

**Hearing held in private
Public determination**

Summary

Name:	SONECKA, Anna Elzbieta [Registration number: 84000]
Type of case:	Health Committee (Review)
Outcome:	Suspended indefinitely
Date:	15 October 2021
Case number:	CAS-183366

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

This was a resumed hearing pursuant to Section 27C of the Dentists Act 1984 (as amended) ('the Act'). The purpose of this hearing has been for this Health Committee (HC) to review Ms Sonecka's case and determine what action to take in relation to her registration. Ms Sonecka did not attend the hearing and was not represented. Mr Chris Hamlett appeared on behalf of the General Dental Council (GDC).

The hearing was held remotely, and all parties attended via Microsoft Teams video-link in line with the GDC's current practice.

Preliminary Matters

Decision on Service of the Notice of Hearing

The Committee first considered whether notice of the hearing had been served on Ms Sonecka in accordance with Rules 28 and 65 of the GDC's Fitness to Practise Rules 2006 ('the Rules') and Section 50A of the Dentists Act 1984 (as amended) ('the Act'). The Committee received from the GDC an indexed hearing bundle, which contained a copy of the Notice of Hearing ('the notice'), dated 2 September 2021, thereby complying with the 28-day notice period. The notice was sent by the method of 'International Tracked and Signed' to Ms Sonecka's registered address. The Committee had before it a copy of a Royal Mail 'Track and Trace' document dated 7 September 2021 which showed that the notice was sent back to the sender as the recipient refused to accept it. The notice was also emailed to Ms Sonecka on 2 September 2021.

The Committee was satisfied that the notice sent to Ms Sonecka contained proper notification of today's hearing, including its time, date and that it will be conducted remotely by Microsoft Teams video-link, and the other prescribed information including notification that the Committee had the power to proceed with the hearing in Ms Sonecka's absence.

On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Sonecka in accordance with the Rules and the Act.

Decision on Proceeding in the Registrant's Absence

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Ms Sonecka. The Committee heard the submissions made by Mr Hamlett on behalf of the GDC. It accepted the advice of the Legal Adviser. The Committee approached the issue of proceeding in absence with the utmost care and caution. It took into account the factors to be considered in reaching its decision, as set

out in the case of *Tait v Royal College of Veterinary Surgeons* [2003] UKPC 34, *R. v Jones (Anthony William)*, (No.2) [2002] UKHL 5. and *GMC v Adeogba* [2016] EWCA Civ 162. It remained mindful of the need to be fair to both Ms Sonecka and the GDC, taking into account the public interest and Ms Sonecka's own interests in the expeditious review of the suspension order imposed.

It first concluded that all reasonable efforts had been taken to send the notice to Ms Sonecka in accordance with the Rules. It noted that Ms Sonecka has not engaged in these proceedings and did not attend either the substantive hearing or previous review hearing. The Committee concluded that to adjourn the hearing would not secure Ms Sonecka's attendance. It also noted that the current order of suspension is due to expire on 29 October 2021 after which the GDC will no longer have jurisdiction of the case. In those circumstances, the Committee determined that it was fair and appropriate to proceed with the hearing in the absence of Ms Sonecka.

Application for hearing to be held in private

Mr Hamlett submitted an application pursuant to Rule 53(2)(a) for the entire hearing to be held in private as the matters today relate primarily to Ms Sonecka's health. The Committee heard and accepted the advice of the Legal Adviser.

The starting point for the Committee is for all hearings to be held in public as it is in the interests of justice to do so. However, a hearing may be held in private where it concerns matters that are inextricably linked to the health or private and family life of the Registrant concerned, under Rule 53(2) of the General Dental Council (Fitness to Practise) Rules Order of Council ("the Rules"). The Committee agreed that as the matters in this case relate to Ms Sonecka's health and private life, it was in her interests that the hearing should be held in private. The Committee therefore acceded to the application.

Background

Ms Sonecka's case was initially considered by the HC at a hearing in October 2018. Ms Sonecka did not attend this hearing and was not represented. [PRIVATE] It was also found proved that Ms Sonecka did not co-operate with the GDC's investigation between 5 May 2017 and 19 March 2018 and did not maintain a correct and up-to-date registered address between 5 May 2017 and 9 October 2017. That Committee determined that the facts found proved amounted to misconduct.

Furthermore, that Committee found proved that [PRIVATE]

That Committee then determined that Ms Sonecka's fitness to practise was currently impaired by reason of misconduct and adverse health. It noted that it had received no information on Ms Sonecka's current circumstances and, more importantly, no evidence of her insight. It considered that Ms Sonecka had not engaged with the proceedings and that the evidence before it indicated a pattern of non-engagement, which, in addition to the lack of insight and remediation, meant that there was a likelihood that she could repeat her misconduct. [PRIVATE]

That Committee determined that a suspension of 12 months was the most appropriate sanction with a review hearing before the end of the period. It considered that 12 months would give Ms Sonecka the opportunity to fully engage [PRIVATE] and provide any evidence of her remediation. That Committee also considered that a reviewing Committee may find it helpful if Ms Sonecka provided the following information:

- [PRIVATE]
- Evidence of her meaningful engagement with the GDC;

- Evidence of her insight into the findings of this Committee; and
- Any other evidence that she considers that the reviewing Committee may find of assistance in her case.

Ms Sonecka's case was reviewed at a HC hearing on 4 October 2019. Ms Sonecka did not attend and was not represented. That Committee noted that Ms Sonecka had continued not to engage with the GDC's investigation and therefore there was no evidence of her remediation, remorse or insight. That Committee determined that her fitness to practise remained impaired by reason of her misconduct. [PRIVATE] It determined that her fitness to practise was also impaired by reason of her adverse health. That Committee directed that her registration be suspended by a further period of 12 months, with a review prior to the expiry of the order, and re-iterated the recommendations made by the Committee at the substantive hearing.

Ms Sonecka's case was reviewed at a HC hearing on 9 October 2020 where she did not attend and was not represented. Ms Sonecka had not engaged since the substantive hearing and there was no evidence of any remediation, remorse or insight from her. That Committee also determined that her fitness to practise remained impaired by reason of her misconduct. [PRIVATE] It determined that her fitness to practise was also impaired by reason of her adverse health. That Committee directed that her registration be suspended by a further period of 12 months, with a review prior to the expiry of the order, and re-iterated the recommendations made by the Committee at the substantive hearing.

Today's Review

This Committee has comprehensively reviewed Ms Sonecka's case today. In doing so, it has considered all the evidence presented to it. It has taken account of the submissions of Mr Hamlett, on behalf of the GDC, and has accepted the advice of the Legal Adviser. Mr Hamlett submitted that Ms Sonecka has continued not to engage with these proceedings and therefore has not provided any information or evidence as recommended by the previous Committees. The GDC has sent consent application to Ms Sonecka for a health assessment, but no response has been received. [PRIVATE] Mr Hamlett therefore submitted that in the absence of any engagement since 2017, that Ms Sonecka's fitness to practise is currently impaired by reason of misconduct and adverse health.

Mr Hamlett stated that Ms Sonecka was suspended from the register almost three years ago and has not engaged with the process. Ms Sonecka has made no effort to address the concerns before previous Committees. Mr Hamlett submitted that the appropriate and proportionate action is for this Committee to suspend Ms Sonecka's registration indefinitely.

Decision on Impairment

In making its decision, the Committee first sought to determine whether Ms Sonecka's fitness to practise is still impaired by reason of misconduct and/or her adverse health. It exercised its independent judgment and was not bound by the decision of the previous committee. It balanced Ms Sonecka's needs with those of the public and bore in mind that its primary duty is to protect the public, including by maintaining public confidence in the profession and declaring and upholding proper standards and behaviour.

The Committee noted that there has been no material change in the circumstances of the case since the substantive hearing. It noted that Ms Sonecka has continued not to engage in these proceedings and has not provided any evidence of remediation or insight into her misconduct. In the absence of this information or any of the other evidence recommended by the previous Committees, the Committee could not be satisfied that her misconduct had been properly addressed and therefore there was a continuing risk to patient safety.

[PRIVATE] The Committee therefore determined that Ms Sonecka's fitness to practise was currently impaired by reason of misconduct and her adverse health.

Committee's Decision on Sanction

The Committee next considered what sanction should be imposed on Ms Sonecka's registration. It bore in mind the need to protect patients and the public interest. The Committee once again had regard to the principle of proportionality, weighing the interests of the public with Ms Sonecka's own interests.

The Committee has found that Ms Sonecka's fitness to practise remained impaired. In these circumstances, the Committee concluded that terminating the current suspension order would not be appropriate or sufficient for the protection of the public.

The Committee considered whether to replace the current suspension order with one of conditions. In so doing, it had regard to the fact that Ms Sonecka has not engaged in these proceedings since the substantive hearing. In these circumstances, the Committee was not satisfied that conditions were appropriate, workable or sufficient for the protection of the public.

The Committee concluded that suspension remained the appropriate restriction to impose on Ms Sonecka's registration. It considered whether a further period of 12-month suspension was sufficient or whether to suspend Ms Sonecka's registration indefinitely. It took into account that this is the third review of the concerns raised, and there has been no engagement from the Registrant.

The Committee considered that the criteria for an indefinite suspension are met in this case. It noted from section 27C(1)(d) that a person's registration in the register can be suspended indefinitely if "the period of suspension will, on the date on which the direction takes effect, have lasted for at least two years, and the direction is made not more than two months before the date on which the period of suspension would otherwise expire." The Committee noted that Ms Sonecka's registration has now been suspended for over two years. In addition, the Committee noted that the current order is due to expire on 29 October 2021 which is less than 28 days from today.

The Committee therefore directs that Ms Sonecka's registration in the register be suspended indefinitely pursuant to section 27C(1)(d) of the Dentists Act 1984, as amended.

That concludes this determination.