

## ON PAPERS

### Health Committee Review Hearing

18 October 2024

**Name:** TURNBULL, Colin Robertson

**Registration number:** 83141

**Case number:** CAS-199768-C7H6T2

---

**General Dental Council:** Represented by Sarah Barker, IHLPS

**Registrant:** Not present and unrepresented

---

**Fitness to practise:** Impaired by reason of misconduct and adverse health

**Outcome:** Suspended indefinitely

---

**Committee members:** Jane Everitt (Chair and lay member)  
Rachel McCoubrey (DCP Member)  
Aysha Ahmed Kibria (Dentist Member)

**Legal Adviser:** Claire Robinson

**Committee Secretary:** Jamie Barge

**At this hearing the Committee made a determination that includes some private information. That information has been omitted from the separate public version of this determination, and that public document has been marked to show where private material has been removed. The private material appears in highlighted form in this private version of the determination.**

1. This is a resumed hearing before the Health Committee, pursuant to section 27C 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 the hearing has been for the Committee to conduct a review of the substantive order of suspension currently in place on Mr Turnbull's registration.
4. Neither party is present nor represented at these proceedings, following a request made by the General Dental Council (GDC) for the review of the suspension order to take place on the papers.

### **Preliminary Matters**

#### **Service and proceeding on the papers**

5. The Committee next considered the issues of service and proceeding in the absence of Mr Turnbull and any representatives for either party. It accepted the advice of the Legal Adviser on these matters.

#### **Decision on service**

6. The Committee considered whether notice of the hearing had been served on Mr Turnbull in accordance with Rules 28 and 65 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), and section 50A of the Act.
7. The Committee had regard to the Notice of Hearing dated 17 September 2024 ('the notice') included in the HC Resumed Bundle, which was sent to Mr Turnbull's registered address by Special Delivery and First-Class post. The Committee took into account that there is no requirement within the Rules for the GDC to prove delivery of the notice, only that it was sent. However, a Royal Mail 'Track and Trace' receipt was provided to the Committee, which confirmed that the copy of the notice sent by Special Delivery was delivered and signed for on 18 September 2024 in the printed name of 'TURNBULL'. The Committee also took into account that a copy of the notice was sent by email to Mr Turnbull.
8. The Committee was satisfied that the notice sent to Mr Turnbull complied with the 28-day notice period required by the Rules. It was further satisfied that the notice contained all the required particulars, including the date and time of the hearing, confirmation that it would be held remotely by Microsoft Teams, and that the Committee had the power to proceed with the hearing in Mr Turnbull's absence.

9. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Turnbull in accordance with the Rules and the Act.

*Decision on whether to proceed with the hearing in the absence of the registrant and on the papers*

10. 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 Turnbull, and any representative for either party. It approached this issue 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 affirmed in the joined regulatory cases of *General Medical Council v Adeogba* and *General Medical Council v Visvardis* [2016] EWCA Civ 162.

11. The Committee further took into account the need to be fair to both Mr Turnbull and the GDC, as well as the public interest in the expeditious review of the current suspension order.

12. The Committee had regard to the written submissions of the GDC, in which the Council submitted that, *“there would be little benefit in adjourning the hearing as there is no indication that the Registrant will engage with the proceedings, given the lack of engagement so far. The Council submits that the Registrant has chosen not to engage with the Council and there is no evidence to show this will change. Should the hearing be postponed or adjourned, there is no indication that this would secure his attendance on another date”*.

13. Having taken into account the submissions of the GDC, the Committee determined to proceed on that basis. It noted that Mr Turnbull did not apply for an adjournment, and that there is no information to suggest that an adjournment would secure his attendance on a future date. The Committee was satisfied that Mr Turnbull’s absence is voluntary. It concluded that an adjournment today would serve no meaningful purpose in the circumstances.

14. In reaching its decision, the Committee also remained mindful of its statutory duty to review the suspension order currently on Mr Turnbull’s registration, which is due to expire on 31 October 2024. The Committee decided that in the absence of any good reason to defer the review, it was fair and in the public interest given the Registrant’s continued non-engagement, to proceed on the papers and in the absence of both parties.

*Decision on application to conduct the hearing in private under Rule 53*

15. In its written submissions, the GDC made an application for this matter concerning Mr Turnbull to be heard in private pursuant to Rule 53(2)(a) of the Rules, given that the matter relates to his health.

16. Rule 53(2)(a) states that:

*“(2) All or part of a hearing may be held in private -*

*(a) where the interests of the parties or the protection of the private and family life of the respondent or any other person so requires;”*

17. The Committee accepted the advice of the Legal Adviser. It took into account that at this hearing, in the absence of either party, its review would be conducted on the papers without any members of the public present. Nevertheless, given that this case relates primarily to Mr Turnbull's health, and it is usual and in accordance with the Rules for details of any health matters to be kept confidential, the Committee agreed to produce both a private and suitably redacted public version of its determination.

### **Case background**

18. Mr Turnbull's case was first considered by the Health Committee at a hearing held on 28 September 2022. At the initial substantive hearing, the HC found Mr Turnbull's fitness to practise impaired by reason of misconduct and health. The HC's findings can be summarised as follows:

*"The Committee had concluded that he had a duty to co-operate with the GDC's investigation into his fitness to practise, but he had failed to do so. [IN PRIVATE]. The Committee determined that he should have been aware of his obligation to co-operate with the GDC and his health during this period would not have prevented him from doing so. The Committee concluded that Mr Turnbull's conduct had undermined the regulatory process and was a serious departure from the GDC's Standards.*

*The Committee therefore concluded that Mr Turnbull's behaviour had fallen far short of the standards of conduct that were proper in these circumstances and that this amounted to misconduct."*

19. The HC gave the following reasons for its finding of current impairment on the ground of misconduct:

*"With regard to Mr Turnbull's failure to co-operate with the GDC's investigation into his fitness to practise, the Committee considered that it is the duty of every dental professional to engage with the GDC as their regulator. In the Committee's view, as Mr Turnbull has not engaged with the GDC or attended this hearing there is no evidence that he has shown any insight into his misconduct or remorse or undertaken any remediation. The Committee concluded therefore that there was a high likelihood that he would repeat his misconduct. The Committee also considered that Mr Turnbull's behaviour had demonstrated a disregard for the GDC's important role in the protection of the public.*

20. With regard to Mr Turnbull's health, the Committee noted the conclusions in [IN PRIVATE] report, which stated,

*"[IN PRIVATE]*

*[IN PRIVATE]. The Committee noted that he had not been practising dentistry since 2015. The Committee considered that this would have a significant impact on patient safety.*

*Furthermore, the Committee concluded that a reasonable and informed member of the public, fully aware of Mr Turnbull's misconduct and [IN PRIVATE], would lose*

*confidence in the profession and the dental regulator if a finding of impairment were not made in the circumstances of this case.*

*The Committee therefore determined that Mr Turnbull's fitness to practise is currently impaired by reason of his misconduct and adverse health."*

21. The HC directed that Mr Turnbull's registration be subject to suspension for a period of 12 months with a review, stating:

*"...The Committee next considered whether to suspend Mr Turnbull's registration for a specified period. The Committee asked itself whether a suspension would be sufficient in all the circumstances to address the misconduct it has found and his adverse health condition. In reaching its decision, the Committee had regard to the factors listed under paragraph 6.28 of the GDC's Guidance, which dealt with the sanction of suspension, and considered it to be the most appropriate and proportionate sanction.*

*The Committee gave consideration to the option of erasure but determined that such a step would be disproportionate. In reaching that conclusion, the Committee has borne in mind that Mr Turnbull's misconduct, although serious, did not warrant such a sanction. It considered that imposing a maximum period of suspension on Mr Turnbull's registration would be sufficient to protect the public whilst also giving him an opportunity to continue to engage with healthcare professionals about his health condition. The Committee was also satisfied that erasure is not necessary because the public interest can be adequately served by the maximum period of suspension.*

*Accordingly, having had regard to all of the evidence, the Committee has determined to direct that Mr Turnbull's registration be suspended for a period of 12 months. The Committee is satisfied that this period of time is sufficient and also had regard to the principle of proportionality.*

*The Committee also directs that the suspension order be reviewed before its expiry. The reviewing Committee may be assisted by Mr Turnbull engaging with these proceedings and providing up-to-date evidence of his health."*

### **First resumed hearing – 17 October 2023**

22. The suspension order was reviewed by the Health Committee at a resumed hearing which took place on 17 October 2023. That hearing was conducted on the papers in the absence of both parties.

23. The reviewing Committee in 2023 determined that Mr Turnbull's fitness to practise remained impaired by reason of his misconduct and adverse health.

24. **[IN PRIVATE]** *He has not provided any up-to-date evidence of his health, as recommended to him by the initial HC. The Committee therefore considered that his fitness to practise remains impaired by virtue of his health condition.*

25. *The Committee, to date, has not been provided with evidence of any material change from Mr Turnbull in respect of his misconduct. Further, there is no evidence before this Committee that Mr Turnbull has recognised the seriousness of his misconduct or demonstrated insight. The Committee therefore considers that there remains a real risk of repetition of the misconduct.*

26. *The Committee also noted that Mr Turnbull has not meaningfully engaged with the GDC in relation to these proceedings over a protracted period of time, despite repeated attempts by the GDC to secure his involvement. Given its concerns regarding Mr Turnbull's lack of insight and remediation the Committee considers that Mr Turnbull's fitness to practise remains impaired by reason of his misconduct and adverse health condition".*

27. The Committee in 2023 extended the suspension order in place on Mr Turnbull's registration by a period of 12 months and directed a further review shortly before the expiry of that 12-month period. The Committee considered that a period of 12 months will afford him time to engage with these proceedings and provide up-to-date evidence of his health, as suggested by the initial HC.

### **Today's resumed hearing**

28. This is the second review of the substantive suspension order first imposed on Mr Turnbull's registration in September 2022. In comprehensively reviewing the order today, the Committee considered all the evidence placed before it. It took account of the written submissions made by the GDC. No submissions have been received by Mr Turnbull. The Committee accepted the advice of the Legal Adviser.

29. In its written submissions, the GDC set out its position as follows:

**"[IN PRIVATE].**

*The Registrant continues to fail to engage with these proceedings, having not responded to the Council's correspondence of 13 June 2024 and 17 July 2024 inviting him to undergo a health assessment. Additionally, the Registrant has not responded to the Notice of Hearing letter, sent on 17 September 2024, or the subsequent attempts to contact him by email. As such, the Council considers that the Registrant continues to be impaired by reason of his misconduct.*

*The Council therefore submits that the Registrant's fitness to practise remains impaired by reason of his misconduct and his health as he has failed to demonstrate any insight or remediation."*

### **Decision on current impairment**

30. The Committee considered whether Mr Turnbull's fitness to practise remains impaired by reason of his misconduct and his adverse health. In doing so, it exercised its independent judgement. It had regard to the over-arching 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.

### **Decision on impairment by reason of adverse health**

31. The Committee noted that there has been no engagement by Mr Turnbull with the GDC since the last HC review hearing. In fact, he has not engaged with the fitness to practise process to date. As such, there is no new evidence before the Committee today in relation to any of the matters in this case.

32. [PRIVATE].

33. [PRIVATE].

34. In all the circumstances, the Committee determined that Mr Turnbull's fitness to practise remains impaired by reason of adverse health.

#### Decision on impairment by reason of misconduct

35. As a registered dental professional, Mr Turnbull has a duty to cooperate with the GDC. [IN PRIVATE]. However, there has been no communication or information to that effect. The Committee took into account that the GDC made a number of attempts to contact Mr Turnbull prior to this hearing with no response. It is Mr Turnbull's obligation as a registrant to ensure that his contact details held by the Council are correct and up to date.

36. The consequence of Mr Turnbull's non-engagement over the last two years is that there is no evidence before this Committee of any insight or remediation in relation to his misconduct. Therefore, the Committee could only conclude that there remains a risk of repetition as the non-engagement is on-going. The Committee considered that both public protection and wider public interest concerns arise from a continued lack of cooperation by a dental professional with investigations by their regulatory body. Accordingly, a finding of impairment in relation to the misconduct matters is necessary for the protection of the public and is also required in the wider public interest.

37. The Committee determined that Mr Turnbull's fitness to practise remains impaired by reason of his misconduct.

#### Decision on sanction

38. The Committee next considered what action to take in respect of Mr Turnbull's registration. It had regard to section 27C(1) of the Act, which sets out the options available to the Committee at this review.

39. The Committee also took into account the GDC's '*Guidance for the Practice Committees including Indicative Sanctions Guidance*' (Effective from October 2016; last reviewed 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 Mr Turnbull's own interests.

40. In its written submissions, the GDC set out its position as follows:

*“...It is submitted that indefinite suspension is proportionate and appropriate given the Registrant’s lack of engagement in this matter, and there being no indication that the Registrant will start engaging with the process. Indefinite suspension may focus the Registrant to engage with the Council and reflect on the importance of providing the Council with an up-to-date picture on his health [IN PRIVATE]...The Council would further submit that any lesser sanction would not adequately protect patients’ interests and would serve to undermine the public confidence in the profession.”*

41. The Committee has identified an ongoing risk of harm to the public on account of the matters arising out of this case, as well as wider public interest considerations. In the circumstances, the Committee determined that it would be inappropriate to terminate the current suspension and take no further action in respect of Mr Turnbull’s registration. The Committee decided that some form of continued restriction of his registration is necessary to protect the public and to maintain public confidence in the profession.

42. The Committee also determined that it would not be appropriate or proportionate to replace the current suspension order with a conditions of practice order. It concluded that no conditions could be formulated to address the serious outstanding concerns, which include limited information, and in particular no current information on Mr Turnbull’s health, and his lack of engagement with his regulator. [IN PRIVATE] The Committee was not reassured that Mr Turnbull would comply with conditional registration even if conditions could be formulated. It therefore decided that a conditions of practice order would not be sufficient to protect the public and the wider public interest.

43. The Committee next considered whether to further extend the suspension order currently in place on Mr Turnbull’s registration for a specified period. It was the view of the Committee, having taken all the evidence into account, that a further period of suspension whilst it may protect the public, it would not uphold professional standards or maintain public confidence in the profession or the GDC as a regulator. There has been no material change in the circumstances of this case since the last review, and little or no progress since the suspension order was originally imposed in 2022. For all these reasons, the Committee decided against the extension of the current order of suspension to protect the public and maintain public interest.

44. Accordingly, the Committee directs the indefinite suspension of Mr Turnbull’s registration in accordance with section 27C(1)(d) of the Act. In making this direction, the Committee was satisfied that the criteria for imposing an indefinite suspension have been met.

45. It was the view of the Committee that the onus should now rest with Mr Turnbull to contact the GDC if he decides to re-engage with its fitness to practise process. The Committee noted that he can request a review of the indefinite suspension order and that it must be reviewed if at least two years have elapsed since the date on which the direction takes effect.

46. Unless Mr Turnbull exercises his right of appeal, his registration will be suspended indefinitely, 28 days from the date that notice of this direction is deemed to have been served upon him. In the event that he does exercise his right of appeal, the suspension order currently in place on his registration will remain in force until the resolution of the appeal.



47. That concludes this determination.