

ON PAPERS

Professional Conduct Committee Review Hearing

12 September 2024

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

General Dental Council: Instructed by Amy Jones, IHLPS

Registrant: Unrepresented

Fitness to practise: Impaired by reason of misconduct

Outcome: Suspension extended (with a review)

Duration: Six months

Committee members: Clive Powell (Lay) (Chair)
Shabnum Ali (Dentist)
Julie Byrom (Dental Care Professional)

Legal adviser: Trevor Jones

Committee Secretary: Andrew Keeling

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.

1. This was a review hearing before the Professional Conduct Committee (PCC) in accordance with Section 36Q of the Dentists Act 1984 (as amended) ('the Act'). The purpose of this hearing was for this PCC to review Miss Rodgers' case and determine what action to take in relation to her registration.
2. The General Dental Council (GDC) had requested that the hearing be conducted on the papers and, therefore, neither party was present nor represented today.
3. The Committee first considered the issues of service and whether to proceed with the hearing on the papers in the absence of Miss Rodgers and any representatives for either party. The Committee accepted the advice of the Legal Adviser on both of these matters.

Preliminary Matters

Decision on Service of the Notice of Hearing

4. The Committee first considered whether notice of the hearing had been served on Miss Rodgers 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 8 August 2024, thereby complying with the 28-day notice period. The notice was sent to Miss Rodgers' registered address by Special Delivery. A copy of the notice was also sent by first-class post and email.
5. The Committee was satisfied that the notice sent to Miss Rodgers contained proper notification of today's hearing, including its time, date and venue, and the other prescribed information including notification that the Committee had the power to proceed with the hearing in Miss Rodgers' absence.
6. On the basis of 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 Proceeding in the Registrant's Absence and on the Papers

7. The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Miss Rodgers. The Committee approached the issue of proceeding in absence 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 [2003] 1 AC 1HL* and as explained in the cases of *General Medical Council v Adeogba* and *General Medical Council v Visvardis [2016] EWCA Civ 162*. It remained mindful of the need to be fair to both Miss Rodgers and the GDC, taking into account the public interest and Miss Rodgers' own interests in the expeditious review of the substantive order of suspension imposed.

8. The information before the Committee indicated that there has been no response from Miss Rodgers to the notice. The Committee also noted the telephone call between the GDC and Miss Rodgers on 20 August 2024 in which Miss Rodgers stated “*I’m not interested, thank you*” and hung up the phone. The Committee bore in mind that Miss Rodgers did not attend either the substantive hearing or review hearing. The Committee has not received any request for an adjournment from Miss Rodgers and it considered that adjourning the hearing would be unlikely to secure her attendance. It was also mindful that this was a statutory review hearing, which had to take place before the expiry of the substantive order of suspension in October 2024. Therefore, the Committee determined that it was fair and appropriate to proceed with the hearing in the absence of Miss Rodgers and to conduct the hearing on the papers.

Background

9. This was the second review of a suspension order initially imposed on Miss Rodgers’ registration for 12 months, following the decision by the Professional Conduct Committee (PCC) on 22 September 2022.
10. At that initial hearing, which Miss Rodgers neither attended nor was represented at, the Committee found proved that [IN PRIVATE: Text omitted]. That Committee 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.
11. That Committee also found that the matters found proved 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 also considered that her conduct would be considered by her fellow practitioners to be deplorable.
12. In respect of impairment, that Committee noted that it had not been provided with any evidence of remediation or that Miss Rogers had developed any insight into the matters found proved. Therefore, the Committee determined that her fitness to practice was impaired by reason of her misconduct. Its reasoning was as follows:

“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 [IN PRIVATE: Text omitted]. 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.

The Committee considers that Miss Rodgers has in the past acted in such a way as to put patients at an unwarranted risk of harm. The Committee also considers that she remains liable to do so again in the future in light of her lack of insight and remediation. The Committee does not consider that the apparent absence of patients on the day on which [IN PRIVATE: Text omitted] means that patients were not placed at potential risk of harm, for the reason that administrative duties have a bearing on the safe and effective provision of patient care. The Committee further finds that Miss Rodgers has brought the standing and reputation of the profession into disrepute, and that she has breached fundamental tenets of the profession, namely the need to act with integrity and propriety, and to co-operate with her regulator.

As the Committee finds that Miss Rodgers has not demonstrated evidence of any insight into, and remediation of, her misconduct, the Committee considers that such misconduct is liable to be repeated. Miss Rodgers therefore continues to pose a risk to the public.

The Committee has also determined that a finding of impairment is further required in order to declare and uphold proper standards of conduct and behaviour and to maintain trust and confidence in the profession. Miss Rodgers' conduct has brought the reputation of the profession into considerable disrepute. Miss Rodgers' conduct amounts to a breach of trust between, on the one hand, her, and on the other, her colleagues, patients, employers and regulator. In the Committee's judgment public trust and confidence in the profession would be significantly undermined if a finding of impairment were not made in the particular circumstances of this case."

13. The initial PCC directed that Miss Rodgers' registration be subject to suspension for a period of 12 months with a review, stating:

"The Committee therefore went on to consider whether to suspend Miss Rodgers' registration. After careful consideration the Committee concluded that a period of suspension is the appropriate and proportionate outcome in the particular circumstances of this case. The Committee noted the evidence placed before it of Miss Rodgers' sustained disregard for the GDC's efforts to obtain relevant information from her, her lack of insight into the misconduct that the Committee has today found, and the significant risk that she continues to pose to the public arising from her lack of insight and remediation. The Committee considers that patients interests' would be insufficiently protected by a lesser sanction, and that public trust

and confidence in the profession would be undermined if a sanction lesser than suspension were imposed.

In alighting on suspension as the most appropriate and proportionate sanction, the Committee considered that a direction of the ultimate sanction of erasure would not be appropriate or commensurate, particularly as there is no evidence of a harmful deep-seated personality or attitudinal problem.

The Committee hereby determines that Miss Rodgers' registration will be suspended for a period of 12 months, with a review hearing to take place prior to the end of that period. The Committee considers that such a period of time is consistent with its findings relating to public protection and the public interest, and that any lesser period of time would not adequately meet those objectives. The Committee also considers that a shorter period of time would not provide sufficient time for Miss Rodgers to develop and demonstrate insight and remediation, if in fact she is minded to do so.

The Committee is mindful of the effect that such a direction may have on Miss Rodgers, but it considers that such considerations are outweighed by the public protection and public interest factors identified in this particular case."

14. That Committee also made the following recommendation of further information that a future reviewing Committee might consider helpful:

"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 PCC Review (October 2023)

15. A PCC reviewed Miss Rodgers' case at a resumed hearing held in October 2023. Miss Rodgers did not attend and was not represented at the hearing and it was held on the papers at the request of the GDC. The Committee noted that Miss Rodgers was not co-operating with the proceedings and had not provided any of the information to address the concerns identified at the initial PCC hearing. That Committee determined therefore that there remained a risk of repetition of the misconduct and that public confidence in the regulator would be undermined if a finding of impairment were not made.
16. Accordingly, that Committee determined that Miss Rodgers fitness to practise remained currently impaired, and it extended the order of suspension by a further period of 12 months. Furthermore, that Committee reiterated the recommendations of the

substantive PCC that a future reviewing Committee may be assisted by Miss Rodgers producing and providing a reflective piece as set out above.

Today's Review

17. It was the role of the Committee today to undertake a comprehensive review of this case. In so doing, the Committee had careful regard to all the documentary evidence before it. It took account of the written submissions from the GDC. No written submissions or documentary evidence was received from, or on behalf of, Miss Rodgers. The Committee also heard and accepted the advice of the Legal Adviser. The Committee had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016, updated December 2020)* ("the Guidance").
18. In its written submissions, the GDC stated that Miss Rodgers has not provided any information to address the concerns identified by the previous Committees. It submitted that Miss Rodgers has continued not to engage with the GDC and during a telephone call with the GDC stated that she was "*not interested*". Therefore, the GDC submitted that there has been no material change in the circumstances of the case since the last hearing and invited the Committee to find that Miss Rodgers' fitness to practise remained impaired by reason of her misconduct.
19. With regard to sanction, the GDC submitted that the most appropriate order remained suspension as any lesser sanction would not adequately protect patients' interests and would serve to undermine public confidence in the profession. It therefore submitted that a further order of suspension should be imposed for 12 months with a review hearing before its expiry.

Decision on Current Impairment

20. In making its decision, the Committee first sought to determine whether Miss Rodgers' fitness to practise was currently impaired by reason of her misconduct. It exercised its independent judgement and was not bound by the decision of the previous committees. It balanced Miss Rodgers' interests with those of the public and bore in mind that its primary duty is to protect the public, including maintaining public confidence in the profession and declaring and upholding proper standards and behaviour.
21. The Committee noted 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.

22. 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.

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

Decision on Sanction

24. The Committee next considered what sanction to impose on Miss Rodgers' registration.

25. The Committee has found that Miss Rodgers' fitness to practise remains 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.

26. The Committee next considered whether to replace the current suspension order with one of conditions. In so doing, it considered that Miss Rodgers has continued not engaged with these proceedings or provided any evidence to address the concerns identified. In these circumstances, the Committee was satisfied that conditions were not appropriate, workable or sufficient for this case.

27. Accordingly, the Committee was satisfied that it was necessary to maintain the current suspension order in order to protect the public and maintain public confidence in the dental profession. The Committee determined that a further period of suspension was appropriate and proportionate given the gravity of Miss Rodgers' misconduct and her failure to engage with these proceedings.

28. In the circumstances the Committee decided that Miss Rodgers' registration should be suspended for a further period of six months with a review before the expiry. The Committee noted that this period of time would allow a future reviewing Committee to determine whether Miss Rodgers' registration should be indefinitely suspended in light of her informing the GDC that she was not interested in engaging with these proceedings any further. The Committee also considered that a shorter period of suspension would also benefit Miss Rodgers as it was aware of the strain that these proceedings may have on registrants. Furthermore, this period would also allow Miss Rodgers to engage with proceedings if she was minded to do so.

29. Unless Miss Rodgers exercises her right of appeal, the current suspension order will be extended by a period of six months, 28 days from the date that notice of this direction is deemed to have been served upon her. In the event that Miss Rodgers 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.

30. That concludes this hearing.