

PUBLIC HEARING**Professional Conduct Committee
Review Hearing****29 September 2023****Name:** GUIRGUIS, Kareem**Registration number:** 193829**Case number:** CAS-190140-J9B9S2

General Dental Council: Sian Priory, Counsel/Case Presenter.
Instructed by Harry McNeilly IHLPS**Registrant:** Did not attend the hearing and was not represented on his behalf.

Outcome: Fitness to practise remains impaired. Order of indefinite suspension was imposed.

Committee members: Matthew King (Chair and Dentist Member)
Valerie Atkinson (Lay Member)
Charlotte Carling (DCP Member)**Legal adviser:** Alain Gogarty**Committee Secretary:** Gurjeet Dhuper

1. This is a Professional Conduct Committee (PCC) review hearing of Mr Guirguis' 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). Ms Sian Priory (Counsel) attends on behalf of the GDC.
2. The purpose of this hearing is for this Committee to review Mr Guirguis' case, and to determine what action to take in relation to his registration. His registration is currently subject to an order of suspension.
3. Yesterday evening Mr Guirguis was notified in an email sent by the GDC instructing Solicitor that a pre-hearing chat would be taking place at 9.15am with Ms Priory and the Legal Adviser. Mr Guirguis did not join.
4. The hearing was due to start at 9.30am as indicated on the notice of hearing letter. Some time was afforded to Mr Guirguis to see whether he would attend. The hearing started at 9.53am and Mr Guirguis was not present.
5. 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 Mr Guirguis. It took account of Ms Priory's submissions on these matters. The Committee accepted the advice of the Legal Adviser.

Decision on service

6. The Committee considered whether notice of the hearing had been served on Mr Guirguis 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 9 August 2023 ('the notice'), which was posted to Mr Guirguis' registered address by 'Track and Trace'. The Committee noted that the notice of hearing letter was delivered on 10 August 2023, although 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. The Committee further noted that a copy of the notice was also sent to Mr Guirguis by email on 9 August 2023 and could see that the email was downloaded.
7. The Committee was satisfied that the notice sent to Mr Guirguis 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 his absence.
8. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Guirguis in accordance with the Rules and the Act.

The Committee's decision on whether to proceed with the hearing in the absence of Mr Guirguis

9. The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Mr Guirguis. 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 Mr Guirguis 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.
10. The Committee noted from the Notification of Hearing letter of 9 August 2023 that Mr Guirguis was asked to provide the Committee with written submissions or any documents that he felt are relevant to the review hearing by 29 September 2023. The information before the Committee is that no written submission or documents have been sent by him.
11. The Committee notes that Mr Guirguis has been in regular contact with the GDC instructing lawyer that is assigned to this case from the time that notice of this hearing was provided until yesterday evening. The Committee heard from Ms Priory that Mr Guirguis had indicated to the GDC instructing lawyer that he wanted this hearing to be postponed. The GDC instructing lawyer responded that this was a decision that only the Committee can make and advised that Mr Guirguis would therefore need to attend the hearing and make his application. There was no response from Mr Guirguis.
12. The Committee concluded that Mr Guirguis had voluntarily absented himself from today's proceedings. Mr Guirguis did not attend to make an application to postpone the hearing and the Committee found that there is no information before it to indicate that an adjournment was likely to secure his attendance on a future date.
13. 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 Mr Guirguis' absence.

Background

14. Mr Guirguis' case was first considered by a PCC in August and September 2021. He attended that hearing and was legally represented.
15. The initial PCC in 2021 considered and found proved allegations relating to Mr Guirguis' interactions with a number of patients, with professional colleagues, and with a health assessor appointed by the GDC, all of which occurred between approximately 2017 and 2019. During this period, whilst he was practising on Harley Street, Mr Guirguis provided a number of patients with clear aligners to correct misaligned teeth.

16. The allegations found provided by the initial PCC, some of which he admitted, concerned a range of issues in relation to that treatment he provided.
17. The clinical findings made by the PCC in 2021 were that, in respect of certain patients, Mr Guirguis had:
- failed to carry out pre-treatment orthodontic assessments;
 - failed to check the fit of aligners;
 - inappropriately prescribed Invisalign Express aligners;
 - failed to fit attachments;
 - failed in the taking or retaking of impressions;
 - failed in relation to the provision of aftercare instructions and the taking of photographs;
 - failed to provide adequate information to 'Quick Straight Teeth', a business that deals in Orthodontics, in relation to the manufacture of aligners; and
 - failed to obtain informed consent.
18. In addition, the PCC in 2021 made findings in relation to Mr Guirguis' communication with patients, and his practice management. In these regards, the initial Committee found that Mr Guirguis had:
- failed to communicate effectively with patients;
 - in relation to one patient, failed to arrange an appointment to be made in a timely manner as regards the patient's discomfort with a tooth;
 - taken a telephone call during an appointment with a patient and/or left the surgery without completing the dental procedure being undertaken, which the initial PCC determined was unprofessional conduct;
 - failed to complete patients' treatment in a timely manner;
 - failed to fully refund patients for their treatment; and
 - failed to provide patients with continuity of care.
19. It was further found that Mr Guirguis had misled a patient by providing them with inaccurate information about the timeframe for the shipping of their aligners.
20. The PCC in 2021 also determined that Mr Guirguis' conduct, involving his communications with two dentist colleagues, had been misleading and dishonest. It was found that Mr Guirguis had provided one of the dentists with information that gave the impression that, an interim order of suspension imposed on his registration, was due to health reasons only, when that was not the case. The interim order of suspension had also been imposed due to concerns about Mr Guirguis' conduct and clinical practice. In relation to the second dentist colleague, it was found that Mr Guirguis had provided information that gave the impression that he had stopped working voluntarily due to health reasons, when that was not the case. It was because of the interim order of suspension imposed on his registration.

21. **[IN PRIVATE]**.

22. The PCC in 2021 stated in its determination that:

“The Committee was of the view that taking into account the overall conduct, with the exception charges 4(d) and 8(g), these failings were serious and of a consistently low standard over a period of time and for all patients identified. The Committee was of the view that the findings in this case represent a significant departure from the standards expected of a registered dental professional and do amount to misconduct.”

23. In respect of deficient professional performance, the initial Committee stated that:

“In light of the Committee’s conclusion that the facts found proved amounted to misconduct with the exception of charges 4(d) and 8(g) and given the reasoning for finding that these did not amount to misconduct the Committee made no adverse finding against you in respect of these charges and finds that they did not amount to deficient professional performance.”

24. The initial PCC went on to determine that Mr Guirguis’ fitness to practise was impaired by reason of his misconduct. In its decision on impairment, it stated as follows:

“The Committee determined that the misconduct identified in your case relating to the clinical and administrative aspects was such that it could be remediated. The Committee had regard to the information that you intend to undertake training to address the issues identified in this case and your personal circumstances. The Committee noted that it has been several years since the appointments in question and you have apologised for your failings and identified where you need to take further steps. The Committee considered that you have demonstrated some limited insight into the deficiencies identified and the areas that need addressing. The Committee had regard to the evidence from the witnesses who appeared on your behalf and who testified to how open and honest you were about what had happened to you, the medical information before it outlining your progress and the remorse you have demonstrated. While the Committee was of the view that you have identified some of the learning you need to do and have taken some limited steps in the right direction, you have not yet started this in practice and as such are still at the very start of your remediation journey. You have not produced a PDP and you have not undertaken any CPD or engaged with the Deanery, despite it being over two and a half years that this process has been ongoing. The Committee noted that you have put practice management systems in place in your current employment, but you appeared unfamiliar with the details when asked about these by Mr Singh. Given the lack of sufficient remediation and lack of full insight at this time the Committee was satisfied that there is a risk of repetition. The Committee has borne in mind that its primary function is to protect patients. It has also taken into account the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator, and upholding proper standards and behaviour. Dental professionals occupy a position of privilege and trust in society and must make sure that their conduct at all

times justifies both their patients' and the public's trust in the profession. In this regard, the Committee considered the judgement of Mrs Justice Cox in the case of Grant.

...

The Committee considered that you have put patients at unwarranted risk of harm through your misconduct, including financial harm, despite your attempts to provide refunds to some patients out of your own savings as a number of patients were left without the treatment they had paid for and without a refund. You have brought the profession into disrepute and breached one of the fundamental tenets of the profession through the misconduct that the Committee has found and detailed above. It has also found that you acted dishonestly. The Committee concluded that, based on the findings in this case and being in full possession of the facts of this case, public confidence would be undermined if no finding of impairment was made. Having regard to all of this the Committee has concluded that your fitness to practise is currently impaired by reason of misconduct on both grounds, public protection and public interest."

25. The initial PCC determined to impose a substantive order of suspension on Mr Guirguis' registration for a period of 12 months, with an immediate order of suspension. That Committee directed a review of the substantive order prior to the end of the 12-month period. In doing so, it stated that:

"Any future Committee reviewing this order is likely to be assisted by: evidence of any further relevant training that focuses on the breaches of standards highlighted in this decision; a written personal reflective piece on the importance of honesty in the profession and also what you have learned from this process and demonstrating your insight into your misconduct, the impact of your misconduct on the public and the profession; and documentary evidence of any other remediation that you may have undertaken. The Committee would also encourage you to continue to engage with your mentor."

First review of the order 7 October 2022

26. The order of suspension was reviewed by the PCC on 7 October 2022, when it was determined that Mr Guirguis' fitness to practise remained impaired by reason of his misconduct. Mr Guirguis attended that hearing and represented himself. The PCC stated in its determination:

"In all the circumstances, the Committee concluded that there was insufficient evidence before it to demonstrate that you have remedied your misconduct. It therefore considered that there would be a risk of repetition if you were permitted to return to unrestricted practice. Accordingly, a finding of impairment is necessary to protect the public.

The Committee also considered that such a finding is required in the wider public interest. In finding impairment on this ground, the Committee not only took into account the lack of evidence of your remediation, including in relation to your dishonesty, but also your conduct throughout this hearing. You repeatedly made unfounded, and at

times, offensive, remarks towards your regulatory body, the GDC Case Presenter and the Committee, including allegations of discrimination, duplicity, and bias. The Committee considered that public confidence in the dental profession would be seriously undermined if a finding of impairment were not made in all the circumstances.

The Committee therefore determined that your fitness to practise remains impaired by reason of your misconduct.”

27. The PCC in October 2022 extended the suspension order on Mr Guirguis’ registration by a period of 12 months. In directing a further review, that Committee considered that any future reviewing Committee may be assisted by:

- *“evidence of any further relevant training that focuses on the breaches of standards highlighted in the decision of the initial PCC;*
- *a written personal reflective piece on the importance of honesty in the profession and also what you have learned from this process and demonstrating your insight into your misconduct, the impact of your misconduct on the public and the profession; and*
- *documentary evidence of any other remediation that you may have undertaken.*

The Committee would also encourage you to engage with a mentor.”

Today’s review

28. 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 submissions made by Ms Priory on behalf of the GDC. The Committee accepted the advice of the Legal Adviser. No written representations were provided by Mr Guirguis.

29. Ms Priory submitted that whilst Mr Guirguis has been in contact with the GDC throughout these proceedings, he has demonstrated a wholesale failure to engage in any meaningful way and has not provided any evidence of remediation or insight.

30. Ms Priory also referred the Committee to other fitness to practise matters in relation to Mr Guirguis. She informed the Committee that Mr Guirguis currently has two separate orders of indefinite suspension on his registration. She submitted that any order made by the Committee today will not substantively affect what Mr Guirguis is able to do in relation to his practice. Ms Priory submitted that the Committee is not to make any findings in respect of those other orders and that she has referenced them to provide context.

31. Ms Priory submitted 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 Mr Guirguis’ 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 Mr Guirguis' registration.

32. No written representations were received on behalf of Mr Guirguis.

Decision on Current Impairment

33. The Committee considered whether Mr Guirguis' fitness to practise remains impaired by reason of his 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.
34. The Committee notes that since the last review hearing in October 2022 the GDC wrote to Mr Guirguis on 11 October 2022 to inform him of the outcome. The letter highlighted the recommendations made by the reviewing Committee and stated that if Mr Guirguis wished to provide any, he should send it to the GDC Case Review Team by 11 September 2023. The Committee also had regard to the bundles of correspondence between Mr Guirguis and the GDC legal team which include reminders of the points made by the previous reviewing Committee and that any remediation can be forwarded to them. The Committee notes that there has been no response from Mr Guirguis in relation to that particular matter.
35. The Committee also noted that other unrelated matters relating to Mr Guirguis' fitness to practise were brought to its attention for background contextual purposes by Ms Priory.
36. The Committee went on to consider whether Mr Guirguis' fitness to practise is still impaired by reason of his 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 Mr Guirguis has recognised the seriousness of his misconduct, demonstrated insight or provided any information as recommended to him by the substantive and previous reviewing PCC. The Committee notes that whilst Mr Guirguis has been in regular contact with the GDC, the focus of his communications relate purely to alleged unfairness caused by the GDC to himself. It concluded that Mr Guirguis 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 his involvement. Given its concerns regarding Mr Guirguis's lack of insight and remediation the Committee considers that his fitness to practise remains impaired by reason of his misconduct. The Committee considered a finding of current

impairment is required to protect patients and is also in the public interest in order to maintain public confidence and uphold the standards of the profession.

Sanction

37. 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).
38. The Committee has borne in mind the principle of proportionality, balancing the public interest against Mr Guirguis' 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.
39. 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 Mr Guirguis' lack of meaningful engagement with the GDC and the absence of any remediation or insight into his misconduct, the Committee has concluded that it would not be appropriate to terminate the current order or to allow it to lapse.
40. 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 Mr Guirguis. To date, he 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.
41. 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 Mr Guirguis' lack of meaningful engagement with the GDC over a sustained period of time. Mr Guirguis 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 his full 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 Mr Guirguis has been subject to an order for suspension for a period of two years. The Committee concluded in these circumstances an indefinite period of suspension is necessary, appropriate and proportionate for the reasons outlined above. It is required in order to maintain public protection and to maintain confidence in the profession. It therefore directs that Mr Guirguis' registration be suspended indefinitely.
42. The effect of the foregoing direction is that, unless Mr Guirguis exercises his right of appeal, his registration will be suspended indefinitely from the date on which the direction takes effect; he will not be able to seek a review until at least two years have elapsed from that date.

43. That concludes this hearing.