

**Hearing part-held in private  
PUBLIC determination**

**Summary**

<b>Name:</b>	<b>GUIRGUIS, Kareem [Registration number: 193829]</b>
<b>Type of case:</b>	<b>Health Committee (review)</b>
<b>Outcome:</b>	<b>Suspended indefinitely</b>
<b>Date:</b>	<b>3 November 2022</b>
<b>Case number:</b>	<b>CAS-184880</b>

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.

This is a resumed hearing pursuant to section 27C of the Dentists Act 1984. The hearing was conducted remotely using Microsoft Teams and was part-held in private under Rule 53 of the General Dental Council (Fitness to Practise) Rules 2006 (the “Rules”) to protect Mr Guirguis’s right to privacy in relation to his health.

*The initial hearing before the Health Committee (“HC”): October 2019 to January 2020*

Mr Guirguis’s case was considered by the HC on dates between October 2019 and January 2020 (the “initial HC”). On 31 January 2020, the initial HC found his fitness to practise as a dentist to be impaired by reason of: (i) misconduct; (ii) caution; and (iii) adverse physical or mental health.

The misconduct found by the initial HC related to Mr Guirguis’s dishonestly giving misleading information as part of an assessment process undertaken by the General Dental Council (GDC) in relation to his fitness to practise. The initial HC summarised that misconduct as follows:

**[IN PRIVATE]**

In finding Mr Guirguis’s fitness to practise to be impaired by reason of misconduct, the initial HC stated:

The Committee is of the view that dishonest conduct is not easily remediable as it is attitudinal in nature. In considering whether there has been remediation in this case, the Committee took account of your reflective statement. It noted that you did not address the findings of misleading and dishonest conduct which were made against you by this Committee. There is no evidence in your reflections of the importance of being honest with your regulator especially as it relates to assessing your fitness to practise. The assessment was an important aspect of the GDC’s duty to ensure patient safety. Your reflective statement contained no remediation, no apology and no insight in this regard. In the absence of any evidence to demonstrate your appreciation of the importance of the **[IN PRIVATE]** assessment process, the Committee considers that there is a likelihood of repetition of the misconduct found proved in this case.

In finding Mr Guirguis's fitness to practise to be impaired by reason of a criminal caution, the initial HC stated:

**[IN PRIVATE]**

The Committee's view is that you have started to develop some insight into the matters that led to your caution. The Committee concluded that there remains a risk of repetition which could put patients at risk of harm.

The fact of your caution is conduct that is capable of damaging public confidence in the profession. A reasonable and well informed member of the public fully aware of the behaviour which led to your caution and your admission to the police, would lose confidence in the profession and the GDC as a regulator if a finding of impairment were not made in the circumstances of this case.

In finding Mr Guirguis's fitness to practise to be impaired by reason of adverse physical or mental health, the initial HC stated:

**[IN PRIVATE]**

The initial HC directed that Mr Guirguis's registration be suspended for a period of 9 months with a review.

#### The first HC review: November 2020

The first review hearing was held on 18 November 2020. Mr Guirguis was neither present nor represented at that hearing. The reviewing HC found that his fitness to practise continued to be impaired by reason of both his misconduct and adverse physical or mental health, stating:

**[IN PRIVATE:]** He has not engaged with the Council since the hearing in January 2020. **[IN PRIVATE]** and no evidence of any remediation he has undertaken in relation to his misconduct. There is also no evidence of his insight to his dishonest behaviour. In the absence of any evidence, the Committee could not assess Mr Guirguis' current position. The Committee concluded that, in relation to Mr Guirguis' **[IN PRIVATE]** and misconduct, in light of his disengagement with these proceedings including the lack of engagement with the Council, there remained a risk of repetition...

The November 2020 HC did not find that Mr Guirguis's fitness to practise continued to be impaired also by reason of his caution, stating: "...the caution was issued almost 3 years ago now and any risk of repetition is reflected in the Committee's finding of continued impairment on health grounds. It was of the view that the 9 months suspension imposed by the previous PCC was sufficient to mark the seriousness of the caution and the disapproval of the regulator. It was also of the view that a fully informed member of the public would not lose confidence in the Council if a finding of current impairment were not made in that regard..."

The November 2020 HC directed that the period of suspension be extended by a further period of 12 months, with a review.

#### The second HC review: November 2021

The second review hearing was held on 11 November 2021. Mr Guirguis was neither present nor represented at that hearing. The reviewing HC found that his fitness to practise continued to be impaired by reason of both his misconduct and adverse physical or mental health, stating:

...The Committee noted he has not engaged with the Council since the hearing in November 2020 and that there had been no material change in the circumstances of this case. Therefore, in the absence of any evidence to show that the serious concerns identified by the HC at the hearing in January 2020 have been addressed, the Committee cannot say that such conduct is highly unlikely to be repeated. The

Committee concluded that, in relation to Mr Guirguis' [IN PRIVATE] and misconduct, in light of his disengagement with these proceedings including the lack of engagement with the Council, there remained a risk of repetition...

The November 2021 HC directed that the period of suspension be extended by a further period of 12 months with a review, stating:

A reviewing Committee may be assisted by receiving:

- [IN PRIVATE]
- evidence of his personal reflection on his previous dishonesty.

*The third HC review: November 2022*

The role of the present Committee is to undertake the review directed by the November 2021 HC. The Committee was aware that Mr Guirguis's registration is currently subject to two other directions for suspension imposed in parallel Practice Committee proceedings under the references CAS-192869 and CAS-190140:

- (i) In CAS-192869, the Professional Conduct Committee ("PCC") found in December 2019 that Mr Guirguis's fitness to practise was impaired by reason of misconduct and directed that his registration be made subject to his compliance with conditions for a period of 12 months with a review. The review hearing was held on 19 November 2020, when the PCC determined that Mr Guirguis's fitness to practise continued to be impaired by reason of misconduct and replaced the conditions with a period of suspension for 12 months with a review. This was in response to his failure to comply with the conditions on his registration and his lack of engagement and attendance at the review hearing. The next review hearing was held on 11 November 2021, when the PCC found that Mr Guirguis's fitness to practise continued to be impaired by reason of his misconduct and directed that the suspension be extended by a further period of 12 months with a review. The review for that PCC hearing was listed before the present Committee today in addition to this review hearing for the HC proceedings. Whilst both review hearings shared the same listing, the Committee conducted its review in respect of each set of proceedings separately. The fact of the other set of proceedings was before the Committee only to enable it to have regard to the full extent and nature of the regulatory sanctions to which Mr Guirguis is currently subject. It determined his fitness to practise in relation to the HC proceedings on the information relevant to that case alone.
- (ii) In CAS-190140, the PCC found in September 2021 that Mr Guirguis's fitness to practise was impaired by reason of misconduct relating to other matters and directed that his registration be suspended for a period of 12 months with a review. The review hearing took place on 3 and 5 October 2022, when the PCC determined that Mr Guirguis's fitness to practise continued to be impaired by reason of misconduct and directed that the suspension of his registration be extended by a further period of 12 months with a review. The fact of these proceedings was before the Committee only to enable it to have regard to the full extent and nature of the regulatory sanctions to which Mr Guirguis is currently subject when determining his fitness to practise. A transcript of the review hearing on 3 and 5 October 2022 was before the present Committee for two reasons. First, Mr Guirguis had made representations at that hearing relating to his remediation in those proceedings which might be of relevance to his remediation more generally and which demonstrated his recent engagement in the regulatory process. Secondly, he had discussed matters relating to his health at that review hearing which might be of relevance to his application for a postponement of the present hearing, to which the Committee shall turn shortly. The matters arising in the parallel proceedings

were not otherwise taken into account by the Committee in respect of the present HC proceedings.

Mr Guirguis was neither present nor represented at this review hearing, which was scheduled to commence on 2 November 2022 at 09:30. On 1 November 2022 at 00:14 he emailed Mr Cao Hernandez, an Assistant Presentation Lawyer at the GDC, to apply for a postponement of the hearing in the following terms:

I am unwell at the moment and not able to attend or partake in the hearing. I would request that the hearing be postponed but out of respect for the panel I would assume that this is not going to be possible.

**[IN PRIVATE:]** i [sic] will leave it to the GDC / the panel's discretion and will request a review as soon as practicable.

Mr Cao Hernandez replied on 1 November 2022 at 09:41 to state:

I am very sorry to hear that you are currently unwell. Please note that medical evidence would assist the Committee once considering your application to postpone the hearing hence you are invited to provide documentary evidence in this respect as soon as practicable.

In the absence of any medical evidence, it is very likely that the GDC will oppose your application to postpone the hearing as the orders must be reviewed before the end of the expiry period.

There is no record before the Committee of any response or communication from Mr Guirguis until an email sent to Mr Cao Hernandez on 2 November 2022 at 00:38, stating:

I replied with everything needed and keep encountering an auto reply. Is this to prevent me from being able to submit any medical evidence so the hearing goes ahead without me?

Mr Cao Hernandez replied on 2 November 2022 at 07:48 to state:

Thanks for your email.

As you may appreciate, I was not working yesterday at 00:14am when you sent me the attached email and that is why you got an autoreply.

Nonetheless, I replied to your email yesterday at 09:14am (see attached) and I have not received any further email from yourself barring the one below at 00:38am. I have not received any medical evidence from yourself either.

Should you like to provide any documentation, please do so urgently as the hearing will be starting at 09:30am.

Equally, should you like to attend the hearing and make oral submissions, please join the hearing link provided to you (also attached) at 09:30am.

Mr Guirguis replied at 07:54 to state:

My apologies for the misunderstanding. I sent other emails during the day when I received an auto reply.

There was no record before the Committee of any further reply or communication from Mr Guirguis. According to the records before the Committee, Mr Guirguis had provided no medical or other evidence in support of his application for a postponement and had provided no details of the alleged illness, injury or other incapacity on which he relied in support of the application.

Mr Micklewright, the Case Presenter for the GDC, opposed the application for a postponement. He submitted that the notice of hearing had been served on Mr Guirguis in

accordance with the requirements of the Rules and that the hearing should proceed in Mr Guirguis's absence.

#### *Service and absence*

The Committee accepted the advice of the Legal Adviser on the requirements of service and proceeding in absence.

The first consideration for the Committee was whether notice of this hearing had been served on Mr Guirguis in accordance with the requirements of the Rules.

The notice of hearing was sent to Mr Guirguis at his registered address on 26 September 2022 by both Special Delivery and first-class post. Royal Mail "Track and Trace" records that the Special Delivery item was delivered on 27 September 2022, signed for against the name "KAREEM".

The Committee was satisfied that the notice was sent with more than 28 days' notice of this hearing; that it contained the information prescribed under Rule 28 of the Rules, including the time, date and (remote) venue of this hearing; and that it had been served in accordance with the requirements of Rule 65 of the Rules by virtue of its being sent by post to Mr Guirguis at his registered address.

A link to download a copy of the notice of hearing was also sent to Mr Guirguis by email on 26 September 2022.

The next consideration for the Committee was whether to exercise its discretion to proceed in the absence of Mr Guirguis. This is a discretion which must be exercised with great care and caution.

Mr Guirguis applied for a postponement of the hearing but provided no medical or other evidence in support of his assertion that he was "*unwell*", neither did he give any details of the alleged illness, injury or incapacity on which he relies in support of the application. However, the Committee recognised that these are proceedings before the HC and had regard to the adverse physical or mental health condition which is the subject of these proceedings. The Committee also had regard to the references which Mr Guirguis had made to his health at the review hearing on 5 October 2022.

#### **[IN PRIVATE]**

Accordingly, Mr Guirguis had not specified why he was "*unwell*" and provided no medical evidence to the Committee establishing that he would have been unable to have attended or participated in the hearing. He was self-evidently aware of this hearing and its purpose. He had attended and participated in some of the hearings which were held as part of the various Practice Committee proceedings to which he was subject, notwithstanding any adverse physical or mental health condition from which he was suffering. There was nothing to suggest to the Committee that postponing or adjourning the hearing would make his attendance any more likely in the near future. There was a pending need for the current period of suspension to be reviewed prior to its expiry on 1 December 2022 and there was not likely to be enough time for this hearing to be relisted before that date with sufficient notice to Mr Guirguis, with the risk that the Committee would therefore lose jurisdiction over the case. Having regard to all these factors, the Committee refused the application for a postponement and determined that it would be fair and overwhelmingly in the public interest to proceed with the hearing, notwithstanding Mr Guirguis's absence.

#### *The review of the current period of suspension*

The Committee had careful regard to all the documentary evidence put before it. The Committee heard the submissions made on behalf of the GDC by Mr Micklewright, who submitted that Mr Guirguis's fitness to practise continues to be impaired by reason of both



misconduct and adverse physical or mental health, and that his registration should now be suspended indefinitely.

The Committee accepted the advice of the Legal Adviser on the review of the current period of suspension.

The Committee considered whether Mr Guirguis's fitness to practise continues to be impaired by reason of his misconduct. The Committee determined that there continues to be no evidence of any meaningful reflection, insight or remediation in relation to his misconduct. Mr Guirguis has had ample opportunity to provide such evidence as part of these proceedings and had been advised by the previous HCs to do so. His misconduct was particularly serious, involving as it did dishonesty towards the GDC as part of its regulatory process. It is difficult to remedy, as it goes to character. Mr Guirguis demonstrates little insight into his dishonesty and the impact this could have had on public protection and wider public confidence in the profession. In the absence of evidence of any meaningful reflection, insight or remediation, the Committee could not be satisfied that the risk of Mr Guirguis's repeating his misconduct would be low or that the suspension of his registration has been sufficient to mark the seriousness of his misconduct, so as to maintain public confidence in the profession and in this regulatory process. The Committee therefore considered there to be a high risk of repetition.

Accordingly, the Committee determined that Mr Guirguis's fitness to practise as a dentist continues to be impaired on the statutory basis of misconduct. The Committee was satisfied that his misconduct continues to raise both public protection and wider public interest concerns.

The Committee considered whether Mr Guirguis's fitness to practise also continues to be impaired by reason of adverse physical or mental health. [IN PRIVATE]

Accordingly, the Committee determined that Mr Guirguis's fitness to practise as a dentist continues to be impaired on the statutory basis of adverse physical or mental health. The Committee was satisfied that his condition continues to raise both public protection and wider public interest concerns.

The Committee next considered what further action, if any to take in respect of Mr Guirguis's registration.

The Committee was satisfied that the continued restriction of Mr Guirguis's registration is necessary. There would be a risk of harm to the public should Mr Guirguis be allowed to practise without any restriction on his registration and public confidence in the profession and in this regulatory process would also be seriously undermined.

The Committee could not identify any conditions of practice which could be formulated to be workable, measurable and proportionate owing to the nature of Mr Guirguis's misconduct, the lack of current information regarding his adverse physical or mental health condition and his lack of full engagement in these proceedings. The Committee could not be satisfied that Mr Guirguis would comply with any conditions on his registration. The Committee noted that he had previously failed to comply with the conditions initially imposed on his registration by the PCC in one of the parallel set of proceedings.

The Committee determined that the suspension of Mr Guirguis's registration therefore remains necessary and proportionate. The periods of suspension previously imposed on Mr Guirguis's registration have not achieved their intended purpose, as Mr Guirguis continues to demonstrate a lack of reflection, insight and remediation into his misconduct and there continues to be a lack of full engagement from him in respect of these proceedings. There was nothing to suggest to the Committee that Mr Guirguis would be likely to engage fully in these proceedings in respect of his misconduct and demonstrate sufficient reflection, insight and remediation within the next 12 months. [IN PRIVATE].

The Committee determined that, in all likelihood, any reviewing Committee considering the case in 12 months' time would be in the same position as the Committee today, both in respect of Mr Guirguis's misconduct and his adverse physical or mental health. The Committee therefore determined that extending the current period of suspension for a further period of up to 12 months with a review would serve no meaningful purpose. The Committee therefore directs that Mr Guirguis's registration be suspended indefinitely.

That concludes the hearing today.