

Hearing held in public

Summary

Name: KARIMI, Antoine Pooya [Registration number: 236276]
Type of case: Professional Conduct Committee (Review)
Outcome: Suspended indefinitely
Date: 23 May 2023
Case number: CAS-192244-R9N3L8

1. This is a resumed hearing before the Professional Conduct Committee (PCC) pursuant to section 27C of the *Dentists Act 1984 (as amended)* ('the Act'). Members of the Committee, the Legal Adviser and the Committee Secretary, are participating via Microsoft Teams in line with the General Dental Council's current practice of holding hearings remotely.
2. The purpose of this hearing has been for the Committee to review Mr Karimi's case and determine what action should be taken in relation to his registration. Neither party is participating in today's hearing, following a request for the review to be conducted on the papers via Microsoft Teams.
3. The Committee first considered the issues of service and whether to proceed with the hearing in the absence of Mr Karimi and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

Decision on service

4. The Committee considered whether notice of the hearing had been served on Mr Karimi in accordance with Rules 28 and 65 of the *General Dental Council (Fitness to Practise) Rules 2006 Order of Council* ('the Rules').
5. The Committee received from the GDC an indexed hearing bundle of 46 pages. The bundle contained a copy of the Notice of Hearing dated 28 March 2023 ('the notice'), which was sent to Mr Karimi's registered address. A copy of the notice was also sent to him by email. The Committee noted from the associated Royal Mail 'Track and Trace' receipt, also within the hearing bundle, that delivery of the notice letter had been attempted, however, the item was redirected to the sorting office, and was subsequently returned to sender. 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.
6. The Committee was satisfied that the notice sent to Mr Karimi complied with the required 28 day notice period. It was also satisfied that it contained proper notification of today's hearing, including its date and time, as well as confirmation that the hearing

would be held remotely via Microsoft Teams. Mr Karimi was further notified that the Committee had the power to proceed with the hearing in his absence.

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

Decision on whether to proceed with the hearing in the absence of Mr Karimi

8. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Mr Karimi. 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 explained in the cases of *General Medical Council v Adeogba [2016] EWCA Civ 162*. The Committee remained mindful of the need to be fair to both Mr Karimi and the GDC, taking into account the public interest in the expeditious review of this case.
9. The Committee noted from the Notification of Hearing letter of 28 March 2023 that Mr Karimi was asked to confirm by 12 April 2023, if there is any reason why this hearing should not proceed on the papers. The information before the Committee indicates that there has been no response from Mr Karimi. He has not provided a reason for his non-attendance, nor has he requested an adjournment.
10. It therefore concluded that he had voluntarily absented himself from today's proceedings. The Committee noted there was no information before it to indicate that an adjournment was likely to secure his attendance on a future date. It noted that Mr Karimi did not attend and was not represented at the initial hearing in May 2020. He did not engage with the GDC prior to the subsequent reviews in May 2021 and May 2022, which were both conducted on the papers.
11. In all the circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Mr Karimi and on the papers.

Background

12. Mr Karimi's case was first considered by a PCC at a hearing in May 2020. Mr Karimi did not attend that hearing nor was he represented in his absence.
13. A summary of the background to the case as follows:

- a. *...Mr Karimi had an unequivocal duty to cooperate with the investigation being conducted by the GDC and he clearly failed to do so over a prolonged period of time. Mr Karimi has failed to respond to any of the communications from his regulatory body and failed to provide evidence of his employment details or proof of his indemnity arrangements. The Committee considered that Mr Karimi's conduct has frustrated the GDC investigation into concerns relating to his practice and undermined the effectiveness of the GDC's role in professional regulation. The Committee had no doubt that this would be seen as deplorable conduct by fellow registrants and the public. In*

the Committee's view, Mr Karimi has breached a fundamental duty of his registration. It was satisfied that such a breach is serious and that it amounts to misconduct.

14. In finding impaired fitness to practise, the May 2020 PCC stated:

- a. *The Committee was satisfied that Mr Karimi's misconduct, as found in this case, is such that it is capable of being remedied. It considered that in order to demonstrate remediation, Mr Karimi would need to embark on meaningful engagement with the GDC, which would include an explanation for his lack of engagement to date.*
- b. *However, the Committee has received no information on Mr Karimi's current circumstances and importantly no evidence of insight on Mr Karimi's part. There is nothing before the Committee to suggest that he has any understanding of his duty to cooperate with the GDC, nor has he provided any reason for his failure to cooperate with his regulatory body in matters of significant importance. Whilst the Committee has not drawn any adverse inference from Mr Karimi's absence from this hearing, the current factual position is that Mr Karimi's lack of engagement is ongoing. The Committee viewed Mr Karimi's failure to provide evidence of his employment and indemnity as being particularly serious as it was required to ensure patient safety.*
- c. *The evidence before this Committee indicates a continuing pattern of non-engagement on Mr Karimi's and, in the absence of any evidence of insight or remediation, it considered that there is a likelihood that this could continue. Given that Mr Karimi's wrongdoing is of the kind that could potentially undermine the GDC's ability to effectively regulate the profession, the Committee considered that patient safety concerns do arise from the matters in this case. In the Committee's view, Mr Karimi's inaction demonstrates a disregard for the GDC's important role in the protection of the public. It therefore considered that a finding of impairment is necessary in the interest of public protection.*
- d. *The Committee also decided that a finding of impairment is in the wider public interest to maintain public confidence and uphold proper standards of conduct and behaviour. Mr Karimi has breached a fundamental standard required by his regulator and has to date shown no insight into this serious matter. The Committee considered that public confidence in the dental profession and its regulatory process would be undermined if a finding of impairment were not made in the circumstances of this case.*

15. The May 2020 PCC directed that Mr Karimi's name be suspended from the Register for a period of 12 months, stating that:

- a. *...a Committee reviewing Mr Karimi's case may find it helpful to receive the following:*

Evidence of his meaningful engagement with the GDC

A reflective piece demonstrating his insight and understanding of the impact of his misconduct, the wider public interest and his regulatory body

Any other evidence that he considers that the reviewing Committee may find of assistance in his case.

16. The review hearing was held on 28 May 2021. There continued to be no engagement from Mr Karimi and the May 2021 PCC found that his fitness to practise continued to be impaired, stating in its determination:

- a. *...The Committee notes that the Registrant has not provided any information to address the concerns that were identified by the PCC in May 2020, namely his failure to engage with the GDC and to cooperate with the GDC's investigation. Mr Karimi has been*

afforded an opportunity to provide evidence to the GDC and engage in these proceedings and provide evidence that his clinical failings have been remediated. There has been no evidence of any meaningful engagement since the last PCC hearing. In the absence of such evidence, including insight and reflection into his failings, the Committee has concluded that there remains a risk of repetition of the matters of concern of the PCC in May 2020. Accordingly, it has determined that Mr Karimi's fitness to practise remains impaired by reason of his misconduct.

17. The May 2021 PCC directed that the suspension be extended by a further period of 12 months with a review, stating:

- a. *The order of suspension will be reviewed shortly before the expiry of the order. That Committee will consider what action it should take in relation to Mr Karimi's registration. This Committee recommends that a future Committee reviewing the order may be assisted by evidence of Mr Karimi having addressed the areas of deficiency in his practice, as outlined above.*

18. A further review of the suspension order was undertaken by the PCC on 26 May 2022. Mr Karimi was neither present nor represented on that occasion. That PCC determined that:

- a. *For the same reasons expressed by both the initial and last reviewing PCCs, the Committee determined that Mr Karimi's fitness to practise continues to be impaired by reason of his misconduct. This is because there continues to be no response or engagement from him and therefore no evidence whatsoever of any insight or remedial steps taken to address the misconduct found by the initial PCC in May 2020. A finding of current impairment remains necessary for the protection of the public and in the wider public interest, in order to maintain public confidence in the profession and in the GDC as regulator.*

19. The PCC determined that the suspension be extended by a further period of 12 months on Mr Karimi's registration.

Today's review

20. Today is the third review. In comprehensively reviewing this case today, the Committee considered all the evidence presented to it. It took account of the written submissions provided by the GDC. The Committee accepted the advice of the Legal Adviser. No written representations were provided on behalf of Mr Karimi.

21. In its written submissions, the GDC submits that there is no evidence to show any material change in position since the last hearing. Mr Karimi has failed to engage with the GDC despite many attempts to contact him. Mr Karimi has not provided the GDC with any reflections or evidence of remediation. Therefore, the GDC submits that Mr Karimi's fitness to practise remains impaired by reason of his misconduct. In relation to sanction, the GDC submits that it would be appropriate and proportionate to consider imposing an indefinite suspension on Mr Karimi's registration. Mr Karimi has been suspended for more than two years from the date in which the direction will take effect.

Decision on impairment

22. The Committee considered whether Mr Karimi's fitness to practise remains impaired by reason of his misconduct. In doing so, it exercised its own 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.
23. The Committee noted that at the initial PCC hearing in May 2020, the PCC on that occasion found that the original record keeping concerns did not give rise to impairment of Mr Karimi's fitness to practise. The finding of impairment on that occasion was based solely on Mr Karimi's failure to cooperate with the GDC's investigation. The committee further noted that Mr Karimi has not engaged with the GDC at any stage of this hearing.
24. The Committee notes that since the last review hearing in May 2022 the GDC emailed Mr Karimi on 26 May 2022 to inform him of the outcome. On 31 May 2022 and 24 June 2022, the GDC further contacted Mr Karimi to remind him of the recommendations made by the previous reviewing Committee and stated *"In light of the possible date of your review hearing, I would be grateful if you would submit the aforementioned evidence to me, if you wish to do so, by **27 April 2023**".* The Committee notes that here has been no response from Mr Karimi.
25. The Committee went on to consider whether Mr Karimi's fitness to practise is still impaired by reason of his misconduct. It bore in mind that at a review hearing the onus is on the registrant to demonstrate that their fitness to practise is no longer impaired. There is no evidence before this Committee that Mr Karimi has recognised the seriousness of his misconduct, demonstrated insight or provided any information as recommended to him by previous reviewing PCCs. It also notes that Mr Karimi 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 Karimi's lack of insight and remediation the Committee considers that Mr Karimi's fitness to practise remains impaired by reason of his misconduct.

Sanction

26. The Committee next considered what direction, if any, to make. It has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (Effective October 2016, revised December 2020).
27. The Committee has borne in mind the principle of proportionality, balancing the public interest against Mr Karimi's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct and performance within the profession.
28. The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to terminate it with immediate effect. Given Mr Karimi's lack of engagement with the GDC and the absence of any remediation or insight into

his misconduct, the Committee has concluded that it would not be appropriate to terminate the current order or to allow it to lapse.

29. The Committee next considered whether a period of conditional registration would be appropriate in this case. It considered that conditional registration would not be workable, appropriate, or proportionate, and that conditions could not be formulated to address concerns about a failure to cooperate with a regulatory investigation. Further, even if the Committee could formulate appropriate and workable conditions there would need to be some measure of positive engagement from Mr Karimi. To date, he has not meaningfully engaged with the GDC or provided any evidence of remediation, despite being given ample opportunity to do so. In these circumstances, the Committee has concluded that replacing the suspension order with a conditions of practice order would not be workable or appropriate.
30. The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It has borne in mind Mr Karimi's lack of engagement with the GDC over a sustained period of time. Mr Karimi has not attended any of his previous hearings and has not provided any information as set out in all the previous PCC's recommendations. The Committee also notes that this matter has been on-going since 2020. In these circumstances, the Committee has concluded that a further time limited period of suspension is unlikely to achieve his engagement or delivery of material requested to assist any future Committee, and would represent a disproportionate use of the GDC's resources. The Committee concluded therefore in these circumstances an indefinite period of suspension is the appropriate and proportionate outcome and is required in order to maintain public protection and to maintain confidence in the profession. It therefore directs that Mr Karimi's registration be suspended indefinitely. The Committee noted that indefinite suspension would leave the option open to Mr Karimi to reengage with his regulator in the future if he wishes to do so. It would therefore be proportionate.
31. The effect of the foregoing direction is that, unless Mr Karimi exercises his right of appeal, his registration will be suspended indefinitely from the date on which the direction takes effect; he will not be able to seek a review until at least two years have elapsed from that date.
32. That concludes this hearing.