

ON PAPERS
Registrations Appeal Hearing
CPD Appeal Hearing

10 May 2024

Name: GRANT, Jon
Registration number: 139525
Case number: CAS-205651-K1M7D0

General Dental Council: Emilia Hubbard, ILAS

Registrant: Unrepresented

Outcome: Appeal dismissed

Committee members: Aysha Ahmed-Kibria (Chair and Dentist member)
Gaon Hart (Lay member)
Helen Woodall (DCP member)

Legal adviser: Stephen Bate

Committee Secretary: Jamie Barge

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

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 Grant 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 Grant 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 Grant and on the papers.

4. The Committee noted that conducting the appeal on the papers is the default position of the GDC unless an appellant requests an oral hearing. Having considered the documents provided, the Committee was satisfied that Mr Grant had made no such request.
5. Notification of the convening of this appeal was sent to Mr Grant by Recorded Delivery and secure email on 2 April 2024 in accordance with Rule 5 of the Registration Appeal Rules.
6. 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

7. 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 Grant's private 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

8. The General Dental Council (Continuing Professional Development) (Dentists and Dental Care Professionals) Rules 2017 ('the CPD Rules') set out the CPD requirements placed on DCP registrants as of 1 August 2018, and the steps that the GDC shall take in respect of registrants' compliance and non-compliance with those requirements.
9. The current CPD Rules came into force on 1 January 2018 and took effect in respect of dental care professionals on 1 August 2018.
10. 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.
11. Rule 2(1) specifies that for each CPD cycle, a dental technician must complete a minimum of 50 hours of CPD.

12. Rule 2(6) stipulates that any CPD undertaken will only count towards the minimum number of hours if there is documentary evidence from the provider of the CPD that contains prescribed information.
13. 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.
14. 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.
15. 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.
16. 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.
17. Rule 9 allows for a single period of grace of 56 days from the end of the cycle if good reason is shown. However, any application must be made in the period of 6 months before the end of the CPD cycle.

Summary of the factual background

18. Mr Grant first registered with the General Dental Council ("the Council") as a dental care professional, with the title Dental Technician, on 19 March 2008. Therefore, in accordance with Rule 1 as set out above, Mr Grant's current CPD cycle began on 01 August 2023 and will end on 31 July 2028. The CPD cycle which has been assessed and the evidence for which has been deemed non-compliant, and which is subject to this appeal is Mr Grant's CPD cycle for the 01 August 2018 and 31 July 2023.
19. On 14 June 2023, the Council sent an email reminder to Mr Grant's registered email address. This reminder, notified Mr Grant that his CPD year was coming to an end and reminded him that he was required to submit his End of Cycle CPD statement, detailing how many CPD hours he had completed during that 2018-2023 cycle, by 28 August 2023. Mr Grant was advised that if he did not submit a compliant statement before the deadline, his registration may be put at risk. Mr Grant was informed that as he was in his 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 Grant was told he would need to apply for a grace period by 31 July 2023.
20. On 14 June 2023, the Council also sent Mr Grant 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 Council 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 Grant was also reminded in this notice that he was required to submit his CPD statement by 28 August 2023.

21. Between 6 July and 7 August 2023, Mr Grant was sent numerous reminders regarding his CPD requirements.
22. On 30 July 2023, the Council received a grace period request from Mr Grant via eGDC. Mr Grant's reason for requesting a grace period was that "After the stress of lockdown/coronavirus as a newly opened sole trader, [IN PRIVATE]. This meant that I have not been concentrating on completing the CPD, but on the re-building of my business and coping with the usual pressures of self-employment. I am in a better place now and am confident in getting everything up to date by the 56 days period, if granted."
23. On 31 July 2023, the Council sent a letter to Mr Grant via post to his registered address. The letter confirmed Mr Grant's application for a period of grace to be able to complete outstanding CPD has been accepted. The letter explained that when his period of grace expires, he needs to submit a CPD statement which demonstrates that since 01 August 2018, he had completed 50 hours of CPD. The letter explained that only CPD completed between 01 August 2018 and 26 September 2023 should be included in his CPD statement for the 2018-2023 CPD cycle. The letter stated that Mr Grant must submit his statement by 24 October 2023.
24. On 30 October 2023, the Council sent a notice under Rule 6 to Mr Grant by recorded delivery to his registered address. The notice stated that, although Mr Grant had submitted a CPD statement to the Council, he had not declared enough hours to meet the requirement for the CPD cycle. The notice stated that between 01 August 2018 to 31 July 2023 and within Mr Grant's grace period, 01 August 2023 to 26 September 2023, Mr Grant needed to complete a minimum of 50 verifiable hours of CPD. The notice stated that if Mr Grant wished to retain his registration, he should submit his CPD record to the Registrar by 27 November 2023, in order to demonstrate that he had met the requirement. Mr Grant was informed that if the Council did not receive a response to the notice or if his response was unsatisfactory, he may be erased from the dental care professionals register.
25. On 17 November 2023, the Council received from Mr Grant his Personal Development Plan ('PDP') and a number of CPD certificates from the period 2020 – 2023.
26. On 21 November 2023, the Council sent Mr Grant a 'Non-compliant' letter by email to his registered email address. The letter explained that despite the evidence submitted, his evidence demonstrated that he had completed 46 hours of verifiable CPD, which did not meet his CPD requirement to complete and keep a record of a minimum of 50 hours of verifiable CPD. Mr Grant's CPD remained deficient because he had 4 verifiable hours outstanding for his 2018 – 2023 cycle, including his grace period up until 26 September 2023. Furthermore, Mr Grant did not provide an Activity Log. Mr Grant was advised to submit additional evidence to demonstrate that he had met the requirement to complete a minimum of 50 hours of verifiable CPD, as well as his Activity Log, by 27 November 2023.
27. On 24 November 2023, the Council sent Mr Grant a further 'Non-compliant' by email to his registered email address. The letter explained that despite the CPD evidence submitted, he has not provided sufficient evidence to demonstrate that he had met the required 50 hours of CPD for 2018 – 2023, including his grace period until 26 September 2023, and has 4 CPD hours outstanding. The covering email also explained that the Activity Log alone would not change the outcome of his assessment and he currently remains 4 hours short of his 50-hour CPD requirement for his CPD cycle year 01 August 2018 – 31 July 2023, including his grace period until 26 September 2023. The email stated that if Mr Grant had any further CPD evidence to provide this by the deadline of 27 November 2023.
28. On 05 December 2023, the Council sent a Rule 8 notice to Mr Grant's registered address by recorded delivery. This notice confirmed that Mr Grant had failed to provide a compliant CPD record demonstrating that he had met the minimum requirement for the period 01 August 2018 to 31 July 2023, and for his grace period 01 August 2023 to 26 September 2023. As a result,

the Registrar had made the decision to remove his name from the dental care professionals register for non-compliance with the Rules. Mr Grant was notified that unless an appeal was submitted, the Registrar's decision would take effect on 08 January 2024.

The Appeal

29. On 19 December 2023, the Council received a Notice of Appeal (NOA) via email from Mr Grant which confirmed that he wished to appeal against the decision to remove his name from the dental care professional's register. Within his NOA, Mr Grant explains that the last five years have been very turbulent for him regarding his career [IN PRIVATE]. Mr Grant sincerely apologises that he did not complete his CPD cycle and that he, "did not do this on purpose, and I certainly did not fully appreciate the severity of the consequences of this".

30. Within his NOA, Mr Grant explains the following:

"In 2018, the dental practice I worked in, for over 30 years, closed without notice (due to the practice being placed in liquidation by HMRC) and I was made redundant."

- *"I subsequently started my own business in 2019 which came with it a steep learning curve adapting from being an employee to a sole trader. Throughout my time as an employee, the management of the practice provided further CPD inhouse training hours and materials over and about my own required hours. This ensured the hours were met easily. Being self-employed, I no longer have the luxury of this support or the guidance of an employer which has unfortunately resulted in the missed hours."*

- *"Then in 2020, Covid 19 hit and the dental industry ground to a halt. I was unable to work for almost 6 months and as I was a new business, I did not qualify for any financial assistance, [IN PRIVATE]."*

- *"Then when I did get back to work, it was then the opposite and I was inundated with work, regularly working late into the night and weekends, trying to get the work completed for the dentists. Recovering from trading and the extremely busy spell that followed, I resumed my training but had to make up the missed hours over a shorter period than under normal circumstances."*

- *"As advised, in the past, I had relied on the dental practice I worked in, to provide additional learning hours outside the basics to complete my annual CPD requirement, but as a sole trader, I struggled to find relevant courses for my job as a dental technician."*

- *"I feel that the decision made was very impersonal and has not taken into consideration any mitigating reasons."*

31. On 09 January 2024, Mr Grant's CPD evidence was assessed by Jagdish Kaur, Senior Registration Operations Officer. Mr Grant was deemed to be non-compliant with his CPD requirements on the basis that he had completed 46 verifiable CPD hours, which was not enough to meet the Enhanced CPD requirements to submit 50 verifiable hours of CPD for the CPD cycle 2018 – 2023 including his grace period from 01 August 2023 to 26 September 2023. It was noted that the CPD certificates provided by Mr Grant in support of his appeal were duplicates of certificates submitted previously, and that the certificates dated December 2023 are out of cycle years and not applicable for this assessment. It was confirmed that, as of 09 January 2024, Mr Grant had completed 46 verifiable CPD hours between 01 August 2018 to 31 July 2023 and between his grace period 01 August 2023 to 26 September 2023.

Submissions

32. In the GDC's written submissions, the Registrar's position was set out as follows:
"It is the Registrar's position that Mr Grant failed to submit a compliant CPD record for the CPD cycle 01 August 2018 to 31 July 2023, as required under Rule 2. Mr Grant 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. It is submitted by the Registrar that Mr Grant was reminded on numerous occasions, via three different means of communication, of the need to complete

his CPD hours and of the requirement to complete the 50 CPD hours for the CPD cycle 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 sympathises with Mr Grant's personal circumstances and the additional pressures caused by the Covid-19 pandemic. However, the Registrar submits that Mr Grant would have had sufficient opportunities to complete the required CPD, particularly with the addition of the 56-day grace period in accordance with Rule 9.

It is noted that Mr Grant states within his NOA that he was made redundant and was also unable to work for six months due to Covid-19. The Registrar acknowledges and is sympathetic to Mr Grant's circumstances and that during the CPD years 01 August 2019 to 31 July 2021 registrants were afforded Covid-19 discretion in relation to not taking any enforcement action against registrants for failing to meet their CPD requirements. However, this discretion has now ended. In addition, where a registrant takes a period of absence from work but wishes to remain registered, they must continue to adhere to the requirements of registration, including ongoing compliance with CPD requirements. This is because the requirements are linked to registration and not employment.

With reference to Mr Grant's submission that he is self-employed and no longer had the support and guidance of an employer to complete his CPD requirements. It is the Registrar's respectful submissions that although an employer may arrange CPD training courses, the Registrar is of the view that it is still a registrant's responsibility to make sure they are aware of and comply with all their CPD obligations.

The Registrar therefore submits that Mr Grant was afforded opportunities and support in order to ensure he was CPD compliant, but as of 09 January 2024 Mr Grant remains noncompliant, as per Rule 2 of the Rules, as he has only completed 46 hours of verifiable CPD for the period 01 August 2018 to 31 July 2023, and within the period of grace granted between 01 August 2023 to 26 September 2023, when he needed to have completed a minimum of 50 hours of verifiable CPD".

33. Mr Grant provided a CPD certificate which the GDC submitted was a duplicate of one that had already been provided by him.

Committee's decision and reasons on the appeal

34. The Committee had regard to the documentary evidence provided today (including the Notice of Appeal) and took account of the written representations made by the GDC. It accepted the advice of the Legal Adviser. The Committee also took note of the GDC's *Guidance on the Registrar's Discretion to Erase for CPD Non-Compliance* (February 2024) (The GDC's Guidance).
35. The first consideration for the Committee was whether Mr Grant had complied with his CPD requirement by demonstrating completion of 50 hours of verifiable CPD within the period of 1 August 2018 to 31 July 2023.
36. Having carefully reviewed the CPD records which Mr Grant submitted, the Committee determined that he demonstrates having completed 46 verifiable hours of CPD within the period of 1 August 2018 to 31 July 2023. Accordingly, there is a shortfall of 4 hours. Therefore, the Committee determined that Mr Grant is not compliant with his statutory CPD requirements.
37. The Committee was satisfied that the required notices had been duly served on Mr Grant 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.

38. Mr Grant was reminded on numerous occasions of the need to complete his CPD hours and of the requirement to complete 50 verifiable CPD hours in the 5-year cycle. Therefore, as of 9 January 2024 Mr Grant remains non-compliant, as per Rule 2 of the Rules, as he has only completed 46 hours of verifiable CPD for the period 01 August 2018 to 31 July 2023, and within the period of grace granted between 01 August 2023 to 26 September 2023, when he needed to have completed a minimum of 50 hours of verifiable CPD.
39. The Committee had regard to the GDC's Guidance in respect of '*Assessing Exceptional Circumstances*'. It also took into account Mr Grant's personal circumstances as outlined in his appeal; however, the Committee is satisfied that these did not reach the high bar required to be considered as exceptional personal circumstances in this case. It noted that Mr Grant had been given a further period of 56 days, however, he still had failed to provide 4 of the 50 CPD hours required.
40. The Committee having regard to all the circumstances, the Committee determined that there were no grounds on which this appeal should be allowed. Mr Grant has 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 provide a statement.
41. This appeal was accordingly dismissed.
42. Unless Mr Grant 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 Grant 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 Grant in writing.
44. That concludes this determination.