

PUBLIC HEARING**Professional Conduct Committee
Review Hearing****5 December 2024****Name:** LAM, Xiang Yao**Registration number:** 283795**Case number:** CAS-195352

General Dental Council: Sam Thomas, counsel
Instructed by Sarah Barker, IHLPS**Registrant:** Chris Gillespie, counsel
Instructed by Jennie Henderson, MDDUS

Fitness to practise: Impaired by reason of misconduct and deficient professional performance**Outcome:** Conditions extended (with a review)**Duration:** 18 months

Committee members: Val Evans (Lay) (Chair)
Katherine Barrett (Dental Care Professional)
Caitriona Walsh Gerber (Dentist)**Legal adviser:** Conor Heaney**Committee Secretary:** Gareth Llewellyn

1. This is a resumed hearing of the Professional Conduct Committee (PCC). The hearing is being conducted remotely using Microsoft Teams in line with the Dental Professionals Hearings Service's current practice.
2. You are present and are represented by Chris Gillespie of counsel, instructed by Jennie Henderson of the Medical and Dental Defence Union of Scotland (MDDUS). Sam Thomas of counsel, instructed by Sarah Barker of the GDC's In-House Legal Presentation Service, appears for the GDC.

Purpose of hearing

3. The purpose of today's hearing is to review a substantive direction of conditions that was imposed on your registration by the PCC on 5 January 2024. The hearing is being held in accordance with section 27C of the Dentists Act 1984 (as amended) ('the Act').

Existing order

4. In December 2022 the PCC held a hearing of inquiry in relation to allegations about your fitness to practise. You were not present at the hearing, and were not represented in your absence. The allegations that the Committee found proved were summarised in the following terms:

'The Committee's findings relate to Mr Lam's care of a number of patients in the overall period of August 2019 to June 2020. The Committee has found that Mr Lam failed to provide an adequate standard of care to patients in relation to the specific areas of diagnostic assessment, patient advice and communication, extractions, restorations, periodontal disease, radiography, onward referrals, informed consent, record-keeping and aftercare practice. The Committee has also found that Mr Lam failed to treat a patient with kindness and compassion in behaving in an unprofessional manner, and that he failed to treat another patient with dignity and respect because of comments that he made about that patient.'

5. That Committee went on to determine that your fitness to practise was impaired by reason of misconduct and deficient professional performance. That Committee also considered that a finding of impairment was required in the wider public interest. The Committee directed that your registration be suspended for a period of 12 months, with a review hearing to be convened prior to the end of that period of suspended registration.
6. On 5 January 2024 the PCC reviewed your suspension. It determined that your fitness to practise remained impaired by reason of misconduct and deficient professional performance, but that the extant direction of suspended registration should be replaced by a direction of conditional registration for a period of 12 months, again with a review hearing to take place before the end of that period.
7. It falls to this Committee to review the extant conditions.

Documentary information presented at hearing

8. The Committee has been provided with documentary information in relation to its review. This information includes correspondence pertaining to your compliance with the conditions to which your registration has been subject, your personal development plans (PDPs), a log of continuing professional development (CPD) that you have undertaken, a reflective statement

from you, your curriculum vitae (CV), testimonials from colleagues and patient feedback forms.

Submissions

9. Mr Thomas on behalf of the GDC submitted that, although the GDC is content with the insight that you have shown into your misconduct and deficient professional performance, it considers that you have not demonstrated sufficient remediation for the Committee to find that your fitness to practise is no longer impaired. Mr Thomas invited the Committee to extend the existing direction of conditions by 18 months.
10. Mr Gillespie on your behalf submitted that you agree that a further period of conditional registration would be appropriate. Mr Gillespie submitted that, although the existing conditions have not taken practical effect because you are currently working and residing overseas, you have done your utmost to at least abide by the spirit of the conditions.

Committee's determination

11. The Committee has carefully considered all the information presented to it, including the submissions of Mr Thomas on behalf of the GDC and those of Mr Gillespie on your behalf.
12. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020). The Committee has accepted the advice of the Legal Adviser concerning its powers and the principles to which it should have regard.

Impairment

13. The Committee has determined that your fitness to practise remains impaired by reason of misconduct and deficient professional performance. The Committee considers that you have demonstrated a considerable amount of insight into your identified failings. This includes your detailed, careful and focussed reflections and your ongoing learning, and supportive testimonial letters submitted on your behalf. However, the Committee considers that you have not had the opportunity to remedy in full your clinical shortcomings, due to the fact that the conditions of practice that have been imposed can only be fulfilled if you are practising in the UK. The Committee therefore considers that a repeat of your identified failings cannot be said to be highly unlikely to occur, and therefore an ongoing risk to the public cannot be discounted. Accordingly, your fitness to practise remains impaired.
14. The Committee also considers that a finding of impairment is also required in the wider public interest in order to declare and uphold proper professional standards of conduct and behaviour and to maintain public trust and confidence in the profession. The Committee considers that a reasonable and informed member of the public would be surprised and troubled if a finding of impairment were not made in the particular circumstances of this case.

Sanction

15. The Committee next considered whether it would be appropriate to revoke the existing conditions, or to replace the conditions with a direction of suspended registration.
16. After careful consideration the Committee determined that a further period of conditional registration is the appropriate and proportionate sanction to impose in the particular and present circumstances of this case. The Committee considers that the public protection and wider public interest considerations that it has identified continue to be capable of being met

by the existing conditions. In the Committee's judgement the specific extant conditions remain appropriate, and it is therefore content for those conditions to continue in their present terms.

17. The Committee hereby directs that your registration remains subject to conditions for a further period of 18 months, beginning on the date on which the existing direction of conditions would otherwise expire. The Committee also directs that a review hearing take place prior to the end of that extended period of conditional registration. The Committee considers that a further period of 18 months is proportionate and appropriate, as it considers that such a period of time is likely to be necessary for you to continue and conclude the process of remediation.
18. Having determined that a further period of conditional registration is the appropriate and proportionate sanction to impose, the Committee considered that a period of suspended registration would be disproportionate.
19. The Committee has corrected a typographical error at condition (20), which previously referred in error to audits provided for at condition (18). That reference has been corrected so that it now refers to condition (19). The Committee does not consider that this amounts to a variation of the conditions.
20. The conditions, as they will continue to appear against your name in the register, are as follows:
 1. *He must inform the GDC within 7 days of his return to the UK for the purpose of practising dentistry. The following conditions can only be fulfilled in the UK and the monitoring of his compliance of these conditions will start from the date of his return for that purpose.*
 2. *At any time he is employed, or providing dental services, which require him to be registered with the GDC, he must notify the GDC within 7 days of any post he accepts for which GDC registration is required and the Commissioning Body/ Local Health Board on whose Dental Performers List he is included.*
 3. *At any time he is employed, or providing dental services, which require him to be registered with the GDC he must provide the GDC with contact details of his employer within 7 days and allow the GDC to exchange information with his employer or any contracting body for which he provides dental services and any Development Adviser* or reporter referred to in these conditions.*
 4. *He must inform the GDC within 7 days of any formal disciplinary proceedings taken against him from the date of this determination.*
 5. *Following any return to the UK to practise dentistry, he must inform the GDC within 7 days if he applies for dental employment outside the UK.*
 6. *He must inform the GDC within 7 days of any complaints made against him from the date these conditions take effect.*
 7. *He must not engage in single-handed dental practice. For the avoidance of doubt, this condition applies regardless of whether he is employed or providing any kind of dental services, including on a locum or out-of-hours basis.*

8. *At any time he is employed, or providing dental services, which require him to be registered with the GDC, he must nominate a Development Adviser (or a nominated deputy) who must be agreed by the GDC prior to his return to dental practice.*
9. *He must work with the Development Adviser (or a nominated deputy) to formulate a Personal Professional Development Plan, specifically designed to address the following areas of his practice, within 28 days of the adviser being approved by the GDC:*
- *Extractions*
 - *Restorations*
 - *Periodontal management*
 - *Radiography*
 - *Consent*
 - *Record keeping*
 - *Pre-operative assessment and treatment planning*
10. *He must provide a copy of his Personal Professional Development Plan to the GDC within three months of the date on which these conditions become effective and provide an updated Personal Professional Development Plan to the GDC at least 14 days prior to any review hearing.*
11. *At any time he is employed, or providing dental services, which require him to be registered with the GDC, he must meet with the Development Adviser (or a nominated deputy) on a regular basis to discuss his progress towards achieving the aims set out in his Personal Professional Development Plan. The frequency of his meetings is to be set by the Development Adviser (or a nominated deputy).*
12. *At any time he is employed, or providing dental services, which require him to be registered with the GDC, he must allow the GDC to exchange information about the standard of his professional performance and his progress towards achieving the aims set out in his Personal Professional Development Plan with the Development Adviser (or a nominated deputy), and any other person involved in his retraining and supervision.*
13. *At any time that he is employed, or providing dental services, which require him to be registered with the GDC, he must place himself and remain under the supervision** of a workplace supervisor. The workplace supervisor must be nominated by the Registrant within 28 days and approved by the GDC. The workplace supervisor must be a GDC registrant in the same category of the register as the Registrant or higher. The Registrant must not return to general dental practice until a workplace supervisor has been approved by the GDC.*
14. *He must seek reports from his workplace supervisor and provide these to the GDC every 3 months and at least 14 days prior to any review of these conditions. The GDC will make these reports available to the Development Adviser. The reports will include information about the Registrant's progress in relation to remedial activities in the areas identified at Condition 9 above. The workplace supervisor will sign the audits provided by Condition 18 below.*
15. *He must allow the GDC to exchange information relating to his conditions of practice with his workplace supervisor.*
16. *At any time he is employed, or providing dental services, which requires him to be registered with the GDC:*

- i. *he must appoint a reporter nominated by him within 28 days and approved by the GDC;*
- ii. *the reporter shall be a GDC registrant in the same category of the register as the Registrant or higher and can be the same person as the Development Adviser or workplace supervisor.*

17. *He must present the reporter with a copy of this determination and send the GDC evidence, confirming this, within 7 days of the reporter being approved by the GDC. Until the reporter has been approved by the GDC, he must not return to general dental practice.*

18. *He must seek reports from his reporter and provide these to the GDC every 3 months and at least 14 days prior to any review of these conditions and the GDC will make these reports available to the Development Adviser (should this be a different person). The reports will include the following areas:*

- i. *confirmation that the registrant is complying with their conditions;*
- ii. *confirmation of any complaints received and the outcome;*
- iii. *confirmation of any concerns raised in the workplace about the registrant;*

19. *At any time that he is employed, or providing dental services, which require him to be registered with the GDC he shall carry out an audit of his work in the following areas:*

- *Extractions*
- *Restorations*
- *Radiography*
- *Record keeping and consent*
- *Pre-operative assessment and treatment planning*

20. *He must provide a copy of the audits, referred to in Condition 19, above to the GDC on the same regularity as the reporter's reports. These audits should be signed by the workplace supervisor.*

21. *He must inform the following parties within 7 days that his registration is subject to the conditions, listed at (1) to (20), above, and must forward written evidence of his compliance with this condition to the GDC within a further 7 days:*

- *Any organisation or person employing or contracting with him to undertake dental work;*
- *Any locum agency or out-of-hours service he is registered with or applies to be registered with (at the time of application);*
- *Any prospective employer (at the time of application);*
- *The Commissioning Body in whose Dental Performers List he is included, or seeking inclusion (at the time of application).*

22. *He must permit the GDC to disclose the above conditions, (1) to (21), to any person requesting information about his registration status.*

**The role of Development Adviser came into effect on 1 October 2021 in England. This role was previously undertaken by the Postgraduate Dental Dean/Director.*

***"Supervision" is defined as follows:*

The workplace supervisor must observe the registrant's day-to-day work, The workplace supervisor must always be on site and available to directly observe the registrant while working. Where the workplace supervisor is unavailable through illness or planned absence,

the registrant must not carry out work unless an approved alternative workplace supervisor is in place.

****The reporter may be the same person as the workplace supervisor.*

Right of appeal

21. In accordance with section 29 of the Act, you will have 28 days from the date on which notice of this decision is deemed to have been served on you to appeal against this decision.
22. That concludes this hearing.