

**ON PAPERS****Registrations Appeal Committee  
CPD Appeal Meeting****20 August 2024**

**Name:** ROBERTSON, Colin  
**Registration number:** 58844  
**Case number:** CAS-207023-X9C1G2

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**General Dental Council:** Zara Gull, ILAS

**Registrant:** Unrepresented

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**Outcome:** Appeal dismissed

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**Committee members:** David Wood (Lay) (Chair)  
Suki Sandhar (Dentist)  
Joshua Kelly (Dental Care Professional)

**Legal adviser:** Melanie Swinnerton

**Committee Secretary:** Andrew Keeling

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At this meeting the Committee made a determination that includes some private information. That information shall be omitted from any public version of this determination and the document marked to show where private material is removed.

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1. This was an appeal meeting before the Registration Appeals Committee (RAC). The meeting was conducted remotely on Microsoft Teams.
  2. The appeal was against the decision of the Registrar of the General Dental Council (GDC) to erase Mr Robertson from the Register for apparent non-compliance with the statutory Continuing Professional Development (CPD) requirements. The meeting was 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 Act').

3. Neither party was present at today's meeting. The Committee first considered the issues of service and whether to proceed with the meeting on the papers in the absence of Mr Robertson and any representatives for either party. The Committee accepted the advice of the Legal Adviser on both of these matters.

### **Decision to conduct the appeal in the absence of Mr Robertson and on the papers**

4. Notification of this appeal was sent to Mr Robertson by Recorded Delivery and secure email on 17 July 2024 in accordance with Rule 5 of the Registration Appeal Rules.
5. The Committee noted that conducting the appeal on the papers is the default position of the GDC unless an appellant requests an oral hearing. It took into account that the GDC's acknowledgement of Mr Robertson's appeal, dated 16 May 2024, informed Mr Robertson that he could request an oral hearing within 28 days of the date of the letter. Having considered the documents provided, the Committee was satisfied that Mr Robertson had made no such request.
6. The Committee noted that the bundle of documents and case summary that the Committee would be considering were sent to Mr Robertson by Recorded Delivery and secure email on 17 July 2024.
7. In the circumstances, the Committee was satisfied that it was appropriate to consider today's appeal in the absence of either party and on the papers.

### **Private Application**

8. The Committee noted the GDC's application, made in their written submissions, for today's meeting to be part-held in private. In the absence of either party, the Committee's consideration of the appeal was conducted on the basis of the papers in the absence of any public observers. Nevertheless, in light of some of the information before it, which relates to Mr Robertson's private and family life, and following advice from the Legal Adviser, the Committee had regard to its power under Rule 14 of the Registration Appeal Rules. It decided that it would produce a private and public version of its determination.

### **Summary of the Legal Framework**

9. The General Dental Council (Continuing Professional Development) (Dentists and Dental Care Professionals) Rules 2017 ('the CPD Rules') set out the CPD requirements placed on Dentist registrants and the steps that the GDC shall take in respect of registrants' compliance and non-compliance with those requirements.

10. The current CPD Rules came into force on 1 January 2018 and took effect in respect of dentists on the same date.
11. In accordance with Rule 1, a 'CPD cycle' means, in respect of a dentist, a period of five years beginning on 1 January following the date the dentist is first registered and each subsequent period of five years. A 'CPD year' means, in respect of a dentist, a period of 12 months beginning on 1 January in any calendar year.
12. Rule 2(1) of the CPD Rules sets out the minimum number of hours of CPD a practitioner must complete within their CPD cycle.
13. Rule 2(5)(b) of the CPD Rules requires dentists to 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).
14. 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.
15. 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.
16. 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.
17. 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.

### **Summary of the factual background**

18. Mr Robertson first registered with the GDC as a dentist, on 18 June 1984. Therefore, in accordance with Rule 1 as set out above, Mr Robertson's current CPD cycle began on 1 January 2023 and will end on 31 December 2027. The CPD period which has

been assessed, and the evidence for which has been deemed non-compliant, and which is the subject of this appeal, is the two-year period running across the last CPD year of Mr Robertson's previous CPD cycle and the first year of his current CPD cycle, namely 1 January 2022 to 31 December 2023.

19. Between 26 October 2023 and 26 January 2024, a postal reminder, five email reminders and two SMS reminders were sent to Mr Robertson reminding him to submit his CPD statement detailing how many CPD hours he had completed during the CPD year.
20. On 30 December 2023, Mr Robertson submitted an annual CPD statement for the CPD year 1 January 2023 to 31 December 2023, declaring that he had completed three verifiable CPD hours.
21. On 31 December 2022, Mr Robertson also submitted an annual CPD statement for the CPD year 1 January 2022 to 31 December 2022, declaring that he had completed three verifiable CPD hours.
22. On 26 February 2024, the GDC sent a notice under Rule 6 to Mr Robertson by recorded delivery to his registered address. The notice stated that, although Mr Robertson had submitted a CPD statement to the GDC, he had not declared enough hours to meet the requirement to complete a minimum of 10 hours of CPD over two consecutive years. It was noted that he had submitted an annual CPD statement of three verifiable hours for the 2022 CPD year and an annual CPD statement of three verifiable hours for the 2023 CPD year. The notice stated that if Mr Robertson wished to retain his registration, he should submit his CPD record to the Registrar by 25 March 2024 in order to demonstrate that he had met the requirement. Mr Robertson 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 Robertson was given details of what documentary evidence was required and the contact details of who to contact should he require further explanation. On 27 February 2024, a copy of the notice was also sent via email to Mr Robertson's registered email address.
23. On 18 March 2024, the GDC received a covering letter, dated 13 March 2024, enclosing a number of supporting CPD documents via post from Mr Robertson.
24. Within the covering letter, Mr Robertson accepts that the failure to complete 10 hours of CPD across each consecutive two-year period was his responsibility. Mr Robertson explained that he retired from the Public Dental Service in early December 2022 and did not intend to renew his registration or continue practising. However, Mr Robertson was approached by a good friend before Christmas 2022 to fill an Associate role until his friend was able to recruit for the position. Therefore Mr Robertson renewed his registration to continue practising in 2023. Mr Robertson stated that the practice continued to be understaffed and he failed to appreciate that although December 2023 was year 1 of his new cycle, the concluding year of the

previous cycle had a shortfall in CPD hours. Mr Robertson then recorded three hours of CPD for the second consecutive year, which resulted in his non-compliance.

25. Lastly, Mr Robertson apologised for his failure and asked the GDC to permit his continued registration in order to support his friend's practice "*to contribute to the unmet local need*" for NHS dentistry.
26. On 11 April 2024, the GDC sent a Rule 8 notice to Mr Robertson's registered address by recorded delivery. This notice confirmed that Mr Robertson had failed to provide a compliant CPD record demonstrating that he had met the minimum requirement for the period 1 January 2022 to 31 December 2023 and that as a result, the Registrar had made the decision to remove his name from the register for non-compliance with the Rules. It was noted that Mr Robertson's CPD remained deficient as he had completed three hours of verifiable CPD between 1 January 2022 to 31 December 2022 and had completed two hours of verifiable CPD between 1 January 2023 to failed to provide an Activity Log and submitted CPD certificates which were dated outside of the requested cycle years. Mr Robertson was notified that unless an appeal was submitted, the Registrar's decision would take effect on 14 May 2024.

### **The Appeal**

27. On 8 May 2024, the GDC received a Notice of Appeal (NOA) via email from Mr Robertson which confirmed that he wished to appeal against the decision to remove him from the register.
28. Within the NOA, Mr Robertson stated that he had accepted that he was in breach of the CPD requirements. It was specifically explained that Mr Robertson had retired from the Public Dental Service in early December 2022, and it was not his intention to renew his registration. However, to assist a colleague who was facing the "*prospect of being single handed with an NHS list of over 8000 patients*", he undertook an associate role in the only General Practice in Western Isles.
29. **[IN PRIVATE: Text omitted.]**
30. Mr Robertson stated that at the end of 2023, he experienced acute problems with his workload and mistakenly believed his CPD record allowed him to declare insufficient hours and be compliant.
31. Mr Robertson accepts that he cannot retrospectively generate CPD hours to make up for the shortfall but has discussed these matters with his principal and has created an online learning account which his principal has full access to in order to monitor his CPD activity. Mr Robertson adds that in his 40 years of practice, he has never been brought to the attention of the GDC or faced and formal complaint.

32. Lastly, Mr Robertson stated that his participation has allowed the only General Practice in the Western Isles to re-open its NHS lists and take up patients who otherwise have no access at all. Mr Robertson asked the GDC to consider that his continued registration may actually serve the declared aim of protecting the public. Mr Robertson expressed that if the GDC chooses to erase his name from the register, he “will accept with humility” and return to his retirement.
33. On 13 May 2024, Mr Robertson’s CPD evidence was assessed by the GDC and Mr Robertson was deemed to be non-compliant with his CPD requirements on the basis that he had five verifiable CPD hours outstanding for the period 1 January 2022 to 31 December 2023. It was noted that the CPD certificates provided by Mr Robertson in support of his appeal were for courses completed outside of the relevant period and he did not provide an Activity log, and therefore, they could not be counted for the purpose of the assessment. It was confirmed that, as of 13 May 2024, Mr Robertson had completed five verifiable CPD hours between 1 January 2022 and 31 December 2023.

### **Submissions**

34. In the GDC’s written submissions, the Registrar’s position was set out as follows:

*It is the Registrar’s position that Mr Robertson is non-compliant with the CPD requirements because he has failed to provide a CPD record demonstrating that he has completed the minimum requirement for the period 1 January 2022 to 31 December 2023, in accordance with Rule 2.*

*It is submitted by the Registrar that Mr Robertson was reminded on numerous occasions of the need to complete his CPD hours and of the requirement to complete 10 verifiable CPD hours in each two-year period, as set out in detail above.*

*As set out above in the legal framework, there is no power to waive these provisions.*

*The Registrar acknowledges Mr Robertson’s challenging personal circumstances, however, the Registrar submits that Mr Robertson would have had sufficient opportunities to complete the required CPD and further, he ought to be aware of the requirements for continued registration, which includes ongoing compliance with the CPD requirements annually and during each two-year consecutive CPD cycle.*

*The Registrar submits that it is a Registrant’s responsibility to ensure that they meet their CPD requirements, as CPD compliance is a legal requirement of registration.*

*Lastly, it is noted that Mr Robertson stated that he planned to participate in CPD activity in May 2024, after the stipulated deadline. Although the Registrar acknowledges Mr Robertson’s willingness to demonstrate an active and positive attitude to his continuous learning and performance. The Registrar submits that any*



*CPD completed outside of the 1 January 2022 to 31 December 2023 CPD cycle years cannot be considered for the purpose of this appeal as he was required to have completed a minimum of 10 hours of CPD over the two consecutive years period which is a requirement under Rule 2.*

*As of 13 May 2024, Mr Robertson had completed five verifiable CPD hours between 1 January 2022 and 31 December 2023, which clearly breaches the requirement that dentists submit evidence that they have completed a minimum of 10 verifiable CPD hours in each two-year period.*

*It is open to Mr Robertson to apply to restore his registration at any time following this appeal.”*

### **Committee’s Decision and Reasons on the Appeal**

35. The Committee had regard to the documentary evidence provided today and took account of the written representations made by the GDC and Mr Robertson’s Notice of Appeal. It accepted the advice of the Legal Adviser.
36. The first consideration for the Committee was whether Mr Robertson had complied with his obligations under the CPD Rules by demonstrating completion of at least 10 hours of verifiable CPD within the period, 1 January 2022 and 31 December 2023.
37. Having carefully reviewed the CPD records which Mr Robertson submitted, the Committee determined that he demonstrates having completed five verifiable hours of CPD within the period of 1 January 2022 and 31 December 2023. This was consistent with the Registrar’s assessment that Mr Robertson was five hours short in the relevant period. Therefore, the Committee determined that Mr Robertson is not compliant with his statutory obligations under the CPD Rules.
38. The Committee was satisfied that the required notices had been duly served on Mr Robertson in accordance with the Rules and that the correct procedure leading to the Registrar’s erasure decision had been followed. The remaining consideration for the Committee was therefore whether the Registrar’s decision to erase should be allowed to stand.
39. The Committee recognised that the CPD requirement is a mandatory statutory requirement which applies to all registered dental professionals. Compliance is important in helping to ensure patient safety and in maintaining wider public confidence in the profession so as to meet the overarching objective of the GDC under Section 1 of the Act. The Committee was sympathetic to the personal circumstances Mr Robertson outlined in his appeal. However, it noted that Mr Robertson was still short of half the minimum amount of verifiable hours of CPD he was required to complete during the relevant period. Furthermore, the Committee

was of the view that being an experienced practitioner, Mr Roberston ought to have been aware of his obligations under the CPD Rules.

40. Therefore, having regard to all the circumstances, the Committee determined that there were no grounds on which this appeal should be allowed. Mr Robertson had failed to demonstrate that he was compliant with his obligations under the CPD Rules. The decision of the Registrar to erase his name was reached correctly in accordance with the procedural requirements of the Rules and following repeated reminders to Mr Robertson of his obligations under the CPD Rules and the importance of compliance in order to maintain continued registration.
41. This appeal was accordingly dismissed.
42. Unless Mr Robertson exercises his right of appeal to the court, the erasure decision will take effect upon the expiry of the 28-day appeal period. It will then be open to Mr Robertson to apply for the restoration of his registration if he meets the CPD and other requirements for restoration.
43. This will be confirmed to Mr Robertson in writing.
44. That concludes this determination.