

Hearing held in public

Summary

Name:	SERRANO FAYOS, Raul [Registration number: 235547]
Type of case:	Professional Conduct Committee (review)
Outcome:	Suspended indefinitely
Date:	12 March 2021
Case number:	CAS-186423

Neither party is present at this resumed hearing of the Professional Conduct Committee (PCC). The hearing is being conducted remotely using Microsoft Teams in line with the GDC's current practice. The GDC has invited the Committee to conduct the hearing on the papers in the absence of both parties.

Decision on service of the Notification of Hearing

The Committee considered whether notice of the hearing had been served on Mr Serrano Fayos in accordance with Rules 28 and 65 of the *General Dental Council (Fitness to Practise) Rules Order of Council 2006* (the Rules). It received a bundle of documents containing a copy of the Notification of Hearing letter, dated 4 February 2021 including his registered address, and a Royal Mail 'Track and Trace' receipt confirming delivery of the letter on 5 February 2021. A copy of the letter was also sent to him by email on the same day.

The Committee was satisfied that the letter contained proper notification of today's review hearing, including its time, date and location (remotely), as well as notification that the Committee had the power to proceed with the hearing in Mr Serrano Fayos' absence. On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Serrano Fayos in accordance with the Rules.

Decision on proceeding with the hearing in the absence of Mr Serrano Fayos 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 Mr Serrano Fayos. 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 [2001] EWCA Crim 168* and as explained in the cases of *General Medical Council v Adeogba* and *General Medical Council v Visvardis [2016] EWCA Civ 162*. It remained mindful of the need to be fair to both Mr Serrano Fayos and the GDC, and it had regard to the public interest in the expeditious review of the suspension order in place on Mr Serrano Fayos' registration. The Committee took into account that the current order is due to expire on 1 April 2021.

The Committee noted from the Notification of Hearing letter of 4 February 2021 that Mr Serrano Fayos was asked to confirm by 12 February 2021, whether he would be attending today's hearing and/or whether he would be represented. To date there has been no contact from the Registrant.

The Committee therefore concluded that Mr Serrano Fayos had voluntarily absented himself from today's proceedings. The Committee noted there was no information before it to indicate that an adjournment was likely to secure his attendance on a future date. The Committee also

noted that Mr Serrano Fayos did not attend and was not represented at his review hearing on 2020.

The Committee therefore determined that, in the circumstances, it was fair and appropriate to proceed on the papers alone in the absence of both parties.

Background matters

Mr Serrano Fayos' case was first considered by the PCC in February 2019. This was in relation to the treatment Mr Serrano Fayos provided to Patient A. Patient A attended Mr Serrano Fayos' practice on 7 May 2013 for bridgework to replace missing teeth in her upper arch. The treatment cost £2,000 and involved placing two bridges (spanning UR1-4 and UL1 – 4) over 13 appointments between May 2013 and September 2014. Notwithstanding the complexity of this advanced restorative work, Mr Serrano Fayos failed to carry out any sufficient periodontal assessment for Patient A. He failed to take any screening and pre-operative radiographs for her. He failed to assess her oral hygiene, the suitability of the abutment teeth to hold a bridge, her occlusion and her bruxism. There was clear evidence in the earlier clinical records made by other practitioners that the teeth were likely to be unsuitable as abutments for the bridgework, due to periodontal disease, bone loss and failed or inadequate root canal treatment. Indeed, one of the abutment teeth was previously marked for extraction.

That PCC found that Mr Serrano Fayos failed to carry out sufficient treatment planning. He also failed to provide Patient A with all the treatment options, and he failed to obtain her informed consent for treatment. Approximately 9 months after one of the bridges was fitted it fell out and was temporarily re-cemented at an emergency appointment with another practitioner.

That Committee determined that the facts found proved against Mr Serrano Fayos amounted to misconduct and that his fitness to practise was impaired by reason of his misconduct. It determined to suspend his registration for a period of 12 months with an immediate order. The Committee directed a review of Mr Serrano Fayos' case shortly before the end of the period of suspension, and considered that a Committee reviewing the case may be assisted by him re-engaging with the GDC and providing a copy of his PDP, reflective writing and evidence that he had addressed the areas of deficiency in his practice, including:

- (i) Diagnostic assessments;
- (ii) Pre-treatment investigations;
- (iii) Treatment planning;
- (iv) Bridgework;
- (v) Radiographic practice;
- (vi) Record keeping; and
- (vii) Informed consent.

First Review 16 March 2020

The Registrant did not attend the review hearing. That reviewing Committee noted *“that the Registrant has not provided any information to address the concerns that were identified by the PCC in February 2019. These relate to serious and wide-ranging areas of concerns in his clinical practice. Mr Serrano Fayos has been afforded an opportunity to provide evidence to the GDC and engage in these proceedings. He has chosen not to. In the absence of such evidence, the Committee has concluded that there remains a risk of repetition of the matters found proved by the PCC.”*

That Committee determined that Mr Serrano Fayos' fitness to practise remained impaired.

That Committee decided that Mr Serrano Fayos' registration should be suspended for a further period of 12 months with a review before the expiry.

Today's review

In comprehensively reviewing Mr Serrano Fayos' case today, the Committee considered all the documentation before it. It took account the written submissions made by the GDC. It accepted the advice of the Legal Adviser. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020).

The GDC submitted that to date, there has been no evidence that Mr Serrano Fayos has remedied any of the failings identified by the initial Committee. In relation to the matters before the Committee today. The GDC submit that there has been no material change since the initial and review hearings and invited the Committee to find that Mr Serrano Fayos' fitness to practise remains impaired. The GDC further invited the Committee, if it found current impairment, to suspend Mr Serrano Fayos' registration indefinitely.

Decision on impairment

The Committee considered whether Mr Serrano Fayos' 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.

The Committee noted that since the last review hearing in March 2020 the GDC emailed Mr Serrano Fayos on 16 March 2020 attaching the Committee determination. The GDC sent a further email to Mr Serrano Fayos on 17 March 2020 inviting him to provide supporting evidence prior to this review hearing. No response has been received from Mr Serrano Fayos.

The Committee went on to consider whether Mr Serrano Fayos' fitness to practise is still impaired. 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 Serrano Fayos has addressed his past misconduct or provided any information as recommended to him by the initial PCC in February 2019. In addition, he has not provided any information to demonstrate any evidence of insight or remediation. In these circumstances, the Committee considers that there remains a risk that Mr Serrano Fayos could repeat the misconduct identified and thus he remains a risk to the public. It also notes that Mr Serrano Fayos has not 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 Serrano Fayos' lack of insight and remediation the Committee considers that the risk of repetition remains.

In these circumstances, the Committee considered that public confidence in the profession and this regulatory process would be seriously undermined if no finding of continuing impairment were made. The Committee determined that Mr Serrano Fayos' fitness to practise remains impaired.

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 Mr Serrano Fayos' 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 Mr Serrano Fayos' total lack of 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.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee is aware that in order for conditions to be appropriate and workable there would need to be some measure of positive engagement from Mr Serrano Fayos. To date, he has not 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 the absence of any engagement by Mr Serrano Fayos with the GDC over a sustained period of time. Mr Serrano Fayos did not attend the substantial initial hearing or his review hearing or provide any information set out in the recommendations. In these circumstances, the Committee has concluded that a further time limited period of suspension is unlikely to achieve his engagement or delivery of material requested to assist any future Committee. In these circumstances an indefinite period of suspension is the appropriate and proportionate outcome and is required in order to maintain public confidence in the profession. It therefore directs that Mr Serrano Fayos' registration be suspended indefinitely.

The effect of the foregoing direction is that, unless Mr Serrano Fayos 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.

That concludes this hearing.