

## Hearing held in public

### Summary

<b>Name:</b>	<b>KERAI, Amit [Registration number: 249496]</b>
<b>Type of case:</b>	<b>Professional Conduct Committee (review)</b>
<b>Outcome:</b>	<b>Suspended indefinitely</b>
<b>Date:</b>	<b>5 May 2023</b>
<b>Case number:</b>	<b>CAS-189003-Z7P4T6</b>

1. This is a resumed hearing pursuant to section 27C of the Dentists Act 1984.
2. On 29 April 2021, the Professional Conduct Committee (PCC) found Mr Kerai's fitness to practise as a dentist to be impaired by reason of misconduct and directed that his registration be suspended for a period of 12 months with a review.
3. The finding of misconduct related to Mr Kerai's care and treatment of 19 patients between September 2016 and December 2017. In relation to some of these patients, he failed to diagnose caries, failed to treat caries adequately, maintained non-contemporaneous records, failed to maintain adequate records and failed to report on radiographs adequately. In respect of two patients, he also failed to obtain informed consent. Further, he failed to co-operate with an investigation conducted by the General Dental Council (GDC) by failing to provide a completed health assessment form between November 2019 and June 2020.
4. In finding Mr Kerai's fitness to practise to be impaired, the April 2021 initial PCC stated:

*"...the Committee noted that Mr Kerai had provided no evidence of remediation. It further noted that he had shown limited insight into his misconduct, although it noted that he had showed some element of remorse and reflection in the MDU's letter dated 3 April 2019. The Committee also noted that Mr Kerai's misconduct had placed a number of patients at the risk of harm and had failed to co-operate with his regulator.*

*The Committee considered therefore, without any evidence of remediation or full insight, that there is a significant risk that Mr Kerai could repeat the misconduct it has found. In the Committee's view a finding of impairment is necessary in the interests of public protection.*

*The Committee also determined that a finding of impairment was necessary in the wider public interest to maintain public confidence and uphold proper standards of conduct and behaviour. Mr Kerai's actions fell far below the required standard in fundamental areas of dentistry and he has shown limited insight into these serious failings. Furthermore, he has failed to co-operate with the GDC's investigation into his fitness to practise.*

*The Committee concluded that a reasonable and informed member of the public, fully aware of the facts of the case, would lose confidence in the profession and the dental regulator if a finding of impairment were not made in the circumstances of this case."*

5. When deciding upon a period of suspension for 12 months, the April 2021 PCC noted that Mr Kerai's clinical failings would be capable of remedy through conditional registration, but that: *"in the absence of evidence that Mr Kerai has shown full insight into his failings and his indication that he does not wish to work as a dentist the Committee concluded that imposing conditions on Mr Kerai's practice would not be workable or enforceable. It further noted that it has found that Mr Kerai has not co-operated with the GDC's investigation into his fitness to practise and therefore it was unlikely that he would co-operate with any conditions on his registration."*
6. The PCC reviewed the case on 13 May 2022 and found that Mr Kerai's fitness to practise continued to be impaired by reason of misconduct, stating:

*"...a number of clinical failings relating to multiple patients were found proved at the substantive hearing. The Committee also bore in mind that the burden was on Mr Kerai to demonstrate that his fitness to practise is no longer impaired. However, since that hearing, Mr Kerai has not meaningfully engaged with the GDC and submitted no evidence to demonstrate that he has remedied the failings or shown any insight into his misconduct. The Committee concluded, therefore, that there has been no change in the circumstances of the case and considered that there remains a risk of repetition of the failings found proved. The Committee determined that Mr Kerai's fitness to practise remained impaired on the grounds of public protection.*

*In relation to the public interest, the Committee concluded that, in the absence of any evidence of remediation and insight from Mr Kerai, public confidence in the profession would be undermined if a finding of impairment was not made. The Committee, therefore determined that Mr Kerai's fitness to practise remained impaired on the grounds of public interest."*

7. In relation to whether to replace the period of suspension with a period of conditional registration, the May 2022 PCC stated: *"...Mr Kerai has not meaningfully engaged with the GDC since the substantive hearing and therefore provided no evidence of remediation or insight. Mr Kerai has also stated to the GDC, in an email dated 4 May 2021, that he no longer has an interest in practising dentistry. In these circumstances, the Committee is not*

*satisfied that conditions would be appropriate, workable or sufficient for the protection of the public.”*

8. Accordingly, the May 2022 PCC directed that the period of suspension be extended by a further period of 12 months with a review.

*The resumed hearing 5 May 2023*

9. It is the role of the Committee today to undertake the review directed by the May 2022 reviewing PCC. Neither party was present at the hearing, which was conducted remotely using Microsoft Teams.
10. In its written submissions, the GDC requested that the hearing proceed in the absence of the parties and that the case be reviewed on the papers. Its position is that there continues to be a lack of engagement from Mr Kerai, that his fitness to practise continues to be impaired by reason of misconduct and that a direction for indefinite suspension is now appropriate.
11. There was no record before the Committee of any response or engagement from Mr Kerai regarding the hearing today. The last record of any contact from him was an email to the GDC’s Communications inbox on 6 July 2022. This was in reply to a generic email which the GDC had sent earlier that day with the subject line: *“Consultation on our strategic plans now open, annual renewal deadlines for DCPs, COVID-19 research, Dental Professionals Hearings Service launched.”* In his email reply, Mr Kerai simply stated: *“Kapos”*, which the Committee understands might be a term used to convey a sense of betrayal.
12. There was before the Committee a record of two earlier emails which Mr Kerai had sent to the GDC’s Case Review Team regarding these proceedings. Both emails were before the May 2022 reviewing PCC.
13. The first email was sent on 4 May 2021 and stated:

*“I have no interest [sic] in being a dentist. I’m sure you are aware I would have to pay back my insurance and registration for the years I have not worked. This would be £40k plus so this is not even an option for me and less so the longer I am off the register.*

*The GDC felt I was such a danger that I needed to stop working and I fully accepted this so I’m going for a career change so I can take care of my family in a more reliable manner.*

*If I had the financial support to withstand suspensions I would probably still be a dentist but this is not an option.*

*I don’t understand how you can recommend I re register without providing financial assistance. I am seeking legal recourse for defamation but I don’t want to go back into such a dishonest field.*

*I hope you understand and are using basic maths when you consider my options.”*

14. The second email was sent on 24 January 2022 and stated:

*“I can't afford the back payment for indemnity and GDC registration. Also my insurance increase after suspension makes this career economically unfeasible.*

*My only concern is the GDC admits they used forged evidence in my case and let's my off the register.*

*If no concerns are raised after the NHS admitted VES/TH forged and omitted [sic] documents please let me know.*

*I have informed the GDC of my empirical evidence of dishonesty for 3 years.*

*They still chose to publish forged defamatory statements and have no interest in clearing this up despite me providing evidence that the false claims are hindering my prospects in my current field.*

*I have no interest being under the supervision of a council that never admits to fault and therefore cannot learn an improve.*

*Please just respond to my FOI request about my complaint.”*

15. By email to the GDC on 11 April 2023, the Dental Defence Union (DDU), who had previously acted for Mr Kerai in these proceedings, stated that they “*have no instructions regarding this review hearing*”.

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

17. The first consideration for the Committee was whether the notification of hearing dated 28 March 2023 had been served in accordance with the requirements of the General Dental Council (Fitness to Practise) Rules 2006 (the “Rules”). The notification was sent to Mr Kerai at his registered address on 28 March 2023 by both first-class post and Special Delivery. Royal Mail ‘Track and Trace’ records that the Special Delivery item was delivered on 29 March 2023, signed for under the name “KERAI”.

18. A link to download a copy of the notification of hearing had also been sent by email on 28 March 2023 to: (i) Mr Kerai; and (ii) the DDU (part of the “MDU”) as his legal representatives. There was no record before the Committee confirming whether Mr Kerai had accessed the download link. There was a record of the DDU doing so and of their reply to the GDC on 11 April 2023, as quoted above.

19. The Committee was satisfied that the notification of hearing contained the required information under Rule 28 of the Rules, including the time, date and (remote) venue of the hearing. It informed Mr Kerai of his right to attend the hearing and/or to be represented and of the Committee's power to proceed in his absence. It also informed him of the GDC's proposal that the review be conducted on the papers and of his ability to "*provide the Committee with written submissions and any documents you feel are relevant to the review of your Order*".
20. The Committee was satisfied that the notification of hearing had been served on Mr Kerai in accordance with the requirements of Rule 65 of the Rules, by virtue of its being posted to his registered address.
21. Having satisfied itself of valid service, the next consideration for the Committee was whether to exercise its discretion to proceed with the hearing in Mr Kerai's absence. This was a discretion which was to be exercised with great care and caution.
22. The Committee was satisfied that the GDC had made all reasonable efforts to send notice of this hearing to Mr Kerai. There has been no response or engagement from him. He also had not attended his earlier two PCC hearings. Having regard to the entirety of the evidence available to the Committee, including the terms of Mr Kerai's two emails in May 2021 and January 2022, his history of non-engagement, the signed proof of delivery of the notification of hearing and the absence of any instructions to the DDU, the Committee determined that Mr Kerai was likely to be aware of the hearing today and that he had voluntarily absented himself.
23. There was no application from Mr Kerai or anyone acting on his behalf for a postponement of the hearing. There was nothing to suggest to the Committee that adjourning the hearing would make his attendance any more likely, whether prior to the expiry of the current period of suspension on 1 June 2023, or at all. The Committee was mindful of its duty to ensure the expeditious disposal of proceedings and of the need to review the case prior to 1 June 2023, so as to retain jurisdiction.
24. Taking account of all these factors, the Committee determined that it would be fair and in the public interest to proceed with the hearing today, notwithstanding the absence of Mr Kerai. The Committee further determined to proceed in the absence of the GDC and to review the case on the papers.
25. The Committee accepted the advice of the Legal Adviser on the review of the case.
26. The Committee considered that there continues to be a lack of any evidence of insight or remediation from Mr Kerai. His previous limited participation in these proceedings has now become complete disengagement. The terms of his two emails to the GDC on 4 May 2021 and 24 January 2022 demonstrated a degree of contempt for these proceedings and for the regulatory process of

the GDC. In that correspondence, rather than indicate any willingness to remedy the shortcomings in his practice, he stated that he no longer intended to practise as a dentist, seemingly in protest at the findings of April 2021 initial PCC. There was no subsequent evidence before the Committee of any change in Mr Kerai's position. Whilst he is at liberty to disagree with the findings of the PCC, there remains a persuasive burden on him to demonstrate to this reviewing Committee that he acknowledges the shortcomings identified in his practice by the April 2021 initial PCC and that he has taken steps to satisfactorily address them. Such steps might include written reflections, a Personal Development Plan addressing the identified areas of deficiency and targeted Continuing Professional Development (CPD) activity. There was no evidence before the Committee of any such steps.

27. In the absence of any evidence of insight, reflection or remediation, the Committee determined that there remains a significant risk of repetition in relation to Mr Kerai's clinical failings should he be allowed to resume practice without any restriction on his registration. The Committee further determined from Mr Kerai's level of engagement in these proceedings that there also remains a significant risk of repetition in relation to his failure to cooperate with the GDC. Accordingly, the Committee determined that there would be a real risk of harm to the public and to public confidence in the profession should he be allowed to resume practice without any restriction on his registration.
28. The Committee therefore determined that Mr Kerai's fitness to practise continues to be impaired by reason of misconduct.
29. The Committee determined that the restriction of Mr Kerai's registration remains necessary. There was nothing before the Committee to indicate that he would comply with any conditions on his registration, given his disengagement from these proceedings and the terms of his previous correspondence. The Committee noted, as have the previous PCCs, that Mr Kerai's failings, fundamental as they were, would be capable of remedy through a period of conditional registration. The issue is his lack of engagement and his stated lack of willingness to acknowledge and address the identified shortcomings in his practice.
30. The Committee therefore determined that the continued suspension of Mr Kerai's registration remains necessary and proportionate. The sanction of indefinite suspension is now available to the Committee. Having regard to Mr Kerai's stated position and his persistent lack of engagement, there was nothing to suggest that a reviewing Committee would be in any different a position in 12 months' time. There was nothing to suggest that Mr Kerai would engage or provide any evidence at all of remediation in the intervening period. A fixed period of suspension with further review hearing(s) would therefore serve no purpose in the Committee's judgement.

31. Accordingly, the Committee makes a direction for indefinite suspension, noting that it would be open to Mr Kerai to apply for a review of the suspension after two years, if he so wishes.
32. Accordingly, the Committee gives a direction for indefinite suspension.
33. That concludes this hearing.