

PUBLIC HEARING**Professional Conduct Committee
Review Hearing****2 January 2025****Name:** AKBARI BAGHAL, Siamak**Registration number:** 287391**Case number:** CAS-198592-C5T7C3

General Dental Council: Andrew Molloy, Counsel.
Instructed by Amy Jones, IHLPS**Registrant:** Not Present
Unrepresented

Fitness to practise: Impaired by reason of misconduct**Outcome:** Conditions revoked and suspension imposed (with a review)**Duration:** 12 months**Immediate order:** Immediate suspension order

Committee members: Zareen Elleby (Chair, Dental Care Professional)
Phillip Loughnane (Dentist)
Helen Wagner (Lay)**Legal adviser:** Graeme Dalglish**Committee Secretary:** Andrew Keeling

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1. This was a review hearing before the Professional Conduct Committee (PCC) in accordance with Section 27C of the Dentists Act 1984 (as amended) ('the Act'). The purpose of this hearing was for this PCC to review Mr Akbari Baghal's case and determine what action to take in relation to his registration.

2. Mr Akbari Baghal was neither present nor represented at this hearing. Mr Andrew Molloy, Counsel appeared on behalf of the General Dental Council (GDC). The hearing was held remotely on Microsoft Teams.
3. The Committee first considered the issues of service and whether to proceed with the hearing in the absence of Mr Akbari Baghal. The Committee accepted the advice of the Legal Adviser on both of these matters as to the provisions of the Rules and the approach it should take to its decision.

Decision on Service of the Notice of Hearing

4. The Committee first considered whether notice of the hearing had been served on Mr Akbari Baghal 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 10 December 2024. The hearing bundle also contained a Royal Mail 'Track and Trace' receipt confirming that the notice was sent to Mr Akbari Baghal by Special Delivery. A copy of the notice was also sent by first-class post and emailed to Mr Akbari Baghal and his legal representatives.
5. The Committee was satisfied that the notice sent to Mr Akbari Baghal contained proper notification of today's hearing, including its time, date and that it will be taking place remotely, and the other prescribed information including notification that the Committee had the power to proceed with the hearing in Mr Akbari Baghal's absence. The Committee noted that the notice was sent later than the required 28-day period. However, the Committee also noted that Mr Akbari Baghal's legal representatives had responded to the notice and confirmed that they were content for the hearing to proceed today.
6. On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Akbari Baghal in accordance with the Rules and the Act.

Decision on Proceeding in the Registrant's Absence

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 Mr Akbari Baghal. 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 the cases of *General Medical Council v Adeogba [2016] EWCA Civ 162* and *Jatta v Nursing and Midwifery Council [2009] EWCA Civ 828*. It remained mindful of the need to be fair to both Mr Akbari Baghal and the GDC, taking into account the public interest and Mr Akbari Baghal's own interests in the expeditious review of the substantive order of conditions imposed.

8. In their letter of 23 December 2024, Mr Akbari Baghal's legal representatives stated that Mr Akbari Baghal would not be attending the hearing and that a representative would not be attending in his absence. Written submissions have been provided by Mr Akbari Baghal's legal representatives to be considered by the Committee at this hearing.
9. In those circumstances, the Committee was satisfied that Mr Akbari Baghal had chosen not to take part in today's hearing. Therefore, it determined that it was fair and appropriate to proceed with the hearing in the absence of Mr Akbari Baghal.

Background

10. Mr Akbari Baghal's case was first considered by a PCC at a hearing in January 2023. Mr Akbari Baghal did not attend the hearing, but was legally represented in his absence. That Committee found Mr Akbari Baghal's fitness to practise to be impaired by reason of misconduct, stating the following in its determination:

"The Committee noted that Mr Akbari Baghal failed to provide an adequate standard of care to 19 patients between February and May 2021 in relation to basic fundamental components of dentistry, including, but not limited to, obtaining consent, record keeping, radiographic practice, clinical examination, and diagnosis and management of caries and periodontal disease. The Committee was satisfied that these failures had the potential to result in patient harm.

...

The Committee concluded that the individual failings identified are capable of remediation. It took into account that at the time of the failings, Mr Akbari Baghal had been working under a mentor who had not raised any concerns with his practice but that Mr Akbari Baghal has since accepted that he failed to provide adequate care to patients.

In the absence of written reflection or attendance by Mr Akbari Baghal, the Committee was not able to ascertain what, if any, remediation has been undertaken to date. It noted that the CPD provided by Mr Akbari Baghal, with the exception of a record keeping module in October 2021, was completed prior to the time frame in question and is not focused on the misconduct identified. Further, Mr Akbari Baghal only worked for a short period in 2021 before moving abroad, so would have had little time to implement changes to his practice. In addition, the Committee noted that he is no longer practising as a dentist and as a result his clinical skills may be diminishing.

The Committee accepted that Mr Akbari Baghal's admissions and acceptance of the Expert report are indicative of insight. There is no information demonstrating that he

has fully understood the seriousness of his misconduct, or the impact on the public interest.

In the light of this, the Committee was satisfied that Mr Akbari Baghal's insight remains incomplete and there remains a risk of repetition. Therefore, a finding of impairment is necessary on the grounds of public protection.

The Committee bore in mind the overarching objective to maintain public confidence in the profession and upholding standards. It concluded that public confidence would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Akbari Baghal's practice impaired on the grounds of public interest."

11. The initial PCC determined to impose conditions on Mr Akbari Baghal's registration for a period of 12 months with a review. It also recommended that the reviewing Committee may be assisted to receive the following:

- *"A reflective statement demonstrating Mr Akbari Baghal's insight into, and understanding of, the impact of his failings on the public and the progress he has made;*
- *Evidence of up-to-date CPD."*

12. The PCC reviewed Mr Akbari Baghal's case at a hearing in January 2024. Mr Akbari Baghal did not attend and was not represented at the hearing. There was no evidence before that Committee that Mr Akbari Baghal had remediated or had shown any insight into the clinical failings found proved at the substantive hearing. That Committee, therefore, determined that Mr Akbari Baghal's fitness to practise remained currently impaired on the grounds of public protection and the public interest.

13. With regard to sanction, that Committee was satisfied that conditional registration remained sufficient to address the types of failings that have been identified:

"In reaching its decision, the Committee took into account Mr Akbari Baghal's continued albeit limited engagement with the fitness to practise process through his legal representatives, and his demonstrated willingness to comply with conditional registration in signing his conditions compliance table on 29 January 2023. The Committee decided that a further period of 12 months with a review would help to focus Mr Akbari Baghal on his efforts at remediation should he wish to return to dentistry. It balanced his interests with the wider public interest, and considered that it should impose a period of time that would help to focus Mr Akbari Baghal as well as minimising the risk of this matter drifting further. Therefore, a period of 12 months would afford Mr Akbari Baghal sufficient time and opportunity to allow him to

complete his remediation and demonstrate his compliance with the conditions if he decides to return to the UK and practice dentistry again.”

14. It therefore determined to extend the conditions imposed at the substantive hearing for a further period of 12 months, albeit with a change in the level of supervision to ‘*closely supervised*’. That Committee considered that this was necessary as Mr Akbari Baghal had not practised dentistry for at least a year, which it considered would have increased the risk to patient safety. It further determined that a review hearing should take place before the expiry of the order.

Today’s Review

15. 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 and took account of the oral submissions made by Mr Molloy, on behalf of the GDC, and the written submissions provided on Mr Akbari Baghal’s behalf. The Committee also heard and accepted the advice of the Legal Adviser as to its powers and the principles which should guide its approach. The Committee had regard to the GDC’s *Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016, updated December 2020)* (“the Guidance”).
16. Mr Molloy submitted that there has been no further engagement from Mr Akbari Baghal since the previous review hearing, and that he has not practised dentistry within that period. He submitted that there was a continued risk of repetition of the clinical failings found proved at the substantive hearing and this would pose a risk to patient safety. He further submitted that an informed member of the public would be concerned if Mr Akbari Baghal were allowed to practise without restriction.
17. Mr Molloy submitted that owing to the lack of evidence of remediation or insight provided, it would be appropriate for the Committee to find that Mr Akbari Baghal’s fitness to practise remained currently impaired. He further submitted that it would be appropriate and proportionate in the circumstances for the substantive order of conditions to be replaced by one of suspension for 12 months.
18. In their letter dated 23 December 2024, Mr Akbari Baghal’s legal representatives submitted that since the substantive hearing in January 2023, Mr Akbari Baghal has not practised dentistry in the UK or abroad. They submitted, therefore, that his circumstances remain unchanged and that he has no intention of practising dentistry in the future. They submitted that the existing order of conditions remains both appropriate and proportionate.

Decision on Current Impairment

19. In making its decision, the Committee first sought to determine whether Mr Akbari Baghal’s fitness to practise was currently impaired by reason of his misconduct. It exercised its independent judgement and was not bound by the decision of the

previous committees. It balanced Mr Akbari Baghal's 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.

20. The Committee noted that there has been no change in the circumstances of Mr Akbari Baghal's case since the conclusion of the substantive hearing in January 2023. It noted that Mr Akbari Baghal has not practised dentistry since the substantive hearing and has no intention of doing so. He has not provided any evidence of remediation, Continuing Professional Development or demonstrated that he has any insight into his misconduct. In these circumstances, the Committee determined that there was a high risk of repetition of the clinical failings found proved and this would pose a risk to patient safety. The Committee considered that this risk was compounded by the fact that Mr Akbari Baghal has not practised dentistry since the conclusion of the substantive hearing in January 2023.
21. In relation to the public interest, the Committee concluded that, in the absence of any evidence of remediation and insight from Mr Akbari Baghal, public confidence in the profession would be undermined if a finding of impairment was not made.
22. The Committee determined, therefore, that Mr Akbari Baghal's fitness to practise remained impaired by reason of his misconduct.

Decision on Sanction

23. The Committee next considered what sanction to impose on Mr Akbari Baghal's registration.
24. The Committee has found that Mr Akbari Baghal's fitness to practise remained impaired. In these circumstances, the Committee concluded that terminating the current order of conditions would not be appropriate or sufficient for the protection of the public or the public interest.
25. The Committee considered whether to continue or vary the terms of Mr Akbari Baghal's conditional registration. However, it noted that he has confirmed through his legal representatives that since the initial imposition of conditions in January 2023 and following the review hearing in January 2024 he has not practised dentistry. Furthermore, Mr Akbari Baghal has confirmed that he is not currently practising dentistry and has no intention of practising dentistry in the future. In light of this, and in addition to the concerns that there was a high risk of repetition of the clinical failings owing to the lack of any evidence of insight and remediation, the Committee considered that conditional registration was no longer appropriate or workable.
26. In all the circumstances, the Committee has therefore determined to suspend Mr Akbari Baghal's registration. Whilst it had regard to the serious nature of such a

sanction and the potential consequences for Mr Akbari Baghal, the Committee considered that the need to protect the public and the wider public interest is paramount. It took into account that the clinical failings identified in Mr Akbari Baghal's case were considered to be remediable and could have been dealt with by him. However, Mr Akbari Baghal has not practised since the substantive hearing January 2023 and has indicated that he no longer wishes to do so. He has provided no evidence of remediation or insight. In view of this, the Committee has concluded that members of the public and the wider public interest would not be sufficiently protected by a lesser sanction than suspension.

27. The Committee has decided to impose a suspension order for a period of 12 months. In deciding on this period, the Committee took into account the widespread nature of the misconduct and the lack of any steps taken by Mr Akbari Baghal to demonstrate insight, remedy his practice or demonstrate that he has kept his practice up to date in any way. Mr Akbari Baghal has not practised for over two years and as a result his clinical skills would have diminished further.
28. A Committee will review Mr Akbari Baghal's case at a resumed hearing to be held shortly before the end of the period of suspension. That Committee will consider whether it should take any further action in relation to his registration. He will be informed of the date and time of that resumed hearing.
29. Unless Mr Akbari Baghal exercises his right of appeal, his registration will be suspended 28 days from the date when written notification of this determination is deemed to have been served upon him.
30. The Committee now invites submissions from Mr Molloy as to whether an immediate order of suspension should be imposed on Mr Akbari Baghal's registration pending its substantive determination taking effect.

Decision on Immediate Order

31. The Committee has considered whether to make an immediate order on Mr Akbari Baghal's registration in accordance with Section 30 of the Dentists Act 1984 (as amended).
32. Mr Molloy, on behalf of the GDC, submitted that an immediate order of suspension is necessary for the protection of the public and is otherwise in the public interest in light of the Committee's decision at this review hearing.
33. The Committee has considered the submission made. It has accepted the advice of the Legal Adviser. It also had regard to the relevant sections on immediate orders in the GDC's Guidance.

34. The Committee is satisfied that an immediate order of suspension is necessary for the protection of the public and is otherwise in the public interest. The Committee concluded that given the nature of its findings and its reasons for the substantive order of suspension in Mr Akbari Baghal's case, it is necessary to direct that an immediate order of suspension be imposed on both of these grounds. The Committee considered that, given its findings, if an immediate order was not made in the circumstances, there would be a risk to public safety and public confidence in the profession would be undermined.
35. The effect of this direction is that Mr Akbari Baghal's registration will be suspended immediately. Unless Mr Akbari Baghal exercises his right of appeal, the substantive order of suspension will come into effect 28 days from the date on which notice of this decision is deemed to have been served on him. Should Mr Akbari Baghal exercise his right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.
36. That concludes this hearing.