

**ON PAPERS****Professional Conduct Committee  
Review Hearing****30 November 2023****Name:** ZANIEWSKA, Milena Maria**Registration number:** 108570**Case number:** CAS-190265-W3T5J9

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**General Dental Council:** Manuel Cao Hernandez, IHLPS**Registrant:** Unrepresented

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**Fitness to practise:** Impaired by reason of misconduct**Outcome:** Indefinite suspension

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**Committee members:** Margaret Wolff (Chair, lay member)  
Caitriona Walsh (Dentist member)  
Pamela Machell (DCP member)**Legal Adviser:** Trevor Jones**Committee Secretary:** Jennifer Morrison

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1. This is a Professional Conduct Committee (PCC) review hearing of Ms Milena Zaniewska's case, pursuant to Section 27C of the *Dentists Act 1984 (as amended)* ('the Act').
  2. The purpose of this hearing is for this Committee to review Ms Zaniewska's case and to determine what action to take in relation to her registration. Her registration is subject to an order of suspension.
  3. The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Microsoft Teams in line with current General Dental Council (GDC) practice.

4. Neither party is present today, following a request made by the GDC for the review of the suspension order to be conducted on the papers. The Committee received written submissions from the GDC in respect of the review dated 23 November 2023.
5. The Committee first considered the issues of service and proceeding with the hearing in the absence of Ms Zaniewska and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

#### **Decision on service of Notice of Hearing**

6. The Committee considered whether the Notice of Hearing ('the Notice') had been served on Ms Zaniewska in accordance with Rules 28 and 65 of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006*' ('the Rules').
7. The Committee received from the GDC an indexed PCC review hearing bundle of 92 pages. This hearing bundle contained a copy of the Notice, dated 26 October 2023, which was sent to Ms Zaniewska's registered address by Special Delivery and First Class post.
8. The Committee considered 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 Royal Mail 'Track and Trace' receipt provided that the Notice sent by Special Delivery was returned undelivered on 27 October 2023 on account of Ms Zaniewska no longer being at that address.
9. However, the Committee also considered that on 26 October 2023, a copy of the Notice was sent to Ms Zaniewska as a secure attachment to an email address that she has previously used for corresponding with the GDC.
10. The Committee was satisfied that the Notice sent to Ms Zaniewska contained proper notification of this review hearing. It contained information about, amongst other things, the date and time of the hearing and the GDC's intention for the hearing to take place on the papers unless Ms Zaniewska requested an oral hearing.
11. On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Zaniewska in accordance with the Rules and the Act.

#### **Decision on whether to proceed with the hearing in the absence of the registrant and on the papers**

12. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Ms Zaniewska and any representative for either party. 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 affirmed in subsequent regulatory cases.
13. The Committee considered the need to be fair to both Ms Zaniewska and the GDC, and it also took into account the public interest in the expeditious review of the substantive order.

14. The Committee considered that in the Notice, Ms Zaniewska was asked to confirm whether she would be attending or be represented. She was invited to provide the Committee with written submissions or any documents that she felt would be relevant to the review hearing by 2 November 2023. The Committee noted that Ms Zaniewska had not responded to the Notice or to an email from the GDC dated 3 November 2023 asking her to confirm whether she objected to the hearing being conducted on the papers.
15. The Committee was satisfied that Ms Zaniewska's absence from these proceedings is voluntary. It noted that in March 2023, in response to correspondence from the GDC about her CPD requirements, Ms Zaniewska had indicated that she had retired from dentistry in 2019 and remained on the register solely on account of these proceedings. The Committee further considered that it did not receive a request for an adjournment from either party.
16. The Committee had no information before it to indicate that adjourning the hearing would secure Ms Zaniewska's attendance on a future date and concluded that an adjournment would serve no meaningful purpose. In reaching its decision, the Committee also bore in mind its statutory duty to review the current substantive order before its date of expiry.
17. 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 both parties.

### **Background**

18. This is the second review of a substantive order initially imposed on Ms Zaniewska's registration on 19 November 2021. At the initial hearing, which Ms Zaniewska did not attend, the PCC found proved a number of charges encompassing failures in the standard of care Ms Zaniewska provided to 15 patients between 2017 and 2018. These failures related to diagnosis and/or treatment of caries, restorations, treatment, investigating pain, radiographic practice, antimicrobial prescribing, warnings regarding smoking in respect of periodontal disease, obtaining informed consent and record keeping.
19. The initial PCC determined that Ms Zaniewska's fitness to practise was impaired by reason of misconduct, stating:

*'Ms Zaniewska has not engaged in these proceedings, except to state that she is now retired from dentistry and has no intention of returning to practice in the future. She had previously sought voluntary removal from the Register. Owing to Ms Zaniewska's lack of engagement there is no evidence before the Committee of any insight, reflection or remediation. In the absence of any such evidence there clearly remains a high risk of repetition should Ms Zaniewska resume practice without any restriction on her registration. The clinical failings found proved in this case were serious and wide-ranging; and were repeated over a period of 18 months. There is evidence before the Committee that clinical failings of this nature had previously been raised with Ms Zaniewska by her clinical supervisors and mentors in respect of her performance as a dentist providing treatment on the NHS but that she had failed to address those concerns and instead ultimately resigned from her position and retired from practice...'*

*...Public confidence in the profession and this regulatory process would be seriously undermined if no finding of impairment were made, owing to the wide-ranging and repeated nature of the misconduct involving numerous patients, the high risk of repetition in the absence of any restriction on her registration and the lack of any evidence of insight or remorse demonstrated by her.'*

20. The initial PCC imposed a suspension order on Ms Zaniewska's registration of 12 months and directed a review before the end of the 12-month period, stating:

*'The Committee determined that a lengthy period of suspension with a review is the proportionate outcome. This will allow Ms Zaniewska time to reflect upon her misconduct and to decide upon her next steps, whilst also protecting the public from any risk of harm. It will also have the effect of upholding and declaring proper standards of conduct and behaviour, so as to maintain public confidence in the profession in this regulatory process. Should there continue to be a lack of any meaningful engagement from Ms Zaniewska, any reviewing Committee is likely to extend the suspension by a further period and ultimately to direct indefinite suspension.'*

#### **First review of the order on 8 December 2022**

21. The suspension order against Ms Zaniewska's registration was first reviewed on the papers on 8 December 2022 as requested by the GDC and in the absence of any objection from Ms Zaniewska. The reviewing PCC noted Ms Zaniewska's continued lack of engagement with the proceedings and found that she had not demonstrated any remediation as a result. It found that there was a high risk of repetition and determined that Ms Zaniewska's fitness to practise remained impaired on public protection and public interest grounds. Although the reviewing PCC was aware that Ms Zaniewska had apparently retired and was no longer residing in the UK, it was mindful that in the absence of any restriction on her registration, Ms Zaniewska could return to practise at any time.
22. The reviewing PCC imposed a further 12-month period of suspension on Ms Zaniewska's registration, stating:

*'In coming to its decision on sanction, the Committee took account of the options available to it at this stage; namely, to terminate the suspension, to replace it with conditional registration, or to extend the current order.'*

*The Committee concluded that terminating the suspension would be wholly inappropriate in the circumstances, due to the wide-ranging nature of the concerns and the complete lack of engagement and failure to demonstrate any level of remediation.*

*The Committee then considered replacing the suspension order with conditional registration but was satisfied that this would not be appropriate, given the lack of*

*cooperation from Ms Zaniewska. The Committee also noted that Ms Zaniewska appears to be retired and residing outside of the UK, making any conditions that could be formulated unworkable.*

*Therefore, the Committee was satisfied that the only appropriate and proportionate sanction that would adequately protect the public and address the wider public interest at this time was that of suspension. In this regard, the Committee concluded that it would extend the suspension for a further period of 12 months, with a review.'*

### **Today's review**

23. Today is the second review. In comprehensively reviewing this case today, the Committee considered all the documentation presented to it and took account of the submissions made. The Committee accepted the advice of the Legal Adviser.
24. In its written submissions, the GDC stated that since the last review hearing, it had contacted Ms Zaniewska in relation to her CPD requirements on 14 February 2023. Ms Zaniewska responded on 14 March 2023, stating that she had retired in 2019 and only remained on the register due to the ongoing regulatory proceedings. She stated that she was happy to be removed from the register. The GDC informed Ms Zaniewska that although she was no longer practising, it was obliged to continue sending her notices in line with GDC guidance whilst she remained on the register.
25. The GDC stated that it has received no further correspondence from Ms Zaniewska or any application for her voluntary removal from the register.
26. The GDC submitted that Ms Zaniewska's fitness to practise remains impaired by reason of her misconduct. It submitted that in the light of her continued lack of engagement, the absence of any evidence of insight or remediation, and the ongoing risks, an indefinite suspension should be imposed upon Ms Zaniewska's registration on public protection and public interest grounds.

### **Decision on current impairment**

27. The Committee considered whether Ms Zaniewska'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 objectives of the GDC: 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.
28. The Committee bore in mind that at a review hearing, there is a persuasive burden on the registrant to demonstrate that their fitness to practise is no longer impaired. The Committee noted that Ms Zaniewska has apparently not practised since 2019 and considered her clearly stated intention not to fulfil the CPD requirements for continued registration. Accordingly, Ms Zaniewska cannot be said to have remediated.

29. The Committee determined that in the light of no meaningful engagement from Ms Zaniewska and in the absence of any evidence of insight, remorse and remediation, Ms Zaniewska's fitness to practise remains impaired on public protection and public interest grounds.

### **Sanction**

30. The Committee next considered what direction, if any, to make. It had regard to the GDC's *Guidance for the Practice Committees including Indicative Sanctions Guidance* (effective October 2016, revised December 2020).
31. The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Zaniewska'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.
32. 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. The Committee determined that this would be inappropriate in the light of its finding of current impairment.
33. The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee was not satisfied that workable conditions could be formulated in the light of Ms Zaniewska's ongoing non-engagement, such that the Committee has no confidence that she would comply with conditions of practice.
34. The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It considered that Ms Zaniewska has failed to meaningfully engage with these proceedings over the past two years and has indicated that she is no longer practising. In the absence of any evidence of insight, remorse or remediation from Ms Zaniewska, the Committee concluded that a further time-limited period of suspension would serve no useful purpose.
35. The Committee was satisfied that the power to impose an indefinite suspension under Section 27 C (1)(d) of the Act was available, as Ms Zaniewska has been subject to an order for suspension for a period of at least two years. The Committee concluded in these circumstances that 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 Ms Zaniewska's registration be suspended indefinitely.
36. The Committee considered that the onus should now rest with Ms Zaniewska to contact the GDC if and when she is willing to engage with its processes. It noted that she can request a review of the indefinite suspension order when at least two years have elapsed since the date on which the direction takes effect.
37. Unless Ms Zaniewska exercises her right of appeal, her registration will be suspended indefinitely, 28 days from the date that notice of this direction is deemed to have been served

upon her. In the event that she does exercise her right of appeal, the suspension order currently in place on her registration will remain in force until the resolution of the appeal.

38. That concludes this determination.