Committee (PCC) review hearing of Ms Shilpa Patel's case, pursuant to Section 27C of the *Dentists Act 1984 (as amended)* ('the Act').
2. The purpose of this hearing is for this Committee to review Ms Patel's case and to determine what action to take in relation to her registration. Her registration is subject to an order of suspension.
3. The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Microsoft Teams in line with current General Dental Council (GDC) practice.

4. Neither party is present today, following a request made by the GDC for the review of the suspension order to be conducted on the papers. The Committee received written submissions from the GDC in respect of the review dated 7 November 2023.
5. The Committee first considered the issues of service and proceeding with the hearing in the absence of Ms Patel and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

Decision on service of Notice of Hearing

6. The Committee considered whether the Notice of Hearing ('the Notice') had been served on Ms Patel in accordance with Rules 28 and 65 of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006*' ('the Rules').
7. The Committee received from the GDC an indexed PCC review hearing bundle of 62 pages. This hearing bundle contained a copy of the Notice, dated 17 October 2023, which was sent to Ms Patel's registered address by Special Delivery and First Class post.
8. 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 'MISTRY' on 18 October 2023.
9. The Committee further took into account that on 17 October 2023, a copy of the Notice was sent to Ms Patel as an attachment within a secure email.
10. The Committee was satisfied that the Notice sent to Ms Patel contained proper notification of this review hearing. It contained information about, amongst other things, the date and time of the hearing and the GDC's intention for the hearing to take place on the papers unless Ms Patel requested an oral hearing.
11. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Patel in accordance with the Rules and the Act.

Decision on whether to proceed with the hearing in the absence of the registrant and on the papers

12. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Ms Patel, 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.
13. The Committee considered the need to be fair to both Ms Patel and the GDC, and it also took into account the public interest in the expeditious review of the substantive order.
14. The Committee took into account that the Notice of 17 October 2023 was received at Ms Patel's registered address. In the Notice, Ms Patel was asked to confirm whether she would

be attending or be represented. She was invited to provide the Committee with written submissions or any documents that she felt would be relevant to the review hearing by 26 October 2023. The Committee noted that Ms Patel had not responded to the Notice or to emails from the GDC on 31 May 2023, 16 August 2023 and 27 October 2023 inviting her to provide evidence for the next review of her case. The Committee had no evidence from Ms Patel before it.

15. The Committee was satisfied that Ms Patel's absence from these proceedings is voluntary. It considered that it did not receive a request for an adjournment from either party and had regard to Ms Patel's long history of non-engagement. The Committee has had no information before it to indicate that adjourning the hearing would secure Ms Patel's attendance on a future date and therefore considered that an adjournment would serve no meaningful purpose. In reaching its decision, the Committee also bore in mind its statutory duty to review the current substantive order before its date of expiry.
16. In all the circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of both parties.
17. The Committee considered the GDC's application to hear any matters in private which dealt with the Registrant's personal life and decided to do so.

Background

18. This is the fifth review of a substantive order initially imposed on Ms Patel's registration on 7 May 2020. At the initial substantive hearing, part of which Ms Patel attended, the PCC considered allegations relating to whether Ms Patel's fitness to practise was impaired by reason of misconduct, conviction and caution. The initial PCC found proved that Ms Patel had received the following cautions and convictions:
 - *A Caution on 18 February 2013 for possession of a controlled drug (class B – cannabis/cannabis resin) contrary to section 5(2) of the Misuse of Drugs Act 1971.*
 - *A Caution on 2 October 2016 for battery contrary to section 39 of the Criminal Justice Act 1988.*
 - *A Conviction at North West London Magistrates' Court on 12 August 2016 for being in charge of a mechanically propelled vehicle while unfit through drink or drugs contrary to section 4(2) of the Road Traffic Act 1988.*
 - *A Conviction at Birmingham Magistrates' Court on 8 September 2016 for driving whilst disqualified contrary to section 103(1)(b) of the Road Traffic Act 1988 and for using a vehicle while uninsured contrary to section 143(2) of the Road Traffic Act 1988.*
 - *A Conviction at Birmingham Magistrates' Court on 5 October 2016 for driving a motor vehicle with excess alcohol contrary to section 5(1)(a) of the Road Traffic Act 1988, assaulting a constable contrary to section 89(1) of the Police Act 1996 and for destroying or damaging property (value of £5000 or less) contrary to section 1(1) of the Criminal Damage Act 1971.*

19. In addition, the initial PCC found proved that Ms Patel did not inform the GDC of the criminal proceedings that resulted in these cautions and convictions. Her failure to do so was found to be misleading and dishonest, and the initial PCC determined that this amounted to misconduct.
20. The initial PCC determined that Ms Patel's fitness to practise was impaired by reason of her convictions, although not on the grounds of her cautions. Whilst the initial PCC did not consider that Ms Patel posed a risk to the public on account of her convictions, it determined that a finding of impairment was required in the wider public interest. In its finding on impairment, the initial Committee stated:

'The Committee also considered the wider public interest. It had particular regard to the following standard from the GDC's Standards for the Dental Team (effective 30 September 2013): "1.3.2 You must make sure you do not bring the profession into disrepute." Your repeated offending resulting in the convictions in 2016 is likely to bring the profession into disrepute. Although occurring over a limited timeframe, it is very poor conduct which is inconsistent with the high standards of behaviour expected of dental professionals. You are yet to show clear insight, remorse or reflection in respect of how this aspect of your behaviour affects the reputation of the profession. A finding of current impairment in respect of your convictions is necessary in the Committee's judgment to mark the unacceptability of the repeated behaviour leading to your convictions and to maintain public trust and confidence in the profession and this regulatory process.'

21. The initial PCC also determined that Ms Patel's fitness to practise was impaired on the grounds of her misconduct in seeking to conceal her cautions and convictions from the GDC. In its finding on impairment, the initial Committee stated:

'The Committee accepts that you are now unlikely to repeat your misconduct...However, in the Committee's judgment, your fitness to practise is currently impaired by reason of your misconduct in the wider public interest. Dishonesty is a serious breach of professional standards and your dishonesty here was sustained over a period of years. It brings the profession into disrepute and breaches the fundamental principles of probity and trustworthiness. A finding of impairment is necessary to mark the seriousness of your misconduct and to maintain public confidence in the profession and this regulatory process. In the Committee's view, public confidence in the profession would be undermined if a finding of impairment were not to be made.'

22. The initial PCC imposed a suspension order on Ms Patel's registration of six months and directed a review before the end of the six-month period. In doing so, it stated that:

'The reviewing Committee may be assisted by your evidence of any further insight and remorse you have developed in respect of your offending and your misconduct. The reviewing Committee may also be assisted by evidence of your CPD.'

First review of the order on 23 November 2020

23. The suspension order against Ms Patel's registration was first reviewed on 23 November 2020. Whilst Ms Patel attended the hearing, the reviewing PCC noted that Ms Patel had only recently begun engaging with the process, and considered that whilst she showed a level of remorse at that hearing, she had not provided any evidence regarding her insight or remediation. The reviewing PCC considered that she *'[had] a long way to go'* in terms of developing her insight into her behaviour and its wider effect on the profession, and determined that Ms Patel's fitness to practise remained impaired by reason of her convictions and her misconduct. The Committee imposed a further six-month period of suspension with a review.

Second review of the order on 28 May 2021

24. The second review of the order was held on the papers in the absence of both parties. Ms Patel did not reply to multiple attempts by the GDC to contact her about the hearing and provided no evidence for the reviewing Committee's consideration. The reviewing PCC noted that:

'There is no evidence before this Committee that Ms Patel has recognised the seriousness of her convictions and misconduct, demonstrated insight or provided any information as recommended to her by the previous reviewing PCC. It also notes that Ms Patel has not meaningfully engaged with the GDC in relation to these proceedings over a protracted period of time, despite repeated attempts by the GDC to secure her involvement. Given its concerns regarding Ms Patel's lack of insight and remediation the Committee considers that Ms Patel's fitness to practise remains impaired by reason of her convictions and misconduct.'

The reviewing Committee directed a 12-month extension of the suspension order on Ms Patel's registration with a review.

Third review of the order on 30 May 2022

25. The third review of Ms Patel's case also took place on the papers in the absence of both parties. The PCC at this review determined that Ms Patel's fitness to practise remained impaired on the grounds of her convictions and her misconduct. That PCC stated that:

'In considering Ms Patel's current fitness to practise, the Committee was satisfied that Ms Patel has not provided any evidence of insight or remediation, as recommended by the previous PCC in May 2021. There has not been any meaningful engagement. In the absence of that evidence, the Committee was unable to conclude that there has been any material change since the last review of Ms Patel's suspension order. The Committee did bear in mind that there had been a telephone call from Ms Patel in relation to the current order, but she did not respond when a message was left in reply.'

26. The PCC in May 2022 determined to extend the suspension order by a period of 12 months and it directed a further review. That Committee considered that the 12-month period would allow Ms Patel sufficient time to address the recommendations made by the previous PCC in May 2021, which were as follows:
- *The Committee recommends that Ms Patel fully engage with the GDC.*
 - *She should provide a written reflective piece to demonstrate her understanding of the impact of her offending and her misconduct on the dental profession.*
 - *She should provide evidence of any CPD she has undertaken.*

Fourth review of the order on 24 May 2023

27. The fourth review of Ms Patel's case again took place on the papers in the absence of both parties. The PCC at this review noted that Ms Patel had not engaged with the GDC over the previous 12 months. However, that Committee took into account that, in respect of Ms Patel's convictions, the initial PCC found her fitness to practise to be impaired solely on wider public interest grounds.
28. The reviewing Committee noted the limited timeframe over which Ms Patel's offending had occurred and the fact that she had received no further convictions since 5 October 2016. That Committee also accepted Ms Patel's evidence about her difficult circumstances around the time of her offending. In all the circumstances, the reviewing Committee was satisfied that the wider public interest concern had been met in relation to Ms Patel's convictions, given the lengthy period of suspension that she had now served.
29. However, the reviewing Committee determined that Ms Patel's fitness to practise remained impaired by reason of her misconduct in her failure to inform her regulator about her cautions and convictions. In the absence of Ms Patel's engagement and sufficient insight into her misconduct, the Committee was not satisfied that the risk of repetition was low. It determined that a order on Ms Patel's registration continued to be required in the public interest, and suspended her registration for a further six months.
30. The reviewing Committee gave serious consideration to indefinitely suspending Ms Patel's registration, but determined that it would be disproportionate, given her early, albeit limited engagement and the Committee's consideration that there may have been a possibility that Ms Patel had not understood what was required of her.

Today's review

31. Today is the fifth review. In comprehensively reviewing this case today, the Committee considered all the documentation presented to it and took account of the submissions made. The Committee accepted the advice of the Legal Adviser.
32. The GDC submitted that since the last review hearing, Ms Patel has continued not to engage with these proceedings. She has provided no evidence for the Committee's consideration today. The GDC submitted that Ms Patel's position has remained the same since the previous

hearing, and she has not discharged her burden to show that her fitness to practise is no longer impaired by reason of her misconduct.

33. The GDC submitted that Ms Patel's fitness to practise remains impaired by reason of her misconduct. It submitted that in the light of her ongoing lack of engagement, the absence of any evidence of remediation, the lack of insight and the ongoing risks, an indefinite suspension should be imposed upon Ms Patel's registration on public interest grounds.

Decision on current impairment

34. The Committee considered whether Ms Patel's fitness to practise remains impaired by reason of her misconduct. In doing so, it exercised its own independent judgement. It had regard to the over-arching objectives of the GDC: the protection, promotion and maintenance of the health, safety and well-being of the public; the promotion and maintenance of public confidence in the dental profession; and the promotion and maintenance of proper professional standards and conduct for the members of the dental profession.
35. The Committee went on to consider whether Ms Patel's fitness to practise is still impaired by reason of her misconduct. It bore in mind that at a review hearing, the onus is on the registrant to demonstrate that their fitness to practise is no longer impaired. The Committee determined that in the absence of any engagement from Ms Patel since the first review hearing and in the absence of any evidence of change in her insight, remorse or remediation, Ms Patel's fitness to practise remains impaired on public interest grounds. The Committee considered a finding of current impairment is required in the public interest in order to maintain public confidence in and uphold the standards of the profession.

Sanction

36. The Committee next considered what direction, if any, to make. It had regard to the GDC's *Guidance for the Practice Committees including Indicative Sanctions Guidance* (effective October 2016, revised December 2020).
37. The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Patel's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct and performance within the profession.
38. The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to terminate it with immediate effect. The Committee determined that this would be inappropriate in the light of its finding of current impairment.
39. The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee was not satisfied that conditions of practice would suitably address the dishonest nature of Ms Patel's conduct. Furthermore, the Committee was not satisfied that workable conditions could be formulated in the light of Ms Patel's ongoing non-engagement.

40. The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. In the absence of any meaningful engagement from Ms Patel in the past three years and in the absence of any insight, remorse or remediation, the Committee concluded that a further time-limited period of suspension would serve no useful purpose.
41. The Committee was satisfied that the power to impose an indefinite suspension under Section 27 C (1)(d) of the Act was available, as submitted by the GDC, as Ms Patel has been subject to an order for suspension for a period of over three years. The Committee concluded in these circumstances an indefinite period of suspension is necessary, appropriate and proportionate for the reasons outlined above. It is required in order to maintain public protection and to maintain confidence in the profession. It therefore directs that Ms Patel's registration be suspended indefinitely.
42. The Committee considered that the onus should now rest with Ms Patel to contact the GDC if and when she is willing to engage with its processes. It noted that she can request a review of the indefinite suspension order when at least two years have elapsed since the date on which the direction takes effect.
43. Unless Ms Patel exercises her right of appeal, her registration will be suspended indefinitely, 28 days from the date that notice of this direction is deemed to have been served upon her. In the event that she does exercise her right of appeal, the suspension order currently in place on her registration will remain in force until the resolution of the appeal.
44. That concludes this determination.