

## PRIVATE HEARING

### Health Committee Review Hearing

29 August 2024

**Name:** CLARKE, Chelsea Louise

**Registration number:** 243750

**Case number:** CAS-198299-N9X1Q7

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**General Dental Council:** Thomas Daniel, Counsel.  
Instructed by Rosie Geddes, IHLPS

**Registrant:** Not Present  
Unrepresented

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**Fitness to practise:** Impaired by reason of conviction and health

**Outcome:** Suspended indefinitely

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**Committee members:** Elizabeth Rantzen (Lay) (Chair)  
Navidah Chaudhary Munday (Dentist)  
Olivia Kimber (Dental Care Professional)

**Legal adviser:** Valerie Paterson

**Committee Secretary:** Andrew Keeling

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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.

1. This was a resumed hearing pursuant to Section 36Q of the Dentists Act 1984 (as amended) ('the Act'). The purpose of this hearing has been for this Health Committee (HC) to review Miss Clarke's case and determine what action to take in relation to her registration. The hearing took place remotely on Microsoft Teams.

- Miss Clarke was present on the hearing link when the hearing began, but immediately informed the Committee that she was having connection problems and could not turn on her camera. She subsequently left the link to try and resolve this issue. However, despite attempts by the Hearing Support Officer to contact her, Miss Clarke did not rejoin the link to attend the hearing. Mr Thomas Daniel, Counsel, appeared on behalf of the General Dental Council (GDC).

## **Preliminary Matters**

### **Application for Private Hearing**

- At the beginning of the hearing, Mr Daniel made an application for the hearing to take place in private pursuant to Rule 53(1) and (2) of the GDC (Fitness to Practise) Rules 2006 (the Rules). Mr Daniel submitted that the substantive hearing was conducted in private and it was also appropriate for this review hearing to be conducted in private as the matters concerned Miss Clarke's health.
- The Committee accepted the advice of the Legal Adviser. The Committee bore in mind that, as a starting point, hearings should be conducted in public session. However, having heard Mr Daniel's application, the Committee was satisfied that it was appropriate that this hearing should be held in private to protect Miss Clarke's private and family life. It therefore acceded to the application.
- The Committee then considered whether to proceed in the absence of Miss Clarke. The Committee invited Mr Daniel to make submissions on this matter.
- Mr Daniel applied for the hearing to proceed in Miss Clarke's absence. He submitted that Miss Clarke was present on the hearing link before the hearing commenced to discuss matters with him and the Legal Adviser. He submitted that Miss Clarke was also initially present at the start of the hearing but was experiencing connection issues. She indicated that she would leave the link and rejoin in order to try and resolve these issues. However, Mr Daniel submitted that since then, and despite attempts by the Hearing Support Officer to contact Miss Clarke by phone and email, she has not rejoined the link.
- Mr Daniel took the Committee through a chronology of Miss Clarke's lack of engagement with these proceedings since November 2021. He submitted that there has been a long history of a failure to engage by Miss Clarke. He informed the Committee that the substantive order on Miss Clarke's case is due to expire next month and that it is approaching the end of her second period of suspension. He submitted that it was the GDC's intention at this hearing to apply for a sanction of indefinite suspension. He submitted that even if Miss Clarke was allowed further time to provide additional information for these proceedings, there would be insufficient time for the GDC to properly assess this and seek expert opinion before the substantive order end date.

8. Mr Daniel submitted that all reasonable efforts have been made to contact Miss Clarke and two hours have now passed during which she has not made any contact despite knowing earlier that the hearing would be starting very shortly. Furthermore, he submitted that Miss Clarke did confirm that she had received the bundle. He invited the Committee, therefore, to proceed with the hearing in Miss Clarke's absence.
9. In respect of the matter of whether the notice of hearing had been served on Miss Clarke, Mr Daniel submitted that her brief attendance this morning on the hearing link showed that all requirements with regard to service had been met.

### **Decision on Service of the Notice of Hearing**

10. The Committee first considered whether notice of the hearing had been served on Miss Clarke in accordance with Rules 35 and 65 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules') and Section 50A of the *Dentists Act 1984 (as amended)* ('the Act'). The Committee accepted the advice of the Legal Adviser.
11. The Committee received from the GDC an indexed hearing bundle, which contained a copy of the Notice of Hearing ('the notice'), dated 22 July 2024. The hearing bundle also contained a Royal Mail 'Track and Trace' receipt confirming that the notice was sent to Miss Clarke's registered address by Special Delivery. A copy of the notice was also sent by first class post and emailed to Miss Clarke on 22 July 2024.
12. The Committee was satisfied that the notice sent to Miss Clarke contained proper notification of today's hearing, including its time, date and that it will be conducted remotely, as well as notification that the Committee had the power to proceed with the hearing in Miss Clarke's absence. Furthermore, the Committee noted that Miss Clarke's initial presence at the beginning of the hearing was evidence that she was aware that the hearing was taking place today.
13. On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Miss Clarke in accordance with the Rules and the Act. The Committee was also satisfied that the period of notice given was reasonable in the circumstances.

### **Decision on Proceeding in Miss Clarke's Absence**

14. The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Miss Clarke. 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 [2002] UKHL 5* and *GMC v Adeogba & Visvardis [2016] EWCA Civ 162*. It remained mindful of the need to be fair to both Miss Clarke and the GDC, taking into account the public interest in the expeditious consideration of any interim order. The Committee accepted the advice of the Legal Adviser.

15. The Committee noted that despite Miss Clarke's brief appearance on the hearing link and the numerous subsequent attempts by the Hearing Support Officer to contact her this morning, she has not rejoined the hearing. The Committee considered this in the context of Miss Clarke's longstanding history of non-engagement with the GDC and these proceedings. In these circumstances, the Committee was satisfied that Miss Clarke had voluntarily absented herself from the hearing. The Committee further considered that adjourning the hearing would not serve any useful purpose as there was no clear indication from Miss Clarke that she would attend any future hearing. Furthermore, the Committee noted there was a statutory duty for the hearing to be conducted before the end date of the substantive order of suspension on 29 September 2024. Accordingly, the Committee was satisfied that it was fair and in the public interest to proceed with the hearing in the absence of Miss Clarke.

### Background

16. Miss Clarke's case was first considered by the HC in August 2022. She did not attend and was not represented at the hearing. That Committee found proved that she was convicted on 15 March 2021 at Lincolnshire Magistrates' Court of driving a motor vehicle on 27 February 2021 after consuming alcohol exceeding the prescribed limit, contrary to Section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988. That Committee also found proved that she had an adverse health condition, **[IN PRIVATE: Text omitted.]**

17. That HC found Miss Clarke's fitness to practise as a dental nurse to be impaired by reason of her conviction and adverse physical or mental health.

18. In respect of impairment by reason of conviction, the HC stated in its determination:

*"On 15 March 2021 Miss Clarke was convicted at Lincolnshire Magistrates Court of driving with excess alcohol, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988. This was in respect of an offence that took place on 27 February 2021.*

*The Committee had regard to Standard 9.1 states: "You must ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession" and considers that Miss Clarke's conviction represents a failure to adhere to this standard. Miss Clarke pleaded guilty to the offence, and she received a fine and was disqualified from driving for 3 years. The Committee had regard to the material before it and noted that Miss Clarke previously received a conviction for the same offence in 2014. It considered that this would probably explain the long period of disqualification that was imposed following on from 2021 conviction that is still operative. The Committee considered that Miss Clarke's conviction in itself is serious but is further aggravated by the fact that it is not isolated in nature.*

[...]

*[PRIVATE: Text omitted], there is limited evidence to show that [PRIVATE: Text omitted] she has identified the seriousness of her behaviour or what steps she must take to avoid repetition in the future. In the light of that the Committee has determined that there is a real risk of repetition of her criminal behaviour.”*

19. In respect of impairment by reason of adverse physical or mental health, the HC stated:

*“[PRIVATE: Text omitted.] The Committee has therefore determined that Miss Clarke’s fitness is currently impaired by reason of her adverse health on public protection and public interest grounds so as to declare and uphold proper standards and maintain public confidence in the profession.”*

20. The HC directed that Miss Clarke’s registration be suspended for a period of 12 months with a review, stating in its determination:

*“The Committee is satisfied that this period of time is appropriate to mark the seriousness of her conviction and to indicate to the profession and the public that this type of conduct is not acceptable. A period of 12 months suspension would also provide her with the opportunity to embark upon her journey of remediation, [PRIVATE: Text omitted] and the development of further insight.*

*The Committee considers that Miss Clarke’s case should be reviewed at a resumed hearing to be held shortly before the end of the period of suspension. That Committee will consider what action it should take in relation to her registration. It considered that the reviewing Committee may find it helpful to receive the following:*

- *[PRIVATE: Text omitted]*
- *[PRIVATE: Text omitted]*
- *evidence of CPD and training to demonstrate that Miss Clarke has maintained her knowledge of dental nursing*
- *a reflective piece demonstrating her insight into and understanding of the impact of her conviction and her adverse health condition upon patients, the wider public and the dental profession.”*

21. The HC reviewed Miss Clarke’s case at a hearing on 12 September 2023. This hearing took place on the papers with neither the GDC nor Miss Clarke in attendance. That Committee noted that:

*“There has been no engagement from Miss Clarke since [IN PRIVATE: Text omitted] 11 June 2021 and she did not engage with the HC hearing in August 2022.*

*She therefore provides no further evidence of insight, remediation or rehabilitation in respect of both her conviction and [IN PRIVATE: Text omitted]. ...”*

22. That Committee determined that there has been no material change in circumstances since the HC hearing in August 2022 and consequently Miss Clarke’s fitness to practise continued to be impaired by reason of her conviction and adverse health. It determined that the continued suspension of her registration remained necessary and proportionate. It determined that the period of suspension should be extended for a further period of 12 months and that it should be reviewed before its expiry.

### **Today’s Hearing**

23. It is the role of the Committee today to undertake a comprehensive review of Miss Clarke’s case. In so doing, the Committee had careful regard to all the documentary evidence before it and took account of the submissions from Mr Daniel, on behalf of the GDC. The Committee also heard and accepted the advice of the Legal Adviser. The Committee had regard to the *GDC’s Guidance for the Practice Committees*, including *Indicative Sanctions Guidance* (October 2016, revised December 2020) (the Guidance).

### **Submissions**

24. Mr Daniel, on behalf of the GDC, invited the Committee to determine that Miss Clarke’s fitness to practise remains impaired and to impose a sanction of an indefinite suspension on her registration. He submitted that it is now two years since the substantive hearing and three and a half years since the index matters. Since November 2021, he submitted that Miss Clarke has displayed a pattern of non-engagement with these proceedings and has not submitted any of the information recommended at the end of the substantive hearing. He submitted that there was no proper basis for further review hearings in this case as there has been no material change in the circumstances of the case since the substantive hearing and there was no immediate prospect of one. He submitted that the criteria for an indefinite suspension have been met and Miss Clarke has the opportunity to have this reviewed if she wished to.

### **Committee’s Decision on Impairment**

25. In making its decision, the Committee first sought to determine whether Miss Clarke’s fitness to practise is still impaired by reason of her conviction and/or her adverse health. It exercised its independent judgement and was not bound by the decision of the previous committees. It balanced Miss Clarke’s needs with those of the public and bore in mind that its primary duty is to protect the public, including by maintaining public confidence in the profession and declaring and upholding proper standards and behaviour.

26. The Committee bore in mind that there was a persuasive burden on Miss Clarke to demonstrate that her fitness to practise was not currently impaired. However, the Committee noted that, despite her brief appearance at the hearing this morning, she has continued not to engage with the GDC and has not provided any of the information recommended at the substantive hearing in August 2022. There is no evidence that she has undertaken any remediation or provided any information about her current state of health. The Committee concluded that, in the absence of this information, there has been no material change since the substantive hearing and the review hearing in September 2023, and the concerns about her health and conviction have not been addressed. The Committee therefore determined that Miss Clarke's fitness to practise remains currently impaired by reason of her conviction and her adverse health.

### **Committee's Decision on Sanction**

27. The Committee next considered what sanction, if any, should be imposed on Miss Clarke's registration. It bore in mind the need to protect patients and the public interest. The Committee once again had regard to the principle of proportionality, weighing the interests of the public with Miss Clarke's own interests.

28. The Committee has found that Miss Clarke's fitness to practise remains impaired. In these circumstances, the Committee concluded that terminating the current suspension order would not be appropriate or sufficient for the protection of the public.

29. The Committee considered whether to replace the current suspension order with one of conditions. In so doing, it had regard to Miss Clarke's longstanding history of non-cooperation with these proceedings and noted that the concerns about her conviction and health have not been addressed. In these circumstances, the Committee was not satisfied that conditions were appropriate, workable or sufficient for the protection of the public.

30. The Committee determined, therefore, that it was necessary to maintain the current suspension order in order to protect the public and safeguard public confidence in the dental profession. However, the Committee considered that it would not be in the public interest for the suspension to be subject to a review in 12 months' time. The Committee noted that since November 2021 Miss Clarke has not responded to the GDC's requests for information [IN PRIVATE: Text omitted]. The Committee considered, therefore, that further reviews of Miss Clarke's suspension would be unlikely to serve any purpose.

31. Accordingly, the Committee directed that Miss Clarke's registration be indefinitely suspended. It was satisfied that the provisions of Section 36Q(1)(d)(i) and (ii) of the Act were met. It noted that this direction meant that a review of the order could only take place if Miss Clarke requests a review and a minimum of two years has elapsed since the direction took effect. Given the history of Miss Clarke's non-engagement with these proceedings, it was satisfied that this direction was appropriate and proportionate.

32. The effect of the foregoing direction is that, unless Miss Clarke exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect.

33. That concludes this hearing.