

**Professional Conduct Committee
Review Hearing****20 October 2023**

Name: Nita PATEL

Registration number: 137703

Case number: CAS-196185-S2N0H8

General Dental Council: Manuel Cao Hernandez IHLPS for the GDC

Registrant: Not Present and Unrepresented

Fitness to practise: remains Impaired by reason of misconduct

Outcome: Suspended indefinitely

Committee members: Nora Nanayakkara (Lay Member)
Alison Mayell (Dentist Member)
Lynne Frewin (DCP Member)

Legal adviser: Sanjay Lal

Committee Secretary: Gurjeet Dhuper

1. This is a resumed hearing before the Professional Conduct Committee (PCC) pursuant to section 36Q of the *Dentists Act 1984 (as amended)* ('the Act').
2. The purpose of this hearing has been for the Committee to review Mrs Patel's case and determine what action should be taken in relation to her registration. Neither party is participating in today's hearing, following a request by the GDC for the review to be conducted on the papers.
3. The Committee first considered the issues of service and whether to proceed with the hearing in the absence of Mrs Patel. The Committee accepted the advice of the Legal Adviser on these matters.

Decision on service

4. The Committee considered whether notice of the hearing had been served on Mrs Patel in accordance with Rules 28 and 65 of the *General Dental Council (Fitness to Practise) Rules 2006 Order of Council* ('the Rules').
5. The Committee received from the GDC an indexed hearing bundle of 37 pages. The bundle contained a copy of the Notice of Hearing dated 13 September 2023 ('the notice'), which was sent to Mrs Patel's registered address. A copy of the notice was also sent to her by email. The Committee took into account that there is no requirement within the Rules for the GDC to prove delivery of the notice, only that it was sent. It noted from the associated Royal Mail 'Track and Trace' receipt, also within the hearing bundle, that delivery of the notice letter had been attempted and was arranged for redelivery.
6. The Committee was satisfied that the notice sent to Mrs Patel complied with the required 28 day notice period. It was also satisfied that it contained proper notification of today's hearing, including its date and time, as well as confirmation that the hearing would be held remotely via Microsoft Teams. Mrs Patel was further notified that the Committee had the power to proceed with the hearing in her absence.
7. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Mrs Patel in accordance with the Rules and the Act.

Decision on whether to proceed with the hearing in the absence of Mrs Patel

8. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Mrs Patel. 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 cases of *General Medical Council v Adeogba [2016] EWCA Civ 162*. The Committee remained mindful of the need to be fair to both Mrs Patel and the GDC, taking into account the public interest in the expeditious review of this case.
9. The Committee noted from the Notification of Hearing letter of 13 September 2023 that Mrs Patel was asked to confirm by 21 September 2023, if there is any reason why this hearing should not proceed on the papers. A further email was sent to Mrs Patel's registered email

address on 22 September 2023, asking her again to confirm if she has any objections to this hearing taking place on the papers. The information before the Committee indicates that there has been no response from Mrs Patel. She has not provided a reason for her non-attendance, nor has she requested an adjournment.

10. 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 Mrs Patel did not attend and was not represented at the initial hearing in October 2021 and at the subsequent review hearing in October 2022.
11. 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 Mrs Patel and on the papers.

Background to Mrs Patel's case

12. Mrs Patel's case was first considered by a PCC at a hearing in October 2021. Mrs Patel did not attend that hearing nor was she represented in her absence. The PCC found Mrs Patel's fitness to practise as a dental nurse to be impaired by reason of her misconduct. It summarised the misconduct as follows:

"The facts found proved against Mrs Patel relate to an incident that occurred in August 2020, when she was employed as the Practice Manageress at Practice A.

The Committee found proved that Mrs Patel intentionally, and without authorisation, altered the records of Patient A, a member of her family. On 19 August 2020, Mrs Patel entered a credit note in financial records relating to Patient A, which was false and misleading, in that it inaccurately purported to show that Patient A no longer owed the practice £200. In addition, Mrs Patel deleted a temporary note in patient records relating to Patient A, which indicated that Patient A was not to have any further appointments until he had paid the £200 debt he owed, or words to that effect.

The Committee was satisfied that in her position as Practice Manageress, Mrs Patel was aware of what she was doing when she undertook the actions in question. It found proved that her conduct was lacking in integrity, deliberately misleading, and dishonest, in that she intended to make a gain for Patient A and to cause a loss to the practice by concealing the fact that a debt was still owed."

13. In finding Mrs Patel's fitness to practise to be impaired the October 2021 PCC stated:

"The Committee had regard to the case of Grant and considered the four questions posed by Dame Janet Smith in her Fifth Shipman Report. It took into account that no patient safety issues have been raised in this case. It was therefore satisfied that there has been no evidence to suggest that Mrs Patel has acted in the past so as to put patients at an unwarranted risk of harm. However, the Committee was satisfied that the remaining three questions, in terms of Mrs Patel's past actions, are engaged in this case.

In considering whether Mrs Patel is liable to act in such a way in the future, the Committee had regard to the manner in which she carefully planned and quickly executed her dishonest actions. It also took into account that, as a consequence of non-engagement with this hearing, there has been no explanation from her as to why she acted as she did, and no evidence of any remorse, insight, or remediation. Accordingly, nothing has been provided to the Committee to reassure it that if Mrs Patel were to find herself in a position of trust in the future, she would not repeat her misconduct. In the circumstances, the Committee concluded that there is a risk of repetition.

In the absence of any evidence to suggest that such a risk would impact on the safety of patients, the Committee focused on the wider public interest. Given the serious nature of Mrs Patel's misconduct, and the lack of any evidence of remorse, insight or remediation, the Committee considered that public confidence in the dental profession would be severely undermined if a finding of impairment were not made in the circumstances of this case. It also considered that such a finding is required to promote and maintain proper professional standards and conduct for the members of the dental profession."

14. The October PCC directed that Mrs Patel's registration be suspended for a period of 12 months with a review, stating:

"...the Committee was satisfied that there is no evidence of harmful deep-seated personality or professional attitudinal problems in this case. It did not accept the GDC's submission that there was evidence of such. Whilst the Committee had regard to Mrs Patel's lack of engagement at this hearing, and the resulting lack of evidence in relation to any remorse, insight or remediation, it also took into account the isolated nature of her misconduct. The Committee also noted the absence of any fitness to practise history. In all the circumstances, the Committee concluded that there was little or no evidence to suggest that Mrs Patel has a harmful deep-seated attitudinal problem.

A suspension is a significant sanction, with serious consequences for Mrs Patel in terms of her being able to work using her GDC registration. The Committee was satisfied that the imposition of a suspension order would be sufficient in this case, to manage the risk of repetition, to maintain public confidence in the dental profession and to uphold proper professional standards.

...a Committee will review Mrs Patel's case at a hearing to be held shortly before the end of the period of suspension. That Committee will consider what action to take in relation to her registration. Mrs Patel will be informed of the date and time of that hearing, with which she will be expected to engage.

The Committee reviewing Mrs Patel's case may find it helpful to receive evidence from her regarding her insight into and remorse for her dishonesty."

First review October 2022

15. The first review of the order was held on 28 October 2022. The hearing was held on the papers and there had been no engagement from Mrs Patel. The PCC concluded that:

“There continues to be no engagement or response from Mrs Patel. There therefore remains a lack of any evidence from her of insight and remediation. The Committee is in the same position as the initial PCC in October 2021. The Committee determined that Mrs Patel’s fitness to practise continues to be impaired by reason of her misconduct. She had breached a fundamental tenet of the profession, has brought the profession into disrepute, and has acted dishonestly. There is nothing before this Committee to suggest there has been any reflection, remorse or insight shown by Mrs Patel. In those circumstances there remains a risk of repetition. The 12 month period of suspension directed by the initial PCC is likely to have been sufficient to meet the wider public interest had there been engagement from Mrs Patel at this review hearing. There has been no such engagement and the wider public interest therefore also remains engaged in this case.”

16. The PCC directed that the period of suspension be extended by a further period of 12 months with a review.

Today’s review

17. Today is the second review of the PCC substantive order. In comprehensively reviewing this case today, the Committee took account of the written submissions provided by the GDC. No written submissions or any other material was received on behalf of Mrs Patel. It accepted the advice of the Legal Adviser.
18. In its written submissions, the GDC submits that there has been no material change since the last review hearing and that Mrs Patel’s fitness to practise remains currently impaired by reason of her misconduct. In relation to sanction, the GDC submitted that it would be appropriate and proportionate to indefinitely suspend Mrs Patel’s registration.

Current Impairment

19. In considering whether Mrs Patel’s fitness to practise is currently impaired by reason of her misconduct the Committee has borne in mind that this is a matter for its own independent judgement. It has also had regard to its duty to protect the public, to declare and uphold proper standards of conduct and competence and to maintain public confidence in the profession. The Committee bore in mind that at a review hearing the onus is on a registrant to demonstrate that their fitness to practise is no longer impaired.
20. The Committee notes that Mrs Patel was sent notification of the PCC hearing outcome on 28 October 2022 regarding the decisions made by the Committee within the determination. No

evidence of any engagement with the GDC and/or remediation undertaken by Mrs Patel has been received.

21. The Committee considered that there has been no evidence of material change since the initial hearing in October 2021. There is no evidence before this Committee that Mrs Patel has addressed her past conduct or provided any evidence of remediation. It also took account of the fact that Mrs Patel is unrepresented and accepted that this process may be challenging for her. However, the Committee was of the view that it is incumbent on Mrs Patel, as a GDC registrant, to engage with her remediation and her regulator. The Committee was mindful that at a review hearing, according to case law, the onus is on the registrant to persuade the Committee that they are no longer impaired. The Committee considered that Mrs Patel has not demonstrated any remorse or insight into her misconduct.
22. Given its concerns regarding Mrs Patel's lack of insight and remediation the Committee determined that a finding of current impairment is required to promote and maintain proper professional standards and conduct for the members of the dental profession. It was also of the view that a fully informed member of the public aware of the initial findings made would be concerned if a finding of current impairment was not made.
23. The Committee therefore determined that Mrs Patel's fitness to practise remained currently impaired by reason of the misconduct.

Sanction

24. 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).
25. The Committee has borne in mind the principle of proportionality, balancing the public interest against Mrs Patel'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.
26. 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 Mrs Patel'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.
27. 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, and that conditions could not be formulated to address concerns about dishonesty. Further, even if the Committee could formulate appropriate and workable conditions there would need to be some measure of positive engagement from Mrs Patel. 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.

28. 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 Mrs Patel's lack of engagement with the GDC over a sustained period of time. Mrs Patel has not attended any of her previous hearings and has not provided any evidence of remediation. 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, and would represent a disproportionate use of the GDC's resources. The Committee concluded therefore in these circumstances an indefinite period of suspension is the appropriate and proportionate outcome and is required to promote and maintain proper professional standards and conduct for the members of the dental profession. It therefore directs that Mrs Patel's registration be suspended indefinitely. The Committee noted that indefinite suspension would leave the option open to Mrs Patel to reengage with her regulator in the future if she wishes to do so.
29. The effect of the foregoing direction is that, unless Mrs Patel exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect.
30. That concludes this hearing.