

ON PAPERS

Health Committee Review Hearing

27 October 2023

Name: Avison, Charlene
Registration number: 147244
Case number: CAS- 194835-T4Q5D3

General Dental Council: Manuel Cao Hernandez, IHLPS

Registrant: Unrepresented.

Outcome: Indefinite suspension

Committee members: Elizabeth Rantzen(Lay)
Louise Gilbert (DCP)
Harpreet Ark (Dentist)

Legal adviser: Andrew Reid

Committee Secretary: Jamie Barge

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

1. The purpose of today's hearing is to review a substantive direction of suspension first imposed on Ms Avison's registration by the Health Committee (HC) on 13 October 2021. The matter was last reviewed on 31 October 2022. The hearing is being held in accordance with section 36Q of '*Dentists Act 1984*' (as amended), 'the Act'.
2. The hearing is being conducted remotely using Microsoft Teams in line with the current practice of the General Dental Council (GDC). Neither party is present at this hearing of the HC. The GDC has invited the Committee to conduct the hearing on the papers in the absence of both Ms Avison and a Case Presenter on behalf of the GDC.

Preliminary matters

Application for the hearing to be held in private

3. At the beginning of the hearing, the Committee considered an application on behalf of the GDC under Rule 53 of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006*' ('the Rules') that this hearing be held partly in private since the matters under consideration include Ms Avison's health. The GDC invited the Committee to only hear the parts of the hearing relating to health in private as the matters relating to misconduct are not so inextricably linked that the whole hearing required being held in private session.
4. The Committee bore in mind that, as a starting point, hearings should be conducted in public session. However, due to the nature of the matters in this case, and having regard to the information before it, the Committee was satisfied that the personal interests of Ms Avison relating to her personal or family life outweighed the public interest in this case.
5. The Committee was satisfied that the hearing should be held in private session when discussing matters relating to Ms Avison's health. It therefore acceded to the GDC's application.

Decision on service of Notice of Hearing

6. The Committee accepted the advice of the Legal Adviser on the requirements of service and proceeding in absence.
7. The notice of hearing was sent on 25 September 2023 to Ms Avison at her registered address by both Special Delivery and first-class post. Royal Mail's "Track and Trace" service records that the Special Delivery item was delivered on 27 September 2023, signed for against the name "AVISON". The Committee was satisfied that the notice of hearing contained the required information under Rule 28 of the Rules and that it had been served on Ms Avison in accordance with the requirements of Rule 65.
8. A link to download a copy of the notice of hearing was also sent to Ms Avison by email on 25 September 2023.
9. The Committee next considered whether to proceed in the absence of Ms Avison and on the papers. This is a discretion which must be exercised with great care and caution.
10. The Committee was satisfied that all reasonable efforts had been made by the GDC to send notice of this hearing to Ms Avison. No response has been received from Ms Avison in response to the Notice. She has in previous communications asked that the GDC stop contacting her. In her recent email of 27 October 2023 in response to the GDC's question

about attendance, she stated “*I couldn’t care less about the GDC*”. The Committee infers that she has no intention of attending today.

11. Having regard to all the circumstances, the Committee determined that Ms Avison was aware of today’s hearing and its purpose. She had not requested a postponement. There also had not been any communication from her to indicate that she was having trouble in joining the hearing. There was nothing to suggest to the Committee that adjourning the hearing would make Ms Avison’s attendance any more likely at a future date. The Committee concluded that Ms Avison had voluntarily absented herself from the hearing. The Committee noted that the order must be reviewed no later than 11 November 2023, and considered that any adjournment would put it at risk of failing to meet its obligation.
12. Having regard to all the circumstances, the Committee determined that it would therefore be fair and in the public interest to proceed with the hearing today on the papers only, notwithstanding the absence of Ms Avison.

Background

13. This is the second review of a substantive order initially imposed by the HC on Ms Avison’s registration in October 2021.
14. On 11 October 2019, Ms Avison was convicted at Greater Manchester Magistrates’ Court of pursuing a course of conduct, between 26 August 2019 and 18 September 2019, which amounted to the Stalking of Person A, and which she knew or ought to have known amounted to the harassment of Person A, contrary to Section 2A(1) and (4) of the Protection from Harassment Act 1997.
15. On 24 December 2019, Ms Avison was convicted at Greater Manchester Magistrates’ Court of pursuing a course of conduct, between 6 November 2019 and 20 December 2019, which amounted to the Stalking of Person A, and which she knew or ought to have known amounted to the harassment of Person A, contrary to Section 2A(1) and (4) of the Protection from Harassment Act 1997; and attempting to contact Person A which she was prohibited from doing by a Restraining Order under Section 5 of the Protection from Harassment Act 1997, imposed on 11 October 2019, contrary to Section 1(1) of the Criminal Attempts Act 1981.
16. On 13 October 2021, the HC found Ms Avison’s fitness to practise as a dental nurse to be impaired by reason of these convictions. The HC also found her fitness to practise to be impaired by reason of: (i) misconduct in not immediately informing the GDC of the further convictions she had received on 24 December 2019; and (ii) adverse physical or mental health **IN PRIVATE:**
17. In deciding on what action to take in respect of Ms Avison’s registration, the October 2021 HC stated that

“To conclude this case with no further action or a reprimand would be wholly inappropriate, owing to the seriousness of Ms Avison’s misconduct and the risk to patient safety should she be allowed to resume practice without restriction” and that it *“could not be satisfied that conditions of practice could be formulated at this stage to be workable, measurable or proportionate, owing to Ms Avison’s non-attendance at the hearing, her sporadic engagement, and her intention not to return to dentistry”*.
18. The October 2021 HC determined to suspend Ms Avison’s registration for a period of 12 months stating:

“...a 12-month period [of suspension] would serve to protect the public and would satisfy the wider public interest. It also considered that this period would give Ms Avison sufficient time to remediate fully [IN PRIVATE].”

19. The October 2021 HC directed that the period of suspension be reviewed prior to its expiry, stating *“the Committee reviewing Ms Avison’s case would be assisted by;*

- *Evidence of insight and remediation*
- *Evidence of [IN PRIVATE]*
- *Evidence of [IN PRIVATE]”*

20. At the most recent review hearing on 31 October 2022, the HC found Ms Avison’s fitness to practise impaired by reason of her adverse health conditions and misconduct. The HC gave the following reasons for its finding on impairment;

“Whilst there had been some engagement in these proceedings from Ms Avison since the initial HC hearing in October 2021, she had not attended the hearing today and had not otherwise provided the Committee with any evidence of reflection, insight or remediation in respect of her misconduct and convictions.... In the absence of any such evidence, the Committee determined that Ms Avison’s fitness to practise continues to be impaired by reason of her misconduct...”

“Ms Avison’s fitness to practise continues to be impaired by reason of her adverse physical or mental health. [IN PRIVATE].”

21. In relation to her fitness to practice by reasons of her conviction, the Committee stated;

“The Committee determined that Ms Avison’s fitness to practise was no longer impaired by reason of her convictions. Ms Avison had been convicted and punished for her offending as part of the criminal justice system. She has served the sentences imposed on her by the Magistrates’ Court. In the regulatory context concerning her registration in the DCP register under the title of dental nurse, the Committee was satisfied that the 12-month period of suspension imposed by the initial HC has been sufficient to mark the seriousness of her convictions. In the Committee’s judgment, no further regulatory intervention is necessary in respect of those convictions.”

22. The 2022 HC directed that Ms Avison’s registration be subject to a further suspension for a period of 12 months, with a review, stating

“The Committee therefore directs that the current period of suspension of Ms Avison’s entry in the DCP register under the title of dental nurse be extended by a further period of 12 months, beginning with the date on which it would otherwise expire. This period is appropriate in light of Ms Avison’s limited engagement thus far and when having regard to the level of remediation and rehabilitation which Ms Avison would need to demonstrate to a reviewing Committee.

Today’s review

23. It is the role of the Committee today to undertake the review directed by the October 2022 HC. The Committee had regard to all the documentary evidence before it, including that which was before the initial HC in October 2021.

Submissions

24. In its written submissions, the GDC invited the Committee to impose an indefinite order of suspension. It stated that there is no evidence to show any material change in position since the last review. Despite the previous HC requesting materials demonstrating insight and addressing the concerns raised, no material has been received from Ms Avison to date. In the absence of any and/or sufficient evidence to demonstrate insight and/or engagement, the GDC submitted that Ms Avison's fitness to practise remains impaired by reason of her adverse health and misconduct.
25. Ms Avison has not provided any written submissions for the Committee to consider at today's review.

Decision on today's review

26. The Committee has carefully considered all the information presented to it, including the documentation and written submissions provided by the GDC. In its deliberations, the Committee has had regard to the GDC's '*Guidance for the Practice Committees, including Indicative Sanctions Guidance* (updated December 2020)'. The Committee has heard and accepted the advice of the Legal Adviser.

Impairment

27. The Committee first considered whether Ms Avison's fitness to practise remains impaired by reason of her adverse health and misconduct.
28. In reaching its decision, the Committee was mindful of the need to protect the public and to maintain public confidence in the profession.
29. The Committee notes that there was some engagement in these proceedings from Ms Avison after the initial HC hearing in October 2021. However, since the 2022 HC, she has not provided the Committee with any evidence of reflection, insight or remediation, nor has she engaged with the GDC; [IN PRIVATE]. The Committee concluded that on this basis, there remains a significant risk of harm to patients.
30. In order to fulfil the regulatory objective to protect patients, whilst maintaining confidence in the profession, the Committee finds Ms Avison's fitness to practise remains impaired by reason of her misconduct.
31. In the light of the lack of evidence to the contrary, the Committee also concluded that Ms Avison's fitness to practise remains impaired by reason of her adverse health.

Sanction

32. 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 order, to replace the current order with conditions of practice, to extend the current order, or to indefinitely suspend the registrant.
33. As the Committee has found Ms Avison's fitness to practise to be currently impaired, it concluded that it would be inappropriate to terminate the order as she has not engaged and has shown no evidence of insight or remediation into her failings. [PRIVATE].
34. The Committee next considered whether Ms Avison should be permitted to return to restricted practice under the provision of conditions of practice. Due to her lack of engagement, and lack of information relating to her management of her health conditions and lack of insight into her misconduct, the Committee concluded that conditions would be

unworkable as Ms Avison has not demonstrated that she is willing or able to comply with conditional registration.

35. In respect of the above, the Committee considered that indefinite suspension is the appropriate and proportionate outcome because in the two years since the order was imposed, Ms Avison has failed to engage meaningfully with her regulator and has not produced up to date evidence of her health condition or insight into her misconduct. This will enable Ms Avison to seek a review as and when (subject to the minimum period) she is ready to provide the reviewing committee with the evidence that might enable her return to practice.
36. Ms Avison may request a review of the indefinite suspension two years after the imposition of this order.

Right of appeal

37. Unless Ms Avison 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. This will be confirmed to Ms Avison in writing.
39. That concludes this determination.