

## Hearing held in public

### Summary

<b>Name:</b>	<b>MARKOU, Maria Georgia [Registration number: 105040]</b>
<b>Type of case:</b>	<b>Professional Conduct Committee (Review)</b>
<b>Outcome:</b>	<b>Suspended indefinitely</b>
<b>Date:</b>	<b>07 October 2022</b>
<b>Case number:</b>	<b>CAS 185193</b>

This is a Professional Conduct Committee (PCC) review hearing of Ms Markou's case, pursuant to Section 27C of the *Dentists Act 1984 (as amended)* ('the Act'). The hearing is being conducted remotely via Microsoft Teams video-link in line with the current practice of the General Dental Council (GDC).

The purpose of this hearing has been for this Committee to review Ms Markou's case, and to determine what action to take in relation to her registration. Her registration is currently subject to an order of suspension.

Neither party is present today, following a request by the GDC for the review to take place on the papers. The Committee received from the GDC an indexed PCC review hearing bundle of 43 pages, as well as its written submissions in respect of the review. No material or written submissions were received from, or on behalf of, Ms Markou.

As required by the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), the Committee first considered the issues of service and whether to proceed with the hearing in the absence of Ms Markou. It took account of the written submissions of the GDC on these matters. The Committee accepted the advice of the Legal Adviser.

### **The Committee's decision on service**

The Committee considered whether notice of the hearing had been served on Ms Markou in accordance with Rules 28 and 65. The Committee noted that included in the hearing bundle was a copy of the Notice of Hearing dated 09 September 2022 ('the notice'), which was sent to Ms Markou's registered address by 'International Track and Signed for' post. The Committee noted that the tracking history stops at the point where the letter is 'Released from Customs' in Greece on 13 September 2022 and does not confirm delivery to Ms Markou. However, it took into account that there is no requirement within the Rules for the GDC to prove receipt of the notice, only that it was sent. It had sight of the Royal Mail tracking information as proof of postage. The Committee further noted that a copy of the notice was also sent to Ms Markou by email on 09 September 2022.

The Committee was satisfied that the notice sent to Ms Markou complied with the 28-day notice period required by the Rules. It was further satisfied that the notice contained all the required particulars, including the date and time of the hearing, confirmation that it would be held remotely via video-link on Microsoft Teams, and that the Committee had the power to proceed with the hearing in her absence.

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

### **The Committee's decision on whether to proceed with the hearing in the absence of Ms Markou and on the papers**

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Ms Markou, and any representatives for either party. 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 case of *General Medical Council v Adeogba [2016] EWCA Civ 162*. The Committee remained mindful that fairness to Ms Markou was of prime importance, but also took into account the need to be fair to the GDC. It further had regard to the public interest in the expeditious review of the current suspension order.

The Committee noted from the Notification of Hearing letter of 09 September 2022 that Ms Markou was asked to confirm by 14 September 2022, 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 Ms Markou. She has not provided a reason for her non-attendance, nor has she requested an adjournment.

It therefore concluded that she had voluntarily absented herself from today's proceedings. The Committee noted there was no information before it to indicate that an adjournment was likely to secure her attendance on a future date. It noted that Ms Markou did not attend and was not represented at the initial hearing in September 2020 and that she has not engaged with the GDC since that hearing, aside from an email from her dated 20 September 2021 to say that she is out of reach and there will be no reply from her.

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 Ms Markou and on the papers.

### **Background**

Ms Markou's case was first considered by a PCC in September 2020. Ms Markou did not attend that hearing and she was not represented in her absence. That Committee considered and found proved allegations relating to Ms Markou's care of one patient, Patient A.

In its decision on whether the facts found proved against Ms Markou amounted to misconduct, that initial PCC stated as follows:

*"The Committee noted that the factual findings in this case included numerous clinical failings by Ms Markou in relation to one patient over a period of time, between 2013-2014. It considered that these failings concern fundamental aspects of dentistry and directly*

*impacted upon the overarching issue of patient safety. The Committee has identified the following themes (listed below) covering poor clinical and administrative practice, by which Ms Markou:*

- *Failed to carry out adequate periodontal assessments;*
- *Failed to adequately investigate the clinical condition of teeth;*
- *Failed to adequately diagnose periodontal disease;*
- *Failed to make differential diagnoses of malignancy;*
- *Failed to make appropriate referrals;*
- *Failed to provide appropriate treatment;*
- *Failed to take bitewing and periapical radiographs when it was clinically indicated;*
- *Failed to maintain an adequate standard of record-keeping.*

*In relation to the charges covering radiographs and record keeping the Committee acknowledges that a single failure on its own may not always amount to a serious failing. However, in this particular case Ms Markou's failure to take radiographs and to maintain adequate records was considered serious due the sustained nature of the omissions.*

*The Committee was satisfied that the clinical failings in these themes were sustained and serious. The failures concern basic and fundamental obligations of a competent dentist. In the circumstances the Committee decided that the facts proved amounted to misconduct."*

The PCC in September 2020 determined that Ms Markou's fitness to practise was impaired by reason of her misconduct. It stated the following in its decision on impairment:

*"The Committee had regard to the evidence of remediation before it. In relation to the audits which were carried out on random patient records, it noted some of the same failings arising in relation to the standard of record keeping. In relation to Ms Markou's PDP, it noted that she had not addressed all of the shortcomings as there were still areas that she had to work on in her PDP such as taking BPE scores, occlusal factors, clear record of diagnosis, clear notes of treatment options, recall intervals and appropriate radiographs. Furthermore, Ms Markou's CPD is not up to date as she has only done 70 hours of general CPD and 35 hours of verifiable CPD for her 01 January 2017 to 31 December 2021 cycle.*

*The Committee has received no other representations or further evidence of remediation evidence from Ms Markou and it appears that she has not practised as a dentist since November 2018. As a consequence, the Committee considered there to be insufficient evidence of how Ms Markou has used her learning to address the fundamental issues arising in this case or that she has fully reflected on what she has learned.*

*The Committee is satisfied that Ms Markou has developed some insight into her clinical concerns. It took into account of her written observations in which she demonstrated remorse for her actions and accepts her failings. It also took account of the unfortunate personal difficulties Ms Markou has faced and the impact this would have had on her. However, the Committee was concerned that she has ceased to engage with the GDC. The Committee considers that her misconduct is such that it has the potential to place patients at unwarranted risk of harm and that her conduct has brought the profession*

*into disrepute and breached the fundamental professional tenet of providing appropriate patient care.”*

The initial Committee determined to suspend Ms Markou’s registration for a period of 12 months, and it directed a review of her case shortly before the end of the 12-month period. An immediate order of suspension was also imposed. The initial Committee considered that the Committee reviewing Ms Markou’s case might find it helpful to receive the following:

- *“evidence of her meaningful engagement with the GDC;*
- *evidence of CPD and training relevant to the clinical risks identified; and*
- *a reflective piece demonstrating her insight into and understanding of the impact of her actions upon; Patient A, the wider public and the dental profession.”*

### **First review of the order 17 September 2021**

The order of suspension was reviewed by the PCC on 17 September 2021, when it was determined that Ms Markou’s fitness to practise remained impaired by reason of her misconduct. The PCC stated in its determination:

*“The Committee noted that Ms Markou has not engaged at all with the GDC over the last 12 months. Consequently, there is no evidence before it to indicate that she has fulfilled any of the recommendations made by the initial PCC. In the absence of any evidence of meaningful engagement, relevant CPD and training, and evidence of insight, this Committee could only conclude that the concerns about Ms Markou’s clinical practice remain.*

*In all the circumstances, the Committee considered that there is an ongoing risk to the public on account of Ms Markou’s misconduct, which she has not addressed. A finding of impairment is therefore necessary for the protection of the public. The Committee also considered that such a finding is required in the wider public interest, to maintain public confidence in the dental profession and to uphold proper professional standards.*

*Accordingly, the Committee determined that Ms Markou’s fitness to practise remains impaired by reason of her misconduct.”*

The PCC in September 2021 extended the suspension order on Ms Markou’s registration by a period of 12 months. In directing a further review, that Committee reiterated the recommendations made by the initial PCC in 2020.

### **Today’s review**

Today is the second 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 Ms Markou.

In its written submissions, the GDC submits that there is no evidence to show any material change in position since the last hearing. In the GDC's view, this demonstrates that the risk of repetition identified by the Committee at the previous review hearing remains. For these reasons, the GDC submits that Ms Markou's fitness to practise remains impaired by reason of misconduct. In relation to sanction, the GDC submits that it would be appropriate to consider imposing an indefinite suspension on Ms Markou's registration.

No written representations were received on behalf of Ms Markou.

### **Decision on Current Impairment**

The Committee considered whether Ms Markou's fitness to practise remains impaired by reason of her 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.

The Committee notes that since the last review hearing in September 2021 the GDC wrote to Ms Markou on 20 September 2021 to inform her of the outcome. On the same date the GDC also emailed a representative of Ms Markou to highlight the recommendations made by the reviewing Committee and stated that if Ms Markou wished to provide any, she should send it to the GDC Case Review Team by email at any time prior to the next scheduled hearing. The Committee notes that there has been no response from Ms Markou.

The Committee went on to consider whether Ms Markou's fitness to practise is still impaired by reason of her 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 Ms Markou has recognised the seriousness of her misconduct, demonstrated insight or provided any information as recommended to her by the substantive and previous reviewing PCC. It also notes that Ms Markou 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 her involvement. Given its concerns regarding Ms Markou's lack of insight and remediation the Committee considers that Ms Markou's fitness to practise remains impaired by reason of her misconduct. The Committee considered that a finding of current impairment is required to protect patients and that a finding of current impairment was also in the public interest in order to maintain public confidence and uphold the standards of the profession.

### **Sanction**

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).

The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Markou'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.

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 Ms Markou's lack of engagement with the GDC and the absence of any remediation or insight into her misconduct, the Committee has concluded that it would not be appropriate to terminate the current order or to allow it to lapse.

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 to protect the public and the wider public interest. Further, even if the Committee could formulate appropriate and workable conditions there would need to be some measure of positive engagement from Ms Markou. To date, she 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.

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 Ms Markou's lack of engagement with the GDC over a sustained period of time. Ms Markou did not attend or engage with the substantive hearing in September 2020 and the first review of the hearing in September 2021. Ms Markou has not provided any information as set out in all the previous PCC's recommendations. In these circumstances, the Committee has concluded that a further time limited period of suspension is unlikely to achieve her engagement or delivery of material requested to assist any future Committee. The Committee was satisfied that the power to impose an indefinite suspension under Section 27 C (1)(d) of the Act was available, as submitted by the GDC, as Ms Markou has been subject to an order for suspension for a period of two years and this direction would be made not more than two months before the current period of suspension would expire. 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 Ms Markou's registration be suspended indefinitely.

The effect of the foregoing direction is that, unless Ms Markou exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect; she will not be able to seek a review until at least two years have elapsed from that date.

That concludes this hearing.