

ON PAPERS

Professional Conduct Committee Review Hearing

13 March 2025

Name: RODGERS, Nicola
Registration number: 123880
Case number: CAS-196101-D8M4M1

General Dental Council: Holly Watt, IHLPS

Registrant: Unrepresented

Fitness to practise: Impaired by reason of misconduct

Outcome: Suspended indefinitely

Committee members: Deborah Jones (Chair, Dental Care Professional Member)
Alastair Smith (Lay Member)
Hall Graham (Dentist Member)

Legal Adviser: Angus Macpherson

Committee Secretary: Lola Bird

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

1. This is a resumed hearing of Miss Rodger's case before the Professional Conduct Committee (PCC), pursuant to section 36Q of the *Dentists Act 1984 (as amended)* ('the Act'). The hearing is being conducted remotely by Microsoft Teams video-link.
2. The purpose of the hearing has been for the Committee to conduct a review of the substantive order of suspension currently in place on Miss Rodgers' registration.
3. Neither party is present today, following a request made by the General Dental Council (GDC) for the review to take place on the papers. The Committee received from the GDC an indexed review hearing bundle (54 pages) as well as the Council's written submissions (12 pages).
4. The Committee first considered the issues of service and proceeding with the hearing in the absence of Miss Rodgers and any representatives for either party. The Committee heard and accepted the advice of the Legal Adviser on these matters.

Decision on service

5. The Committee considered whether notice had been served on Miss Rodgers in accordance with Rules 28 and 65 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules') and section 50A of the Act.
6. The Committee had regard to the indexed review hearing bundle, which included a copy of the Notice of Hearing dated 6 January 2025 ('the notice'). The notice was sent to Miss Rodgers' registered address by Special Delivery and First Class post. A copy of the notice was also sent to her by email.
7. 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, the Committee noted from the Royal Mail 'Track and Trace' information provided, that the copy of the notice sent by Special Delivery was delivered and signed for on 7 January 2025.
8. The Committee was satisfied that the notice sent to Miss Rodgers complied with the 28-day notice period required by the Rules. It was further satisfied that the notice contained all the mandatory particulars, including the date and time of the hearing, confirmation that it would be held remotely by Microsoft Teams, and that the Committee had the power to proceed with the hearing in Miss Rodgers' absence.
9. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Miss Rodgers 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

10. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Miss Rodgers and any representative for either party. It approached this issue with the utmost care and caution. The Committee took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones* [2002] UKHL 5, and as affirmed in subsequent regulatory cases, including the joined cases of *General Medical Council v Adeogba* and *General Medical Council v Visvardis* [2016] EWCA Civ 162.

11. The Committee took into account that fairness to Miss Rodgers was an important consideration, but it also bore in mind the need to be fair to the GDC and the public interest in the expeditious review of the current suspension order. The Committee noted the submission made by the GDC inviting it to exercise its discretion to proceed with the matter on the papers in the absence of both parties. The Council asked the Committee to take into account Miss Rodgers' lack of engagement with the fitness to practise process to date.

12. The Committee was satisfied that all reasonable efforts had been made by the GDC to notify Miss Rodgers of this hearing. It noted that in the notice of 6 January 2025, Miss Rodgers was asked to contact the GDC by 13 January 2025 if she considered that there was any reason the review of her suspension order should not take place on the papers. The Committee noted that follow-up emails were sent to Miss Rodgers by the GDC on 14 January 2025 and 29 January 2025, which were returned as undeliverable. An attempt was also made to contact Miss Rodgers by telephone on 27 January 2025, when a voicemail message was left for her by the GDC's solicitor. The GDC stated in its written submissions that it received no response from Miss Rodgers to the notice of 6 January 2025 or to its subsequent follow-up communications.

13. The Committee noted that Miss Rodgers has a history of non-engagement with the GDC. She did not attend any of the previous PCC hearings in respect of her case. Further, she has not acknowledged any of the communications from the Council in respect of today's proceedings. The Committee received no information to suggest that adjourning this hearing would secure her attendance on a future date. In all the circumstances, the Committee concluded that an adjournment would serve no meaningful purpose.

14. The Committee took into account its statutory duty to review the current suspension order on Miss Rodgers' registration, which is due for review no later than 23 April 2025. The Committee considered that without good reason for deferring today's hearing, the review of the order should be undertaken as scheduled.

15. In all the circumstances, the Committee was satisfied that it was fair and in the public interest to proceed with this hearing on the papers in the absence of both parties.

Decision on application to hold the hearing partly in private

16. In its written submissions, the GDC applied for Miss Rodgers' case to be heard partly in private under Rule 53(2) of the Rules. The reason being that this case concerns some matters relating to Miss Rodgers' health.

17. In the absence of both parties, the Committee's review of the current suspension order took place on the papers without any members of the public present. Nevertheless, having noted the confidential nature of some of the information before it, and having accepted the advice of the Legal Adviser on the matter, the Committee determined that it would produce both a private and a suitably redacted public version of its determination.

Case background

18. Miss Rodgers' case was first considered by the PCC at a hearing held in September 2022. That Committee found proved an allegation that [PRIVATE]. That initial PCC also found proved that, from 6 March 2021 to 14 June 2021, Miss Rodgers failed to co-operate with an investigation conducted by the GDC, in that she failed to provide employment details or any evidence of indemnity.

19. The initial PCC went on to find that the facts found proved against Miss Rodgers amounted to misconduct. It determined that Miss Rodgers' conduct fell far short of the standards reasonably expected of a dental care professional and her actions brought the standing and reputation of the profession into disrepute, and undermined public trust and confidence in the profession. It considered that her conduct would be regarded by her fellow practitioners to be deplorable.

20. In finding that Miss Rodger's fitness to practise was impaired by reason of her misconduct, the initial PCC stated the following in its determination:

"The Committee has not been provided with evidence to suggest that Miss Rodgers has developed any meaningful insight into the matters that have culminated in this hearing, despite her having had a considerable amount of time in which to do so. The Committee has been careful not to draw any adverse inference from Miss Rodgers' lack of attendance at this hearing, but it is mindful that her absence means that she has not been able to put forward evidence to suggest that she has reflected upon, and has taken steps to remedy, the misconduct that the Committee has found. The Committee has otherwise not been provided with any information to suggest that she has undertaken such reflection and remediation, or indeed that she has any intention of doing so, save for a brief reference in an investigatory interview to her offering an apology for [PRIVATE]. There is no evidence that Miss Rodgers has developed any insight into the effect that her conduct may have had on patients, colleagues and the wider profession. Miss Rodgers' insight and remediation, then, can only properly be described as extremely limited, if in fact insight and remediation exists at all..."

21. The initial PCC directed that Miss Rodger's registration should be made subject to a suspension order for a period of 12 months, with an immediate order of suspension also imposed. That Committee directed a review of the substantive order shortly before the end of the 12-month period. In directing the review, the initial PCC stated that:

“Although it in no way wishes to bind or fetter the Committee which will review the direction of suspension 12 months’ hence, the Committee considers that the reviewing Committee might be assisted by Miss Rodgers producing and providing a reflective piece setting out in detail her understanding of the circumstances surrounding the events giving rise to the Committee’s findings, and her considered reflections on the effect that her conduct has had on the public and the profession”.

First resumed hearing – October 2023

22. A resumed hearing was convened on 5 October 2023, when the PCC conducted a review of the suspension order imposed on Miss Rodgers’ registration in September 2022.

23. It was noted at the hearing in October 2023 that in an email to the GDC dated 29 August 2023, Miss Rodgers confirmed that she would not be attending and that she had no desire or intention to return to dental nursing.

24. In determining that Miss Rodgers’ fitness to practise remained impaired by reason of her misconduct, the Committee in October 2023 stated that:

“The Committee bore in mind that at a review hearing there is a persuasive burden on the registrant to demonstrate that their fitness to practise is no longer impaired. The Committee noted that Ms Rodgers is not cooperating with the proceedings and has not provided any information to address the concerns identified at the initial PCC hearing. Ms Rodgers has not provided a reflective piece as advised by the previous PCC or any other information. Given that the only information before the Committee is what was before the initial PCC, it determined that there remains a risk of repetition of the misconduct. The Committee also considered that public confidence in the profession and in the regulator would be undermined if a finding of impairment were not made...”

25. The Committee in October 2023 directed that the suspension order in place on Miss Rodgers’ registration should be extended by a period of 12 months. That Committee also directed that a further review should take place shortly before the expiry of the 12-month period. The Committee in October 2023 considered that the reviewing Committee might be assisted by the same recommendation made by the initial PCC, namely that Miss Rodgers provide a reflective statement *“setting out in detail her understanding of the circumstances surrounding the events giving rise to the Committee’s findings, and her considered reflections on the effect that her conduct has had on the public and the profession”.*

Second resumed hearing – September 2024

26. The PCC conducted a further review of the suspension order at a second resumed hearing which was held on 12 September 2024. It was noted at that hearing that Miss Rodgers has not provided any information to address the concerns identified by the previous Committees. It was submitted by the GDC on that occasion that Miss Rodgers’ lack of engagement with the Council had continued and that during a telephone call with the GDC before that hearing she had stated that she was *“not interested”*.

27. The PCC in September 2024 stated in its determination that:

“... there has been no material change in the circumstances of the case since the conclusion of the substantive hearing in September 2022. The Committee noted that there was a persuasive burden on Miss Rodgers to demonstrate that her fitness to practice was not currently impaired. However, she has continued not to engage with these proceedings and therefore has not provided any evidence of insight or remediation in respect of the misconduct found proved for consideration by this Committee. Therefore, the Committee considered that there remained a risk of repetition of the failings found proved placing patients at an unwarranted risk of harm.

In relation to the public interest, the Committee concluded that, in the absence of any evidence of remediation and insight from Miss Rodgers, public confidence in the profession would be undermined if a finding of impairment were not made.

Accordingly, the Committee determined that Miss Rodgers’ fitness to practise remains impaired by reason of her misconduct”.

28. The PCC in September 2024 directed that the suspension order in place on Miss Rodgers’ registration should be extended by a period of six months, with a further review to take place shortly before the end of the six-month period. The Committee in September 2024 considered that six months would allow a future reviewing Committee to determine what action should be taken in respect of Miss Rodgers’ registration *“in light of her informing the GDC that she was not interested in engaging with these proceedings any further”.*

Today’s resumed hearing – 13 March 2025

29. This is the third review of the substantive order of suspension first imposed on Miss Rodgers’ registration in September 2022. In comprehensively reviewing the order today, the Committee considered all the evidence within the indexed review hearing bundle. It also had regard to the written submissions provided by the GDC. The Committee accepted the advice of the Legal Adviser. No documents or written submissions were received from, or on behalf of, Miss Rodgers.

30. The Committee had regard to information provided since the last resumed hearing in September 2024. It noted that the GDC wrote to Miss Rodgers on 16 September 2024 notifying her of the outcome of that last resumed hearing. In an email dated 18 September 2024, Miss Rodgers was reminded of the recommendation that she provide a reflective statement. She was advised that if she wished to provide such evidence prior to the next scheduled review of her suspension order, she should contact the GDC’s Case Review Team.

31. In its written submissions in relation to today’s review, the GDC stated that:

“In respect of compliance with the suspension order, the Council has not received any information to suggest the Registrant has been working in breach of her suspension. However, neither has the Council received any information suggesting engagement with the fitness to practise process or evidence of insight or remediation”.

32. It was the submission of the GDC that Miss Rodgers' fitness to practise remains impaired by reason of her misconduct. The Council submitted that "...*there is no evidence to show any material change in position since the last hearing*".

33. With regard to a sanction, the GDC submitted that it would be appropriate and proportionate to consider imposing an indefinite suspension order on Miss Rodgers' registration in accordance with section 36Q(1)(d) of the Act. The GDC referred to Miss Rodgers' lack of engagement in this matter, and there being "*no indication that the Registrant will start engaging with the process*". The GDC further submitted that "*Indefinite suspension may focus the Registrant to engage with the Council and reflect on the importance of providing the Council with evidence of insight and remediation into her misconduct. Further, indefinite suspension will save the Council the costs of any additional hearings in circumstances where the Registrant continues not to engage*".

Decision on current impairment

34. The Committee first considered whether Miss Rodgers' fitness to practise remains impaired by reason of her misconduct. In doing so, it exercised its independent judgement. It had regard to the over-arching objective of the GDC, which is: 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 took into account that, at this review, the persuasive burden rests with Miss Rodgers to demonstrate that she has addressed her past impairment. The information before the Committee is that since the last resumed hearing in September 2024, Miss Rodgers has not engaged with the GDC. The Committee noted that in her last communication with the Council, which was before the last resumed hearing, Miss Rodgers stated that she was "*not interested*". It also took into account that in a previous email Miss Rodgers had stated that she had no intention of returning to dental nursing. In light of Miss Rodgers' ongoing lack of engagement with the fitness to practise process, there is no evidence before the Committee today in relation to her insight into her misconduct or any remediation she has undertaken.

36. Miss Rodgers' misconduct was serious. [PRIVATE] There has been no acknowledgement from Miss Rodgers of how her behaviour in this regard put patients at risk of harm. In addition, Ms Rodgers was found to have breached a fundamental tenet of the dental profession by failing to cooperate with an investigation conducted by the GDC. This was behaviour that brought the profession into disrepute.

37. The Committee considered that, in the absence of any evidence regarding the current level of Miss Rodgers' insight into these serious matters or any evidence of remediation, there remains a risk of repetition. It therefore concluded that a finding of impairment in this case is necessary for the protection of the public. The Committee was also satisfied that such a finding is required in the wider public interest. It considered that public confidence in the dental profession would be seriously undermined if a finding of impairment were not made, given that Miss Rodgers has not engaged in any meaningful way with her regulator or demonstrated any insight into her wrongdoing. The Committee also took into account the need to uphold proper professional standards.

38. The Committee determined that Miss Rodgers' fitness to practise remains impaired by reason of her misconduct.

Decision on sanction

39. The Committee next considered what action to take in respect of Miss Rodgers' registration. It had regard to section 36Q(1) of the Act, which sets out the options available to it at this review.

40. The Committee took into account the '*Guidance for the Practice Committees including Indicative Sanctions Guidance* (effective from October 2016; last revised in December 2020)'. It noted that the purpose of any sanction is not to be punitive, although it may have that effect, but to protect the public and the wider public interest. The Committee applied the principle of proportionality, balancing the public interest with Miss Rodgers' own interests.

41. There remains no evidence to indicate that Miss Rodgers has insight into her misconduct or that she has addressed any of the concerns raised by the previous Committees. In the circumstances, this Committee determined that it would be wholly inappropriate to terminate the current suspension order and take no further action. A risk of repetition has been identified, and such a course would not serve to protect the public or uphold the wider public interest.

42. The Committee considered whether to terminate the current suspension order and replace it with a conditions of practice order. It determined however, that conditional registration would not be appropriate, proportionate or effective, given that Miss Rodgers has not meaningfully engaged since the beginning of this process.

43. The Committee next considered whether to suspend Miss Rodgers' registration for a further specified period up to a maximum of 12 months. In doing so, it took into account that Miss Rodgers' registration has now been suspended for some two and a half years, with no material change in the circumstances of this case. Miss Rodgers' lack of engagement with her regulatory body has continued and the indication is that she does not intend to engage in the future. She has clearly indicated that she does not want to return to dental nursing.

44. In all the circumstances, the Committee decided against a further period of suspension. It was not persuaded that a further extension of the current order would serve any meaningful purpose. In reaching its decision, the Committee was satisfied that the public interest outweighs Miss Rodgers' own interests in this particular case. The Committee considered that the onus should now rest with Miss Rodgers to contact the GDC if she is willing to engage with its processes.

45. Accordingly, the Committee directs the indefinite suspension of Miss Rodgers' registration in accordance with section 36Q(1)(d) of the Act. In making this direction, the Committee was satisfied that the criteria for imposing an indefinite suspension are met.

46. Unless Miss Rodgers 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.

47. That concludes this determination.