

PUBLIC HEARING
(Part of this hearing took place in private)

**Professional Conduct Committee
Review Hearing**

18 November 2024

Name: SUNTER, Richard Mark

Registration number: 156861

Case number: CAS-196040-T2S3T5

General Dental Council: Alecsandra Manning Rees, Counsel
Instructed by Carla Marie Clough/Megan Wolliner IHLPS

Registrant: Present, unrepresented

Fitness to practise: Impaired by reason of misconduct

Outcome: Suspension revoked and conditions imposed (with a review)

Duration: 3 months

Immediate order: Immediate conditions order

Committee members: Peter Ommer (Chair, Dentist Member)
Jim Hurden (Lay Member)
Donna Lightbody (Dental Care Professional Member)

Legal Adviser: Angus Macpherson

Committee Secretary: Jenny Hazell

1. This is a resumed hearing before the Professional Conduct Committee (PCC) pursuant to section 36Q of the Dentists Act 1984 (as amended) ('the Act').
2. The hearing is being conducted remotely by Microsoft Teams video-link.
3. The purpose of this hearing has been for the PCC to review a suspension order currently in place on your registration. This was following a direction by the PCC at a review hearing on 11 October 2024. The PCC directed that your registration be subject to a suspension order for a period of two months.
4. Mr Sunter, you are present at these proceedings and are representing yourself. The Case Presenter for the General Dental Council (GDC) is Ms Manning-Rees, Counsel.

Case background

5. You are registered with the GDC as a dental technician. Your case was first considered by the PCC at a hearing in November 2023. You were present at that hearing.
6. The concerns in your case were raised with the GDC in December 2020 by the Care Quality Commission. The matters in this case relate to your dental laboratory business, which you co-owned.
7. The PCC in November 2023 ('the initial PCC') found proved, based on your admissions, all the allegations brought against you by the GDC. You admitted, and the PCC found proved that, on or between 1 December 2020 and 8 June 2022, you offered and/or provided the following on your business website:
 - Night guards
 - Custom-made gum shields
 - Cosmetic veneers (Overdentures)
 - Tooth coloured clasps.
8. You admitted, and the PCC found proved that, by offering and/or providing the above appliances on his business website, you worked outside the scope of your practice as a dental technician. This is because you were not permitted to design, plan or make any of the appliances without a prescription from a dentist or a clinical dental technician, nor were you permitted to fit any of the appliances. It was also found proved, based on your admission, that you worked without holding adequate indemnity. It was noted that although you held indemnity as a dental technician, it would not have covered you in relation to procedures that were beyond your scope. It was found proved, that by virtue of your conduct, you placed patient safety at risk.
9. The PCC found proved that, on or between 12 November 2020 and 8 June 2022, your business website stated that you "*specialised in orthodontics*". Further, on or between 12 November 2020 and 24 June 2021, your business website stated that the business had a "*referring in-house dentist*". You admitted that your conduct had been misleading in relation to these advertising matters, as well as in relation to the fact that you worked outside the scope of practice as a dental technician.

10. The PCC in November 2023 determined that the facts admitted and found proved against you amounted to misconduct. It also determined that your fitness to practise was impaired by reason of your misconduct, on both public protection and wider public interest grounds.

11. The PCC directed that your registration be subject to a conditions of practice order on your registration for a period of 10 months. The order included a requirement that you have a workplace reporter and provide reports from your workplace reporter every three months (Conditions 5 and 6).

12. You were also required to undertake training focused on the following: (a) the Scope of Practice of the Dental Technician; (b) risks to patients from working outside of Scope of Practice; and (c) GDC standards on the use of social media and advertising (Condition 7). As part of that condition, you were required to provide evidence of this training to his workplace reporter at least 21 days prior to any PCC review hearing.

13. In addition to the requirements of the conditions of practice order, the PCC indicated that the reviewing Committee might be assisted by the following:

“.... your updated CPD records and a detailed written reflective piece discussing your misconduct and your subsequent learning, including on: (i) why working within your Scope of Practice as a Dental Technician is necessary for the protection of the public; and (ii) on the importance of the GDC’s standards and how you will continue to apply them to your practice”.

Review Hearing – 11 October 2024

14. The PCC reviewed the conditions of practice order on 11 October 2024. You were not present or represented at that hearing. The PCC decided to proceed in your absence.

15. The PCC was advised that on 23 September 2024 your workplace reporter appointed under the conditions, contacted the GDC to say that he had to take a step back from his work for personal reasons. You had also contacted the GDC that day and left a voicemail message, in which you made reference to the issue in relation to your workplace reporter.

16. The PCC was also advised that there was limited information before the Committee in relation to your practice since July 2024.

17. The GDC’s position was that you failed to continue to comply with Conditions 6 and 9, which relate to the provision of workplace reporter reports and your work logs.

18. The PCC considered, as the initial PCC concluded, that your fitness to practise remained impaired by reason of your misconduct. It noted there was some evidence of compliance and remediation before the PCC, although it noted, as highlighted in the GDC’s submissions, that some of the workplace reports contain relatively limited information, particularly in relation to any specific remedial activities undertaken by you. The PCC had also not been provided with any evidence to indicate that you had completed the training required of you as part of your conditional registration. The PCC concluded that you had not fully complied with Conditions 5, 6, 7 and 9. It determined that your fitness to practise remained impaired.

19. Given the outstanding concerns, the PCC determined that it would be inappropriate to terminate the current order of conditions and take no further action. It had regard to the fact that you had been complying with the requirements of Conditions 5, 6, 7 and 9 up until May/June of 2024. The PCC determined to revoke the current conditions of practice order and replace it with an order of suspension for a period of two months. It directed that the order be reviewed before the end of the two months.

Today's review Hearing

20. In reviewing the conditions of practice order today, the Committee considered all the evidence presented. This included a copy of your reflective piece as well as the certificates of your Continuing Professional Development (CPD) which cover the period 2021- 2023. It took account of the submissions made by Ms Manning-Rees on behalf of the GDC as well as your own oral representations. The Committee accepted the advice of the Legal Adviser.

21. Ms Manning-Rees reminded the Committee that, at this review, the persuasive burden is on you to demonstrate that your fitness to practise is no longer impaired.

22. Ms Manning-Rees invited the Committee to find that your fitness to practise remains impaired. She submitted that the appropriate sanction in this case would be to replace the current order of suspension with a conditions of practice order for a period of three months, with a review hearing . Ms Manning-Rees commented on the steps you had taken to comply with the previous substantive conditions of practice order as your compliance with the interim order of conditions on your order. The GDC recognised the reasons why you had not been able to comply fully with conditions on your registration.

23. You explained some of the personal and professional difficulties that you have been encountering over the last few months. You explained that the website advertising your business remains in place but that you are aiming to close it down. You are also hoping to continue with your university studies sometime next year.

24. The Committee also noted the reasons why your workplace supervisor was unable to support you. You advised the Committee today that your workplace supervisor has been in contact with you and is willing to resume in this capacity.

Decision on impairment

25. The Committee considered whether your fitness to practise remains impaired by reason of your misconduct. In doing so, it exercised its independent judgement. It had regard to the overarching 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.

26. The Committee took into account that the initial PCC considered your misconduct to be remediable. The Committee, as with the PCC reviewing your case in October 2024, notes that for the majority of the 10-month period, you were complying with the conditions imposed on your registration. The Committee also notes that you had complied with an interim order of conditions from January 2021 until around November 2023. It was encouraged by your attendance at these proceedings and noted your commitment to wanting to engage with the GDC. Nevertheless, the Committee considers that the evidence of your remediation is incomplete. The last set of logs you provided to the GDC cover your work up until May 2024 and the last reporter's report received by the GDC is dated 26 June 2024. Given these gaps in the evidence, the Committee cannot safely conclude that the risk of repetition is so low that no action needs to be taken to protect the public. Accordingly, the Committee determined that a finding of impairment is necessary for the protection of the public.

27. However, the Committee was satisfied that a finding of impairment was no longer necessary in the wider public interest. In coming to that view, the Committee considered that the public interest has been properly met in view of the initial PCC's findings in November 2023 and at the review hearing in October 2024. The Committee is satisfied the PCC's previous findings were sufficient to uphold and declare proper standards of conduct and behaviour.

Decision on sanction

28. The Committee next considered what action to take in respect of your registration. It had regard to section 36Q(2) of the Act, which sets out the options available to it at this review. The Committee also took into account the 'Guidance for the Practice Committees including Indicative Sanctions Guidance (effective from October 2016; last revised 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 your own interests.

29. Given its outstanding concerns, the Committee determined that it would be inappropriate to terminate the current order of suspension and take no further action or to allow the order to lapse. Such a course would not be sufficient for the protection of the public.

30. The Committee carefully considered whether a substantive order of conditions would be an appropriate and sufficient measure to safeguard the public. It took into account your compliance with the requirements of Conditions 5, 6, 7 and 9 up until May/June 2024, as well as your previous compliance with an interim order of conditions. Furthermore, the Committee is encouraged by your engagement with the GDC as well as your plans to carry on with your degree course in Clinical Dental Technology.

31. Taking all these factors into account the Committee concluded that an order of conditional registration would be adequate to protect the public, would be workable, sufficient and proportionate to address the concerns in this case.

32. In all the circumstances, the Committee determined to revoke the current suspension order and replace it with a conditions of practice order for a period of three months. In deciding on the three-month period, the Committee took into account your previous compliance with the order of conditions to around July 2024 and your subsequent engagement with the GDC. This Committee considered that three months will allow you the opportunity to demonstrate complete remediation to a satisfactory standard.

33. The Committee directs that a review of the conditions order should take place at a resumed hearing to be held shortly before the end of the three-month period. You will be informed of the date and time of that resumed hearing.

34. The substantive conditions which shall appear against your name in the DCP register under the title of dental technician are as follows:

1. He must notify the GDC within 7 days of accepting any post he accepts for which GDC registration is required.
2. If employed, he must provide contact details of his employer and allow the GDC to exchange information with his employer or any contracting body for which he provides dental services.
3. He must inform the GDC within 7 days of any formal disciplinary proceedings taken against him, from the date of this determination.
4. He must inform the GDC within 7 days of any application for dental employment outside the UK.
5. At any time he is providing dental services, which require him to be registered with the GDC, he must agree to the appointment of a reporter nominated by him and approved by the GDC. The reporter shall be a GDC registrant.
6. He must provide a report from his Reporter at least 21 days prior to any review hearing. The report shall contain information from any logs submitted to the reporter after June 2024 regarding his compliance with his Scope of Practice.
7. He must demonstrate that he has undertaken or will undertake training focusing on the following matters and provide evidence of such to his Reporter at least 21 days prior to any review hearing:
 - (a) the Scope of Practice of the Dental Technician;
 - (b) risks to patients from working outside of Scope of Practice; and
 - (c) GDC standards on the use of social media and advertising

It is anticipated that a reviewing Committee will accept any evidence in respect of his Clinical Dental Technology course which addresses matters 7(a) to 7(c) above.

8. He must update his website and any other promotional material to make clear that non-invasive veneers, gum shields, night guards and tooth-coloured clasps ("snap-on smiles") will only be provided on prescription from a Dentist or Clinical Dental Technician.

9. He must maintain a log detailing every case where he has provided dental services to patients including in his own business (to include the provision of non-invasive veneers, gum shields, night guards and tooth-coloured clasps ("snap-on smiles")) and explain how each service provided was within his Scope of Practice. He must provide such logs to the GDC at least 21 days prior to any review hearing.
10. He must inform promptly the following parties that his registration is subject to the conditions, listed at (1) to (9), above:
 - Any organisation or person employing or contracting with him to undertake dental work
 - Any locum agency or out-of-hours service he is registered with or applies to be registered with (at the time of application)
 - Any prospective employer (at the time of application)
11. He must permit the GDC to disclose the above conditions, (1) to (10), to any person requesting information about his registration status.

35. The period of conditional registration shall be reviewed prior to its expiry. The reviewing Committee might be assisted by your updated CPD records and your attendance at the hearing.

36. The Committee now invites submissions on the question of an immediate order.

Decision on an immediate order

37. The Committee has considered whether to impose an immediate order of conditions on your registration. Ms Manning-Rees, on behalf of the GDC, submitted that such an order should be imposed for two reasons – firstly the public will be protected by virtue of those conditions and secondly, it will be in your own interests since it will allow you to start working and comply with the conditions. You did not oppose the imposition of an immediate order of conditions.

38. The Committee accepted the advice from the Legal Adviser, who confirmed the relevant statutory test for imposing an immediate order, as set out at section 36U of the Act.

39. The Committee determined that the imposition of an immediate order of conditions on your registration is necessary for the protection of the public. It also determined that it was in your own interests so that you can start working and demonstrate your compliance with the conditions.

40. The effect of this order is that your registration is now subject to the above conditions. Unless you exercise your right of appeal, the substantive 3-month period of conditional registration shall commence upon the expiry of the 28 day appeal period. Should you exercise your right of appeal, this immediate order shall remain in force pending the disposal of the appeal.

41. That concludes this determination.