

HEARING PART-HELD IN PRIVATE

Professional Conduct Committee Review Hearing

11 April 2024

Name: OSAGIE, Success
Registration number: 278204
Case number: CAS-199250-G8W8R0

General Dental Council: Ashraf Khan, Counsel
Instructed by Holly Watt, IHLPS

Registrant: Present
Unrepresented

Fitness to practise: Impaired by reason of misconduct

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

Duration: 12 Months

Immediate order: Immediate conditions of practice order

Committee members: Adair Richards (Chair, Lay Member)
Annika Hindocha (Dentist Member)
Lynne Frewin (Dental Care Professional Member)

Legal Adviser: Nicola Bircher

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.

Ms Osagie,

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'). The hearing is being conducted remotely by Microsoft Teams video-link.
2. You are representing yourself at these proceedings. The Case Presenter for the General Dental Council (GDC) is Mr Ashraf Khan, Counsel.
3. The purpose of this hearing has been for the Committee to review a substantive order of suspension that is currently in place on your registration.

Case background

4. Your case was first considered by the PCC at a hearing in July 2022, when an inquiry was held into allegations relating to your conduct. You were not present or represented at that hearing. However, the Committee had before it correspondence that you had sent to the GDC in respect of the alleged matters.
5. The initial Committee found that, between 27 February 2019 and 22 September 2019, you had provided tooth whitening treatment on one or more occasions without a prescription from a dentist. It found that, in so doing, you worked beyond your scope of practice and provided treatment without holding adequate indemnity insurance.
6. The Committee in July 2022 went on to determine that the facts it had found proved amounted to misconduct, and that your fitness to practise was impaired by reason of that misconduct. In its decision on impairment, the initial Committee stated that:

“By its nature, working beyond scope of practice is capable of remediation. However, the Committee noted there was little, if any, evidence before it of any remediation. The Committee had regard to Ms Osagie’s written statements to the GDC where she stated that she “had failed to refer to or familiarise herself with the GDC scope of practice on teeth whitening.” She went on to state that she was “now fully aware of her error” and apologised. Ms Osagie stated that she has since resigned from the practice and has not carried out tooth whitening without prescription from a dentist. The Committee accepts that Ms Osagie expressed some remorse and apologised for her actions.

However, the Committee notes that Ms Osagie attended a tooth whitening course in November 2018, three months before being employed at the Practice to carry out tooth whitening treatment. The Committee had regard to Witness 3’s written and oral evidence in this hearing. Witness 3 is a Registered Dental Hygienist and teaches a tooth whitening course which is designed for qualified GDC registered dental hygienists and dental therapists. Witness 3 explained that she knew Ms Osagie from attending the course and explained that “Registrants who attend the course should be aware of their full scope of practice. There is

reference throughout the course around the Scope of Practice relating to tooth whitening, such as the requirement to work under prescription from a dentist...

The Committee did not consider that Ms Osagie fully understood the serious risk posed by working outside her scope of practice. It had regard to the expert evidence that Ms Osagie could not be sure what products she was using and the ingredients contained within them. This could have caused harm to patients. Further, it did not accept Ms Osagie's explanation that she had failed to familiarise herself of the GDC scope of practice on tooth whitening, particularly as she had attended a course on tooth whitening and learned about the requirements. This demonstrated to the Committee that Ms Osagie has shown limited insight into her failings nor has she properly reflected on these matters.

The Committee determined that the scope of Ms Osagie's practice should have been at the forefront of her mind as a registered dental care professional and considered that, given the absence of adequate insight and her lack of remediation, there remains a real risk of repetition dispute her assertion that she is "now fully aware of her error."

The misconduct identified in this case was, in the view of the Committee, significant enough that the need to uphold proper professional standards and maintain public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances of this case. Having regard to the foregoing the Committee has concluded that Ms Osagie's fitness to practise is currently impaired by reason of her misconduct."

7. The PCC in July 2022 determined that the most appropriate and proportionate sanction was a suspension order for a period of nine months, with a review hearing to take place prior to the end of that period of suspended registration. An immediate order of suspension was also imposed.

8. In directing a review, the initial Committee suggested that a future reviewing Committee might be assisted by evidence of your reflections upon your misconduct, the importance of adhering to the GDC's *Standards for the Dental Team* and other guidance, and your understanding of the impact that working beyond the scope of practice, and without adequate indemnity insurance, has on public confidence in the dental profession.

First resumed hearing

9. At a resumed hearing on 4 May 2023, the PCC reviewed the suspension order imposed on your registration in July 2022. This first resumed hearing was held 'on the papers' in the absence of both parties.

10. In determining that your fitness to practise remain impaired, the Committee in May 2023 noted that:

"The Committee has not been provided with any information to suggest that Miss Osagie has taken any steps to develop insight into and remediation of her misconduct, or indeed that she is minded to do so in the future. The Committee therefore considers that the public is still at unwarranted risk of harm arising from Miss Osagie's unremediated misconduct. Accordingly, Miss Osagie's fitness to practise remains impaired.

The Committee also considers that a finding of current impairment is again needed to maintain public trust and confidence in the profession and to declare and uphold proper

professional standards of conduct and behaviour. It considers that the misconduct that the index Committee found in relation to working without adequate indemnity insurance and beyond the scope of practice requires a further finding of impairment in the public interest.”.

11. The Committee in May 2023 directed that the suspension order on your registration be extended by a period of 12 months. It also directed that a further review should take place shortly before the end of the 12-month period.

12. In directing a further review, the Committee in May 2023 considered that the next reviewing Committee would be assisted by receiving the evidence recommended by the initial Committee. This evidence being: *“Miss Osagie’s reflections upon the misconduct that it had found, the importance of adhering to the GDC’s Standards for the Dental Team and other guidance, and her understanding of the impact that working beyond the scope of practice and without adequate indemnity insurance has on public confidence in the profession”.*

Today’s resumed hearing

13. This is the second review of the suspension order first imposed on your registration in July 2022. In comprehensively reviewing the order today, the Committee considered all the evidence presented to it, including your oral evidence. Also before the Committee was a letter containing your written reflections and evidence of your Continuing Professional Development (CPD).

14. The Committee took account of the submissions made by Mr Ashraf on behalf of the GDC and it accepted the advice of the Legal Adviser.

15. It was Mr Khan’s submission that, despite the evidence of your reflection and your CPD, the risk of repetition in this case remains high. He submitted that whilst you have demonstrated some insight, the GDC considers your insight to be limited, in that you have not shown sufficient understanding of the importance of the GDC Standards and guidance, or the risk posed to the public and the wider public interest from acting out of scope and without appropriate indemnity. Mr Khan submitted that your fitness to practise remains impaired.

16. Mr Khan told the Committee that in light of your re-engagement with the GDC and the evidence of some insight, the Council had decided that the ongoing risk to the public and the wider public interest could be adequately and proportionately managed with a conditions of practice order, including a requirement for the close supervision of your practice. Mr Khan submitted that conditional registration would give you the opportunity to return to work in dentistry to further your remediation and your reflection.

17. Mr Khan provided the Committee with a set of draft conditions proposed by the GDC and he invited the Committee to impose an order in those terms, for a period of 18 months, with a review.

18. In your oral evidence, you extended your *“deepest apologies”* for what happened. You said that whilst you did not seek to excuse your misconduct, you were very young at the time, having only just finished university. You said that you were ready to learn everything you could about dentistry within the dental therapist scope of practice, and you did not give any thought to issues such as indemnity, direct access, and the association between them.

19. You explained that you had been enrolled on a dental therapist foundation course, which you left in order to go and work at the practice in question, providing direct access dental services. You said that it was not actually a dental practice but was essentially a beauty salon. You said that your working environment at this establishment was “difficult” and “chaotic” and that you struggled to uphold the standards to which you should have been working. You stated that you left your employment there “abruptly”. You said that you know now that you should have not been working there, as it was not a safe place to work. You told the Committee that you did not provide tooth whitening services again after leaving your job there.

20. You further told the Committee why you did not attend the first two PCC hearings in respect of this case. [PRIVATE].

21. You stated that you could comfortably say that you were “wrong and foolish” about what you did, and that you recognised that you were too inexperienced to work in a setting without adequate support. You told the Committee that you have no intention of considering direct access work in the near future, and that, if permitted, you wish to remain in a role working where patients are referred to you and carrying out dental work prescribed by a dentist.

22. You said that you understood and agreed with the draft conditions proposed by the GDC. You explained your intention would be to re-apply for the dental therapist foundation course, which is a 12-month course of study that would involve the supervision of your work.

Decision on current impairment

23. 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.

24. The Committee considered that the matters that led to your misconduct are serious issues, but that they are capable of being remedied. In assessing whether they have been remedied, the Committee had regard to the evidence of the steps you have since taken to address the concerns.

25. The Committee considered the evidence of your CPD, and in doing so it noted that at the material time of the events in this case you had not been in clinical practice long. Further, that you have been suspended from practice for a considerable period of time. Notwithstanding this, the Committee considered that you have made some efforts towards completing CPD that is relevant and targeted to the concerns.

26. The Committee also took into account that you are now engaging with the GDC. It appreciated your attendance today and the time you have taken to address it on the matters that brought you before your regulatory body. The Committee found that you were credible, candid, and consistent in giving your oral evidence. It noted that you did not try to hide behind your past errors. The Committee also found your oral evidence helpful in that it expanded beyond the written reflections that you have provided.

27. In the Committee's view, your engagement today and what you said in evidence, demonstrates that you have a good degree of insight into your misconduct. The Committee considered from both your letter and your oral evidence that you have reflected on your shortcomings and have shown remorse for acting outside your scope of practice and without adequate indemnity. The Committee also heard from you what you would do differently if faced again with the kind of difficult working situation you described.

28. The Committee found that you demonstrated a degree of understanding of the immediate risk posed to patients by your actions. Although, in the Committee's view, you did not address sufficiently in your written and oral evidence the wider public interest in terms of the potential damage to public confidence in the dental profession and the importance of upholding proper professional standards.

29. The Committee also found that, whilst you now appear to appreciate the workings and limitations of direct access, including the need to work to the prescription of a dentist for certain treatments, you did not fully engage with the original concern in this case around the provision of tooth whitening. The Committee noted your evidence that you have not since and do not intend to provide tooth whitening again. However, your position could change, and therefore a full awareness and understanding of your scope of practice in this area is important.

30. In all the circumstances, the Committee was not satisfied that it received sufficient evidence to be confident that the risk of repetition in this case is low. In reaching its conclusion, the Committee took into account the identified limitations to your insight, that you have not been in practice for a considerable period of time to enable any embedding of your remediation, and that you have only recently re-engaged with the GDC. For all of these reasons, the Committee determined that some action remains necessary to safeguard against the risk of repetition. Accordingly, a finding of impairment is necessary for the protection of the public.

31. The Committee did not consider that a finding of impairment continues to be required in the wider public interest. It was satisfied that the periods of suspension that you have served has addressed the wider public interest considerations in this case. Furthermore, given that you have demonstrated a good level of insight and re-engaged with the fitness to practise process, the Committee did not consider that a finding of impairment is required to maintain public confidence in the dental profession or to promote and maintain proper professional standards.

32. Therefore, the Committee determined that your fitness to practise is currently impaired by reason of your misconduct on public protection grounds alone.

Decision on sanction

33. The Committee next considered what action to take in respect of your registration. It had regard to section 36Q(1) of the Act, which sets out the options available to the Committee at this review. The Committee also took into account the '*Guidance for the Practice Committees including Indicative Sanctions Guidance (effective from October 2016; 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. The Committee applied the principle of proportionality, balancing the public interest with your own interests.

34. Given the Committee's concern about a risk of repetition in this case, it determined that it would be inappropriate to terminate the current suspension order and take no further action. Such a course would not provide sufficient protection to the public.

35. The Committee next considered whether to terminate the current suspension order and replace it with a conditions of practice order. In doing so, the Committee had regard to the set of draft conditions proposed by the GDC. It considered that, largely, the conditions are workable, measurable, and targeted to the concerns that have been raised. In the circumstances, the Committee was satisfied that it could adopt the majority of the proposed conditions.

36. The Committee did not consider it necessary or proportionate to impose the Personal Development Plan (PDP) requirements (draft Conditions 12 to 15) suggested by the GDC. In deciding to omit those particular requirements, the Committee bore in mind its duty to impose the minimum restriction necessary for the protection of the public. As a PDP is a requirement of the current CPD obligations, and in light of the CPD that you have recently completed, the Committee was satisfied that the public would be sufficiently protected in the absence of the PDP requirements within these conditions. It was the view of the Committee that the close supervision of your clinical practice, together with the associated reporting requirements would be adequate to guard against the identified risk of repetition.

37. Given the level of your insight, and your re-engagement with the GDC, the Committee was satisfied that conditional registration in the terms it has outlined is appropriate and proportionate. It considered that the further suspension of your registration in all the circumstances of this case would be disproportionate and punitive.

38. The Committee therefore determined to terminate the current suspension order and replace it with a conditions of practice order for a period of 12 months. It considered that a 12-month period would be a reasonable and proportionate period of time to allow you to demonstrate how you have fully engaged with all the concerns arising from your past misconduct.

39. The following conditions are set out as they will appear alongside your name in the Dental Care Professionals Register:

1. You must, within 7 days notify the GDC of any professional appointments you accept which require GDC registration and provide the contact details of your employer or any organisation for which you are contracted to provide dental services.
2. You must allow the GDC to exchange information with your employer or any organisation which you are contracted to provide dental services, and any Development Adviser, Workplace Supervisor, reporter, and any other person involved in your retraining and supervision referred in these conditions.
3. You must inform the GDC within 7 days if you apply for dental employment outside the UK.

4. You must inform the GDC within seven days of being notified of:
 - a. Any formal disciplinary action taken against you;
 - b. Any NHS investigation;
 - c. Any patient complaint received about your clinical practice or conduct at work.
5. At any time you are employed, or providing dental services, which require you be registered with the GDC, you must place yourself and remain under the close supervision* of a workplace supervisor nominated by you and agreed by the GDC. The workplace supervisor shall be a GDC registrant in the same category as the Registrant or higher.
6. You must not start/restart work until these arrangements have been approved by the GDC.
7. You must provide your workplace supervisor with a copy of this determination.
8. You must provide reports from your workplace supervisor to the GDC every three months and at least 14 days prior to any review. The workplace supervisor report should address the following:
 - i. Putting patient's interests first
 - ii. Scope of Practice
 - iii. Patient Focused Care
 - iv. Maintaining appropriate personal and professional behaviour
 - v. Aspects of consent and best interest
 - vi. Making best interest decisions
 - vii. Duty of candour
 - viii. Managing patient expectations
 - ix. Prescription practice
9. You must keep your professional commitments under review and limit your dental practice in accordance with your workplace supervisor's advice.
10. You must keep a log which details all work you complete which requires a prescription from a dentist.
11. This log must be signed by your workplace supervisor and submitted every three months and at least 14 days prior to any review, or alternatively, confirm that there have been no such cases.
12. You must submit evidence of your indemnity to the GDC prior to starting work. Should your indemnity expire whilst the conditions are in place, you must send the GDC evidence of your updated indemnity.

13. You must not work as a locum or undertake any out-of-hours work or on-call duties without the prior agreement of the GDC.
14. You must inform promptly the following parties that your registration is subject to conditions listed at 1 to 13 above and provide evidence within 7 days that you have done so.
 - a. Any organisation or person employing or contracting with you to undertake dental work.
 - b. Any prospective employer (at the time of the application).
 - c. All staff at any practice where you are employed to carry out dental services.
15. You must permit the GDC to disclose the above conditions 1 to 14 to any person requesting information about your registration status.

*** Close Supervision**

The Registrant's day to day work must be supervised by a person who is registered with the GDC in their category of the register or above and who must be on site and available at all times. As a minimum, the Registrant's work must be reviewed at least twice a week by the supervisor via one to one meetings and case-based discussion. These bi-weekly meetings must be focused on all areas of concern identified by the conditions/undertakings. These meetings must take place face to face.

40. The Committee directs a review shortly before the end of this 12-month period of conditional registration. This means that a Committee will review the order at a further resumed hearing and decide what action to take in respect of your registration at that time. You will be informed of the date and time of that resumed hearing.
41. Unless you exercise your right of appeal, your registration will be made subject to the above conditions for a period of 12 months, 28 days from the date that notice is deemed to have been served upon you.
42. The Committee now invites submissions from both parties as to whether an immediate order of conditions should be imposed pending the taking effect of the substantive order.

Decision on an immediate order

43. In reaching its decision on whether to impose an immediate order of conditions on your registration, the Committee took account of the submissions made by both parties. Mr Khan applied for such an order to be imposed. You submitted that you would like the conditions to start immediately. The Committee accepted the advice of the Legal Adviser.
44. The Committee took into account the Legal Adviser's advice that, in the absence of an immediate order, the current order of suspension would remain in place until the end of the 28-day appeal period. The Committee considered that given its substantive decision to lessen the sanction on your registration by imposing a conditions of practice order, it would be consistent, appropriate, and proportionate to direct an immediate order of conditions in the same terms as the conditions set

out above. In doing so, the Committee was satisfied that the public would be sufficiently protected in the intervening period.

45. That concludes this determination.