

ON PAPERS

Registration Appeals Committee (CPD Appeal)

6 June 2024

Name: WARBURTON, Frank Stanley

Registration number: 138144

Case number: CAS-205800-S1H1V8

General Dental Council: Amrit Sagoo, ILAS

Registrant: Unrepresented

Outcome: Appeal dismissed

Committee members: Margaret Wolff (Chair, Lay Member)
Avril Fraser (Dental Care Professional Member)
Omar Bhutta (Dentist Member)

Legal Adviser: Jayne Wheat

Committee Secretary: Lola Bird

At this hearing the Committee made a determination that includes some private information. That information has been omitted from this public version of the determination, and this public document has been marked to show where private material has been removed.

1. This is an appeal before the Registration Appeals Committee. The appeal is against the decision of the Registrar of the General Dental Council (GDC) to remove Mr Warburton's name from the Dental Care Professionals Register ('the Register') for apparent non-compliance with the statutory Continuing Professional Development (CPD) requirements.
2. The appeal is being held in accordance with the terms of the *General Dental Council (Registration Appeals) Rules Order of Council 2006*, ('the Registration Appeal Rules'), pursuant to Schedule 4A of the *Dentists Act 1984* (as amended) ('the Dentists Act').
3. The proceedings are being conducted remotely by Microsoft Teams video-link.

Decision to conduct the appeal in the absence of the registrant and on the papers

4. Neither party was present today. The Committee noted that conducting an appeal on the papers in the absence of both parties is the default position of the GDC unless an appellant requests an oral hearing.
5. Notification of this appeal was sent to Mr Warburton by Recorded Delivery on 2 May 2024 in accordance with Rule 5 of the Registration Appeal Rules.
6. The Committee had regard to the scan of the envelope containing the notice franked with the Recorded Delivery reference number. It noted from the Royal Mail 'Track and Trace' receipt provided, that the delivery status of the convening notice sent to Mr Warburton could not be confirmed. However, it took into account Rule 19 of the Registration Appeal Rules, which states that:

(1) All communications to be sent for the purposes of these Rules may be sent by post and any such communication shall be treated as having been sent on the day on which it was posted.

(2) The service of any notification may be proved by—

a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service; or...

7. The Committee noted that Rule 19 is not absolute in stating that service of the notification must be by post. It had before it evidence that Mr Warburton was also sent notification of this appeal by email on 2 May 2024. The Committee was satisfied within the context of the Registration Appeal Rules that email notification is sufficient for the purposes of service.
8. Furthermore, the Committee was satisfied from the information provided that Mr Warburton is aware of these proceedings. It noted that the bundle of documents and case summary that it would be considering were sent to Mr Warburton by Recorded Delivery and secure email on 16 May 2024.

9. In all the circumstances, and after accepting the advice of the independent Legal Adviser present at these proceedings, the Committee was satisfied that it was appropriate to consider today's appeal in the absence of either party and on the papers. The Committee was satisfied that Mr Warburton had not requested an oral hearing and it took into account that under Rule 4 of the Registration Appeal Rules an appeal may be determined without one.

Preliminary application to hold the appeal partly in private

10. The Committee had regard to the preliminary application made in the case summary provided by the GDC for part of Mr Warburton's appeal to be conducted in private under Rule 14(1) of the Registration Appeals Rules.

11. In the absence of either party, the Committee's consideration of Mr Warburton's appeal was undertaken on the papers without any members of the public present. Nevertheless, given the sensitive and personal nature of some of the information placed before it, and following advice from the independent Legal Adviser, the Committee decided to produce both a private version of its determination, and a suitably redacted public version for publication.

Summary of the legal framework

12. The Committee had regard to the legal framework in relation to this appeal. It noted the relevant provisions as contained in the Dentists Act and the *General Dental Council (Continuing Professional Development) (Dentists and Dental Care Professionals) Rules 2017* ('the CPD Rules').

13. The current CPD Rules came into force on 1 January 2018 and took effect in respect of dental care professionals on 1 August 2018. These set out the CPD requirements placed on dental care professionals and the steps that the GDC shall take in respect of registrants' compliance and non-compliance with those requirements.

14. In accordance with Rule 1, a 'CPD cycle' means, in respect of a dental care professional, a period of five years beginning on 1 August following the date the dental care professional is first registered and each subsequent period of five years. A 'CPD year' means, in respect of a dental care professional, a period of 12 months beginning on 1 August in any calendar year.

15. Rule 2 sets out that the minimum number of CPD hours to be undertaken.

16. Rule 2(5) states that in completing the minimum number of hours, a practitioner must undertake at least 10 hours of CPD during each period of two consecutive CPD years (including any such two-year period which spans over more than one CPD cycle).

17. Rule 2(6) states that:

Any CPD undertaken by the practitioner is only to count towards the minimum number of hours ... if—

(a) there is documentary evidence from the provider of the CPD which states—

- (i) *the subjects, learning content, aims, objectives and anticipated learning outcomes of the CPD and the date that the CPD was undertaken,*
- (ii) *the total number of hours of CPD undertaken,*
- (iii) *the name of the practitioner who has participated in the CPD activity,*
- (iv) *that the CPD is subject to quality assurance and the name of the person or body providing the quality assurance is provided;*
- (b) *that documentary evidence includes confirmation from the provider that the information contained in it is full and accurate; and*
- (c) *the CPD delivered a learning outcome identified in the practitioner's CPD record in accordance with rule 3(2)(a).*

18. Rule 3 provides the requirement that all registrants must maintain a written record of all CPD that the practitioner plans to undertake and has undertaken during the CPD cycle. Rule 3 also sets out what the written record must include.

19. Rule 4 of the CPD Rules states that for each CPD year, a practitioner must submit to the Registrar a statement which confirms the number of hours of CPD undertaken during that corresponding year or, if the practitioner has not undertaken any CPD in that CPD year, confirmation that no CPD has been undertaken. The practitioner must also confirm in this statement that they have kept a CPD record, that the CPD undertaken (where applicable) was relevant to the practitioner's field of practice and declare the information in their statement is full and accurate. This statement must be completed within 28 days of the end of that CPD year.

20. Rules 6 and 7 prescribe various notification requirements under which the Registrar may require a practitioner to, among other things, submit their CPD record and/or provide evidence of their compliance with the CPD requirement.

21. Rule 8 provides that the Registrar "*may erase the practitioner's name*" in circumstances where the practitioner has either failed to comply with a notice sent under Rule 6 or 7, or where the registrar is not satisfied from the response provided by the practitioner that they have met the CPD requirement and/or other related obligations under the relevant Rules.

22. In accordance with Rule 9, it is open to the practitioner who has not complied with the CPD requirement as set out in Rule 2 in respect of a CPD cycle, to apply in writing to the Registrar for a further period in which to complete the outstanding CPD in respect of that cycle (a "period of grace"). They must do so before the end of the CPD cycle but no sooner than six months before the end of the cycle. If the Registrar is satisfied that there is good reason to do so, the Registrar may grant a single period of grace ending 56 days after the end of the CPD cycle.

Summary of the factual background

23. Mr Warburton first registered with the GDC as a dental technician on 13 March 2008. Therefore, in accordance with Rule 1 as set out above, Mr Warburton's current CPD cycle began on 1 August 2023 and will end on 31 July 2028. The CPD cycle that is the subject of this appeal is Mr Warburton's CPD cycle for the period 1 August 2018 to 31 July 2023.

24. On 14 June 2023, the GDC sent an email reminder to Mr Warburton's registered email address. This reminder notified him that his CPD cycle was coming to an end and that he was required to submit his End of Cycle ('EOC') CPD statement, detailing how many CPD hours he had completed during that cycle, by 28 August 2023. Mr Warburton was advised that if he did not submit a compliant statement before the deadline, his registration may be put at risk. Mr Warburton was informed that, as he was in the final year of his CPD cycle, he could request a 56-day period of grace in order to be compliant, if there was good reason. Mr Warburton was advised that he would need to apply for a period of grace by 31 July 2023.

25. Also, on 14 June 2023, the GDC sent Mr Warburton an 'Annual Renewal Notice' letter by post to his registered address. The Annual Renewal Notice is designed to remind registrants that their registration with the GDC is due for renewal, of the need to pay their annual retention fee and make their indemnity declaration, and of the need to make their CPD statement. Mr Warburton was reminded in this notice that he was required to submit his CPD statement by 28 August 2023. It was also stated that Mr Warburton would need to have completed at least 10 hours of CPD over the last two years. It was reiterated that if Mr Warburton required additional time to complete his CPD hours, he could apply for a period of grace by 31 July 2023.

26. Thereafter, between 6 July 2023 and 25 August 2023, a number of communications were sent to Mr Warburton, in which the GDC reminded him about his CPD requirements and the deadline for submission of a compliant EOC CPD statement.

27. Mr Warburton did not contact the GDC in response to the reminders and he failed to make a CPD statement for the 2018 to 2023 CPD cycle by the stipulated deadline. The GDC did not receive a request from him asking for a period of grace.

28. On 9 October 2023, the GDC sent a notice under Rule 7 to Mr Warburton's registered address. The notice stated that he had failed to complete a CPD statement for the 2018 to 2023 CPD cycle by the deadline of 28 August 2023 and as such, he had put his registration at risk. Mr Warburton was informed that, if he wished to retain his registration, he should submit his CPD statement to the Registrar by 6 November 2023. Mr Warburton was informed that if the statement was not received by this date or if the statement was incomplete, he may be at risk of being removed from the Register.

29. On 12 October 2023, the GDC received an email from Mr Warburton, in which he stated that he had completed the information as required and returned this to the GDC. Mr Warburton stated that he had only completed 45 hours of CPD, but that since responding to the Council, he had completed an additional five hours of CPD.

30. On 13 October 2023, the GDC sent an email to Mr Warburton's registered email address explaining that, upon review of his records, the EOC CPD statement he submitted was non-compliant. This was because his total CPD cycle requirement was to complete 50 hours of verifiable CPD within the five year period. Therefore, any CPD completed after the deadline could not be accepted. The GDC enquired whether Mr Warburton could review his records to see if he had any CPD certificates that could be counted within his 2018 to 2023 CPD cycle and, if so, to update his

CPD hours via his eGDC account by 6 November 2023. Mr Warburton was advised that if he was unable to comply with his CPD requirements, he should await further communication from the Council.

31. On 16 October 2023, Mr Warburton submitted an annual CPD statement for the 2018 to 2023 CPD year, declaring that he had completed 45 verifiable CPD hours.

32. On 14 November 2023, the GDC sent a notice under Rule 6 to Mr Warburton's registered address. The notice stated that, although Mr Warburton had submitted a CPD statement to the Council, he had not declared enough hours to meet the total requirement of his CPD cycle. The notice stated that between 1 August 2018 to 31 July 2023, Mr Warburton needed to complete a minimum of 50 hours of verifiable CPD, based on the Enhanced CPD (2018) scheme being applied. The notice stated that if Mr Warburton wished to retain his registration, he should submit his CPD record to the Registrar by 6 November 2023, in order to demonstrate that he had met the requirement. Mr Warburton was informed that if the GDC did not receive a response to the notice or, if his response was unsatisfactory, he may be erased from the Register. Mr Warburton was given details of what documentary evidence was required and the contact details of who to contact should he require further explanation.

33. During a telephone call on 16 November 2023, Mr Warburton was advised by the GDC of the next steps.

34. On 8 January 2024, the GDC sent a Rule 8 notice to Mr Warburton's registered address. This notice confirmed that he had failed to provide a compliant CPD record demonstrating that he had met the minimum requirement for the period 1 August 2018 to 31 July 2023 and that as a result, the Registrar had made the decision to remove his name from the Register for non-compliance with the CPD Rules. Mr Warburton was notified that unless an appeal was submitted, the Registrar's decision would take effect on 7 February 2024.

The appeal

35. On 19 January 2024, the GDC received a Notice of Appeal ('NOA') from Mr Warburton, accompanied by a number of CPD documents. He confirmed that he wished to appeal against the decision to remove his name from the Register.

36. Within his NOA, Mr Warburton outlined his personal circumstances which he said had affected his ability to undertake the required CPD hours. [PRIVATE]. He stated that he had started his own laboratory which took a lot of his time and effort. Mr Warburton outlined the CPD that he had been undertaking. [PRIVATE]. Mr Warburton explained that due to an amalgamation of these factors, the GDC would understand why he forgot to complete his CPD hours until he was reminded by email.

37. Mr Warburton stated that upon realising his shortfall, he completed the five outstanding hours but the deadline to submit any additional CPD evidence had passed. Mr Warburton acknowledged that the CPD hours should have been done "within the allotted time". [PRIVATE], he hopes that the GDC understands and keeps him on the Register.

38. On 22 January 2024, Mr Warburton's CPD evidence was assessed by a GDC Operations Officer. The outcome of that assessment was that Mr Warburton was deemed to be non-compliant with his CPD requirements on the basis that he had 50 verifiable CPD hours outstanding for the period 1 August 2018 to 31 July 2023. It was noted that the CPD certificates Mr Warburton had provided in support of his appeal were for courses completed outside of the relevant period. It was also noted that Mr Warburton did not provide a Personal Development Plan and an Activity Log in accordance with Rule 3 of the CPD Rules. It was concluded that, as of 22 January 2024, Mr Warburton had completed 0 verifiable CPD hours between 1 August 2018 to 31 July 2023.

39. On 15 February 2024, the GDC received a further letter from Mr Warburton, with which he enclosed all the CPD certificates he said he could locate. Within the letter, Mr Warburton reiterated his reasons for non-compliance with his CPD requirements and stated that he was not sure if there were more CPD certificates that may have been discarded by his former employer.

40. On 21 February 2024, Mr Warburton's CPD evidence was further assessed by a GDC Operations Officer. The outcome of that assessment was that Mr Warburton was deemed to be non-compliant with his CPD requirements on the basis that he had 26 verifiable CPD hours outstanding for the period 1 August 2018 to 31 July 2023. It was noted that some of the CPD certificates provided by Mr Warburton in support of his appeal were for courses completed outside of the relevant period and/or were duplicates of certificates submitted previously. Those certificates could not be counted for the purpose of the assessment. It was also noted that Mr Warburton did not provide a Personal Development Plan and an Activity Log. It was concluded that, as of 21 February 2024, Mr Warburton had completed 24 verifiable CPD hours between 1 August 2018 and 31 July 2023.

41. It is the Registrar's position that Mr Warburton failed to submit a compliant CPD record for the CPD cycle 1 August 2018 to 31 July 2023, as is required under Rule 2 of the CPD Rules. It is submitted by the GDC that Mr Warburton has failed to declare enough hours to meet the requirements to complete a minimum of 50 hours of verifiable CPD across the five-year CPD cycle. The GDC highlighted that Mr Warburton was sent numerous reminders regarding his CPD requirements.

42. The Registrar acknowledges Mr Warburton's personal circumstances. However, it is considered that he would have had sufficient opportunities to complete the required CPD. It is maintained that Mr Warburton ought to have been aware of the requirements for continued registration, which includes ongoing compliance with the CPD requirements annually and during each five-year CPD cycle. Further, Mr Warburton was offered the opportunity to apply for a period of grace but did not do so.

The Committee's decision on the appeal

43. The Committee considered all the documentation in relation to this appeal, including Mr Warburton's NOA and the supporting evidence he provided. The Committee had regard to the written submissions made by the GDC on behalf of the Registrar. The Committee heard and accepted the advice of the independent Legal Adviser present at these proceedings.

44. The first consideration for the Committee was whether Mr Warburton had complied with the CPD requirement of completing a total of 50 hours of verifiable CPD across his five-year CPD cycle from 1 August 2018 to 31 July 2023.

45. Having carefully reviewed the CPD evidence Mr Warburton submitted to the GDC, the Committee determined that this evidence demonstrates that he has completed 24 hours of verifiable CPD over the five-year cycle in question. Accordingly, there is a shortfall of 26 hours. Therefore, the Committee determined that Mr Warburton is not compliant with the statutory CPD requirement for a total of 50 verifiable CPD hours. The Committee further noted that Mr Warburton did not submit an Activity Log or provide a Personal Development Plan, which are also part of his CPD obligations.

46. The Committee noted the extenuating circumstances outlined by Mr Warburton in his NOA, which are connected to [PRIVATE] and his professional life. However, the Committee did not consider that there was any information before it amounting to exceptional circumstances as specified in the 'Guidance on the Registrar's Discretion to Erase for CPD Non-Compliance' (February 2024). The Committee noted that, notwithstanding his personal circumstances, Mr Warburton continued to work as a dental care professional. It considered that he had ample opportunity to undertake the necessary CPD requirements over the five-year period concerned.

47. The Committee was satisfied that Mr Warburton was sent the required notices under the CPD Rules. It also noted that numerous reminders were sent to him by the GDC in various forms, regarding the need to complete his CPD and submit an EOC CPD statement. The Committee also took into account that Mr Warburton was advised of the option to apply for a period of grace, but he did not do so.

48. CPD requirements are mandatory statutory requirements which apply to all registered dental professionals. Compliance is important in helping to ensure public protection and in maintaining public confidence in the dental profession, so as to meet the overarching objective of the GDC under Section 1 of the Dentists Act. All registered dental professionals should be aware of the requirements for maintaining their registration.

49. Having had regard to all the circumstances of this case, the Committee determined that there are no grounds on which Mr Warburton's appeal could be allowed. He has failed to demonstrate that he is compliant with his EOC CPD requirement. The Committee was satisfied that the decision of the Registrar to erase Mr Warburton's name from the Register was reached correctly and proportionately in accordance with the procedural requirements of the CPD Rules.

50. Accordingly, this appeal is dismissed.

51. Unless Mr Warburton exercises his right of appeal to the relevant court, the erasure decision will take effect upon the expiry of the 28-day appeal period. It will then be open to Mr Warburton to apply for the restoration of his registration if he meets the CPD and other requirements for restoration.

52. That concludes this determination.