

PRIVATE HEARING**Professional Conduct Committee
Initial Hearing****26-27 September 2023****Name:** Prais, Richard Frank Steven**Registration number:** 64160**Case number:** CAS-196395-Z8V9M3

General Dental Council: Mr Callum Munday, Counsel
Instructed by IHLPS**Registrant:** Present
Represented by Ms Horlick, counsel.
Instructed by Kennedys Law

Fitness to practise: Impaired by reason of conviction**Outcome:** Erased**Immediate order:** Immediate suspension order

Committee members: Jill Crawford
Arif Sadikot
Jenny Griffiths**Legal adviser:** Valerie Paterson**Committee Secretary:** Jamie Barge

Mr Prais

The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Microsoft Teams in line with current GDC practice. You are present via Microsoft Teams in this hearing. You are represented by Ms Fiona Horlick. Mr Callum Munday, Counsel, for the GDC also attended via Microsoft Teams.

1. The Committee has carefully considered Ms Horlick's application to postpone today's hearing and Mr Munday's submissions. It has accepted the advice of the Legal Adviser.

2. **[IN PRIVATE]**.

Private information

3. In light of the private and sensitive nature of some of the information before it, relating to your health, the Committee decided to produce both a private and a suitably redacted public version of its determination.
4. The Committee having received and accepted legal advice considered that it would be fair to allow Ms Horlick to make her application now.
5. Ms Horlick then made an application to postpone the matter. She submitted that your PCC hearing was originally scheduled for one day in January 2023 but was adjourned due an application made by your defence Counsel for a number of reasons. At that stage there was an agreed defence bundle, ready to be put before that Committee, **[IN PRIVATE]**. In January 2023 there was no objection raised by the GDC in relation to your defence bundle. Ms Horlick submitted that bundle in January 2023 is almost identical to the one proposed to be put before this Committee today. However, Ms Horlick submitted that to her huge surprise this morning, she finds that the GDC today objects to the admissibility of some of your defence bundle, **[IN PRIVATE]**. She submitted that until this morning, there had been no indication of the GDC's revised stance on your defence bundle, who have been in possession of the bundle since January 2023. She submitted that this is unfair on you. Therefore, she submitted that a postponement is necessary and fair to obtain expert reports from them both and for efforts to be made for them both to attend in person to give oral evidence. Ms Horlick also indicated a concern about starting this hearing and adjourning part heard.
6. Mr Munday on behalf of the GDC opposed the postponement application. He submitted these part of these two documents should not be admissible to this Committee as parts of their letters contain inappropriate comments relating to opinions to insight, remorse, propensity to criminality and fitness to practise. He submitted that the defence are not willing to make redactions to these letters. They both give opinions in the form of a letter, in the context of them being asked to do so, rather than making expert conclusions in expert reports. Mr Munday submitted that they are not independent experts. Mr Munday submitted that even if reports were produced, they would not be admissible as expert reports, as the authors are not acting in an independent professional capacity. Mr Munday submitted that the GDC would agree to the defence bundle subject to the redactions as proposed by the GDC.
7. The Committee received and accepted legal advice, including that admissibility is a matter for this Committee to decide upon. The Committee is satisfied that it is in the interests of justice to allow these two documents unredacted. It noted that these two documents do not go to the question of fact, but to the issue of current impairment on which the Committee will exercise its own independent judgement.
8. **[IN PRIVATE]**. The Committee accepted the legal advice that these are not expert reports. The Committee notes the GDC guidance on what forms of evidence this Committee can accept these in the format that they have been presented. It will decide

at a later stage what weight it will place on these two documents.

9. In respect of the application to postpone by Ms Horlick, it noted that this involves a conviction of a serious matter. Your hearing has already been postponed in January 2023, regarding indexed events that occurred a long time ago. Therefore, the Committee is satisfied in the public interest for this matter to proceed.
10. The Committee, in reaching its decision and balancing the interests of the GDC and you, considered that it is fair for both parties in the circumstances to reject the application to postpone the hearing today and to admit the two documents unredacted.

Admissions

11. The Committee notes that a formal admission has been made in this case by you.

Decision and reasons on the facts

12. The Committee considered all the evidence presented to it. The Committee accepted the advice of the Legal Adviser. It considered head of charge 1, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged facts are proved on the balance of probabilities. You are not required to prove anything.

Background

Information was received from the Metropolitan Police Online Child Abuse and Sexual Exploitation Team. The information provided by the police was that *"intelligence indicated that Mr Prais had engaged in sexual communications online, with a 13-year-old female. It is known that Mr Prais did not know the female. Information indicated that Mr Prais used his mobile phone from his home address and from a Dental practice to engage in sexual communications for the purpose of sexual gratification. On the 2nd of February 2021, Richard Prais was interviewed at the Police Station and made a no comment interview. Following interview, Richard Prais was released from the Police Station under investigation pending forensic examination of the devices that were seized from his home address.*

You were charged on 22 July 2021 with attempting to engage in sexual communication with a child between 25 November 2020 and 27 January 2021 contrary to Section 1(1) of the Criminal Attempts Act 1981. Furthermore, you were asked to appear at Willesden Magistrates Court on 20 August to answer this charge. You later pleaded guilty to this charge on 17 September 2021. On 29 October 2021, Mr Prais was sentenced to four months' imprisonment, suspended for 12 months, and placed on the Sex Offenders Register for a period of seven years. Additionally, he was made the subject of a Sexual Harm Prevention Order for a period of five years. You were ordered to pay a victim surcharge of £128.

Evidence

13. The Committee received the Certificate of Conviction and accompanying documents including the letter from the Disclosure and Barring Service and disclosures from the Police including the MG5 Case File Summary.
14. The Committee's finding in relation to the head of charge is as follows:
15. **Charge 1**

On 17 September 2021, you were convicted at Willesden Magistrates Court of attempting

to engage in sexual communication with a child, on 02 February 2021, under s.15a(1) of the Sexual offences Act 2003.

ADMITTED AND FOUND PROVED.

The Committee was satisfied that the certified copy of the conviction is a reliable document.

Preliminary matters

16. At the outset of the hearing Mr Munday made an application under Rule 18 to amend Head of charge 1 by changing the name of the Court to Willesden Magistrates Court. No objection was made by Ms Horlick. The Committee having received and accepted legal advice, was satisfied that no injustice would be caused to either party by accepting the amendment. Head of Charge 1 was accordingly amended.

Private information

17. In light of the private and sensitive nature of some of the information before it, relating to your health, the Committee decided to produce both a private and a suitably redacted public version of its determination.

Decision on fitness to practise

18. The Committee's task at this second stage of the hearing has been to consider whether your fitness to practise is currently impaired by reason of your conviction. It noted that if it found current impairment, it would need to consider the issue of sanction. In reaching its decisions, the Committee considered all the evidence presented to it at the fact-finding stage.
19. The Committee took account your oral evidence as well as the submissions made by Mr Munday and Ms Horlick in relation to impairment and sanction. It accepted the advice of the Legal Adviser. The Committee noted that there is no burden or standard of proof at this stage of the proceedings, and that its decisions were for its own independent judgement.
20. You gave oral evidence to the Committee and stated that you regret deeply what you have done. You accept that you are guilty of this offence. You stated that you are a committed dentist, and that during the time there were considerable stresses in your life and you were mindlessly talking to women on an online app. You stated that you did not have any genuine interest in children and this was an escape from the real world and your personal issues.
21. You stated that you now understand how you arrived in that situation and you were chasing excitement. You have now learned how to control your rational mind. You stated that your conduct was totally out of character and you are not a danger to anyone. You understand your actions have brought the dental profession into disrepute and you will never repeat your conduct again. You stated that it would not be in the public interest in you being removed from the dental register. It was a one off and you have a lot to give to the dental profession.

Summary of the submissions made by both parties.

22. In accordance with Rule 20(1)(a) of the *GDC (Fitness to Practise) Rules 2006 Order of Council*, Mr Munday confirmed that you have no fitness to practise history before the GDC.
23. It was Mr Munday's submission that this case involves a conviction and that your fitness

to practise is impaired under the Dentists' Act 1984 Section 27 (2) (d) by reason of your conviction. He submitted a finding of impairment is necessary on the grounds of public interest and public protection. Mr Munday submitted that the conviction involved an extremely serious offence. He submitted that communicating with a child is a form of child grooming and child abuse. The offence for which you have accepted and pleaded guilty has a clear potential to bring the profession into disrepute.

24. Mr Munday submitted that your conviction requires a finding of impairment on public interest grounds. He submitted that although there was no actual harm, it was an attempt to communicate sexually to what you thought was a 13-year-old girl. You identified yourself as a dentist in the course of sexually explicit messages and sent at least one photo of you at your practice in scrubs. Mr Munday submitted that public interest is necessary to uphold confidence and to uphold trust.
25. It was Mr Munday's submission that a finding of current impairment in this case is necessary in the wider public interest. Mr Munday submitted that, given the serious nature of your offence, public confidence in the dental profession and the regulatory process would be undermined if a finding of impairment were not made in all the circumstances.
26. Mr Munday invited the Committee to consider whether you present a risk to the public. He submitted that you still deny that she was 13 years old at that time and that you were seeking sexual gratification; your denial of these facts is at odds with the guilty plea you entered at Court. Mr Munday submitted that there remains a risk of repetition given your lack of insight, and that a finding of impairment is required on the grounds of public protection.
27. In relation to sanction, Mr Munday reminded the Committee of the GDC's Indicative Sanctions Guidance (October 2016 revised December 2020) (the GDC's sanctions guidance). Mr Munday submitted that this was a serious offence. He submitted that there are deep seated attitudinal issues. You still deny that there was any sexual gratification on your part. Mr Munday submitted that given the nature of your offending, your denial and lack of insight, the GDC's position was that the only appropriate and proportionate sanction in this case is erasure, in order to protect the public and to maintain public confidence in the profession.
28. Ms Horlick submitted that whilst you accept the issue of current impairment in the grounds of public interest, you do not accept that a finding of impairment is required for the protection of the public.
29. Ms Horlick submitted that the period in which you sent these messages was short. Throughout the 8 days you were chatting with the 13-year-old girl, there was no suggestion of meeting in real life, and in fact you stopped communicating and did not respond to her again. She submitted that this was all on-line and no actual harm was caused. Ms Horlick submitted that there is no evidence to suggest a widespread sexual interest in children. She submitted that the Committee must take into account the comments of the Crown Court judge who stated that the chance of re-offending is zero. She submitted that this was the basis of her hand written notes taken due to the High Courts recording system not working that day. Ms Horlick submitted that these events occurred during the Covid pandemic and you were under significant stress at that time.
30. Ms Horlick submitted that **[IN PRIVATE]** You have taken a long-standing course of remediation. Ms Horlick submitted that testimonials from colleagues and patients who hold you in high regard as a dedicated clinician. She submitted that what happened over that 8-day period was a complete one-off and was out of character. Ms Horlick submitted that there is no risk of repetition and that a finding of impairment for protection of the public is not required.
31. Ms Horlick submitted that this is a case of impairment that rests on the issue of public

interest and sending a message of maintaining standards.

32. Ms Horlick submitted that in respect of sanction, she submitted that all the mitigating factors identified in the GDC's guidance are present in this case, and that none of the aggravating factors are. Ms Horlick submitted that a long period of suspension would be proportionate with appropriate recommendations.
33. Ms Horlick accepted that while your conviction is serious, a period of suspension would be adequate to meet the public interest. A sanction of erasure would be disproportionate and would not serve the public interest in depriving the public of a skilled dentist.

Decision on impairment by reason of your conviction

34. The Committee next considered whether your fitness to practise is currently impaired by reason of your conviction. 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.
35. The Committee considered the evidence before it including the Certificate of Conviction. It noted that the sentence of 4 months imprisonment was suspended for 12 months. The Committee carefully assessed the nature and gravity of your criminal conduct which led to your conviction and the nature of the sentence imposed on you. The seriousness of the offence was reflected in the sentence of suspended imprisonment by the Court.
36. The Committee noted that you were sentenced on 29 October 2021 to a 4 months suspended prison sentence and subject to a Sexual Harm Prevention Order for five years to 28 October 2026. You are also placed on the Sex Offender Register for seven years to 2028. The purpose of this requirement is to secure public protection from those who have committed serious offences. On 27 July 2022 the Disclosure and Barring Service (DBS) informed the GDC that you are also subject to exclusion from the children's list and the adults list. You have also has been removed from the NHS performers list.
37. The Committee then considered whether a finding of impairment is required for the purposes of declaring and upholding proper professional standards of conduct and behaviour and maintaining public trust and confidence in the profession. In view of the serious nature of your criminal conduct, the Committee considered that public confidence and professional standards would be seriously undermined in the absence of such a finding. The Committee notes that this was for a serious sexual offence involving a person pertaining to be a 13-year-old girl, whom you attempted to groom for sexual gratification. You sent sexually explicit messages and photos of yourself. You also encouraged the person pertaining to be a child to send explicit images, directed her to touch her clitoris and asked her "*would you like to see my cock?*". In the course of these exchanges you identified yourself as a dentist. Other comments included "*I would love to see your panties too*", "*Show me your body z*", "*wanna play with me*", "*We need to send naughty pics are you up for that*", "*I want to see you nearly naked*", "*do you want to see my cock*". "*I would love to see your tits... I don't care if they are small*", "*do you have a lovely bush...would love to see*".
38. The Committee is satisfied that your behaviour has brought the reputation of the profession into disrepute. In the Committee's judgement public trust and confidence in the profession, and in the regulator, would be seriously undermined if a finding of impairment were not made in the particular circumstances of this case. In that respect, the Committee considered that your conviction is serious and that a finding of current impairment is necessary to maintain public trust and confidence in the profession, and to declare and uphold proper standards.

39. The Committee next considered whether you are impaired on the grounds of public protection. The Committee also took into account that **[IN PRIVATE]** The Committee has also taken note of your reflective statement together with the testimonials submitted on your behalf from colleagues and friends. Those positive testimonials attest to you being a valued dental professional in your area.
40. The Committee considered the probation report dated 29 September 2021 which stated that you were a “*MEDIUM risk of reoffending*”. The Committee carefully considered your oral evidence in relation to your offending behaviour. You repeatedly stated that you did not believe the person you were communicating with was 13. You maintained that what you did was not for sexual gratification. The Committee noted that this was at odds with your guilty plea at Crown Court.
41. The Committee did not accept these assertions based on the evidence of the messages before it. It took into account that you asked the child to send a message with an image of herself to you, to which you replied, “you *really are young*” and “send me *naughty pics*”. At a later date in the exchange, having identified yourself as a dentist, you asked “are you *really 13*”. To which she replies “*yeah why*”. Your response was “lets get naughty” and “we need to send each other *naughty pics*”. Throughout the 8-day period, you continued to send explicit messages together with photos of a sexual nature, one of which showed you naked covering your genitals with your hand. The Committee noted that your oral evidence to this Committee was in essence unchanged from interviews with your probation officer in 2021, in that you consistently asserted that you were not convinced that she was a child or that your behaviours were for sexual gratification. You stated in oral evidence that you were only a danger to yourself and failed to recognise the danger you posed to children or the sexual aspect of your behaviour.
42. The Committee noted that in your witness statement and in oral evidence you repeatedly apologised for communications with a child but failed to acknowledge the sexual nature of that communication. Your reflections focused on the challenges for yourself, your family and the practice but make very little mention of the potential impact on children of your offending behaviour.
43. The Committee considers that you have failed to demonstrate appropriate and sufficient insight and reflection for your conduct. **[IN PRIVATE]**. You have repeatedly apologised for your conduct and referred to your behaviour as vile and repugnant. However, to date you have failed to accept the core component of your wrongdoing, namely that your communication with a person pertaining to be 13 years old was for sexual gratification. You have displayed sexualised behaviour towards a child and still refuse to accept what you have done. The Committee was of the view that your failure to recognise the sexual aspect of your behaviour was deep seated and attitudinal, having prevailed from the probation report in 2021 until this day. The Committee considers that this is therefore difficult to remedy. Given the lack of meaningful insight, the Committee cannot be satisfied that the risk of repetition is low. Further without full insight, the Committee is not satisfied that you can have true remorse.
44. The Committee has borne in mind that its primary function is to protect patients and the public including the dental team. It has also taken into account the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator and upholding proper standards and behaviour. The conviction in this case was, in the view of the Committee, sufficiently serious to warrant a finding of impairment both on the grounds of public protection and the wider public interest.
45. Accordingly, the Committee determined that your fitness to practise is currently impaired by reason of your conviction.

Decision on sanction

46. The Committee considered what sanction, if any, to impose on your registration. It noted that the purpose of any sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest. In reaching its decision, the Committee had regard to the Guidance. It applied the principle of proportionality, balancing the public interest with your own interests.
47. In deciding on the appropriate sanction, the Committee first considered the mitigating and aggravating features of this case. It identified the following in mitigation:
 - You have no fitness to practise history;
 - Evidence of previous good character and also good conduct following your conviction;
 - Evidence of engagement with GDC and your probation officer.

The aggravating factor that the Committee considered to be present in this case is that:

- The conviction involved a serious offence which would have been likely to cause serious harm to a vulnerable child, had it not been a police officer pertaining to be a child;
 - Your premeditated conduct;
 - Breach of trust;
 - Involvement of a vulnerable child;
 - Conduct repeated;
 - Attempts to cover up the wrongdoing in that you deleted the app used to communicate with the 'child' while refusing police entry to your home;
 - Lack of meaningful insight.
48. Taking all of the above into account, the Committee then considered the available sanctions, starting with the least restrictive, as it is required to do.
 49. The Committee first considered whether to conclude this case without taking any action in relation to your registration. It decided, however, that such an outcome would be wholly inappropriate given the gravity of the conviction. Taking no action would not serve to satisfy the wider public interest.
 50. For the same reasons, the Committee concluded that issuing you with a reprimand would not be proportionate or sufficient to maintain the wider public interest. The Committee did not consider that a reprimand would be sufficient to reflect the seriousness of your criminal conduct.
 51. The Committee considered whether to impose conditions on your registration. It took into account, however, that conditions are usually imposed to address issues relating to a registrant's clinical practice. It concluded that it could not formulate any workable conditions given the serious nature of this case. The Committee therefore determined that conditional registration would not be appropriate or proportionate. An order of conditions would not uphold the wider public interest.
 52. The Committee next considered whether to suspend your registration for a specified period. It had regard to the Guidance at paragraph 6.28, which outlines factors to be considered when deciding whether the sanction of suspension in more serious cases may be appropriate.
 53. The Committee noted that these points apply in this case and concluded that there was evidence of harmful deep-seated and attitudinal problems in that you persistently denied to both your probation officer and the GDC that the sexually explicit messages you sent to a 13-year girl was for sexual gratification. The Committee considers that a suspension order would be insufficient in this case. You directed your inappropriate and sexually motivated behaviour towards a vulnerable 13-year-old girl. The Committee concluded that

you have failed to demonstrate adequate insight into the seriousness of your actions, or the potential consequences. The Committee is in no doubt that your sexually motivated behaviour, was wholly unacceptable and seriously damaging to the reputation of the profession and to the public's confidence in the dental profession.

54. The Committee considered the guidance in relation to considering imposing a sanction of erasure. In particular:

The ability to erase exists because certain behaviours are so damaging to a registrant's fitness to practise and to public confidence in the dental profession that removal of their professional status is the only appropriate outcome. Erasure is the most severe sanction that can be applied by the PCC and should be used only where there is no other means of protecting the public and/or maintaining confidence in the profession.

Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion:

[specifically]

- *serious departure(s) from the relevant professional standards;*
- *potential harm to patients or other persons has occurred, either deliberately or through incompetence;*
- *where a continuing risk of serious harm to patients or other persons is identified;*
- *the abuse of a position of trust or violation of the rights of patients, particularly if involving vulnerable persons;*
- *where a continuing risk of serious harm to patients or other persons is identified;*
- *conviction and findings of a sexual nature;*
- *a persistent lack of insight into the seriousness of actions or their consequences.*

55. In all the circumstances of this case the Committee concluded that the findings against you are so serious as to be incompatible with you remaining on the GDC register. The Committee concluded that the only proportionate sanction is that of erasure. You have been convicted of criminal behaviour which posed a serious risk of harm to children. Further you have demonstrated deep-seated attitudinal issues, by failing to accept the core aspect of your offending behaviour, namely that you attempted to engage in sexual communication with a child for your own sexual gratification.

56. The Committee considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standards of conduct required of a registered dental professional at all times. It further considered that an order of erasure is necessary to protect the public from risk of harm.

57. The Committee was aware that the effect of this order is that you will be prevented from working as a registered dental professional using a GDC registration. This could result in financial hardship, though the Committee received no direct information about that matter. However, in applying the principle of proportionality, the Committee determined that your

interests in this regard are outweighed by the need for public protection and protection of the wider public interest.

58. As a result of the Committee's decision, your name will be removed from the dentists register.
59. The Committee now invites submissions from both parties as to whether your registration should be suspended immediately.

Immediate Order:

60. Having directed that your name be erased from the register, the Committee had to consider, in accordance with rule 22(2), whether to impose an immediate order to cover the appeal period, or until any appeal against the outcome is heard.
61. The Committee has considered the submissions made by Mr Munday. Ms Stephenson, who was acting in Ms Horlick absence indicated that she had no submissions to make to the Committee.
62. The Committee accepted the advice of the Legal Adviser.
63. The Committee was satisfied that an immediate order of suspension was necessary to protect the public and also to protect the public's confidence in the profession and in the GDC as the regulator. The Committee considered that, in all the circumstances, public confidence in the profession and in the GDC as its regulator would be undermined if an immediate order of suspension were not imposed. The Committee concluded that, having determined that your behaviour was fundamentally incompatible with you remaining on the register, to allow you to remain on the register unrestricted during the appeal period would be inappropriate with the totality of its findings, particularly the lack of meaningful insight prevalent in this case.
64. If, at the end of the appeal period of 28 days, you have not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of erasure. If you do lodge an appeal, this immediate order will continue in effect until that appeal is determined.
65. Unless you exercise your right of appeal, your name will be erased from the register 28 days from the date on which this determination is deemed to have been served upon you.
66. The interim order on your registration is hereby revoked.
67. That concludes the case.