

ON PAPERS**Registrations Appeal Hearing
CPD Appeal Hearing****24 March 2025****Name:** Fitzgerald-Miller, Brogan**Registration number:** 226510**Case number:** CAS- 209343-K7J9H1

General Dental Council: Instructed by Needa Bhatti, ILAS**Registrant:** Unrepresented

Outcome: Appeal dismissed

Committee members: Rhona Stevens (Chair, Dentist member)
Tanya Viehoff (DCP member)
Tara Willmott (Lay member)**Legal adviser:** Trevor Jones**Committee Secretary:** Jamie Barge

1. This is an appeal meeting before the Registration Appeals Committee (RAC). The appeal is against the decision of the Registrar of the General Dental Council (GDC) to erase Ms Fitzgerald-Miller from the Register for apparent non-compliance with the statutory Continuing Professional Development (CPD) requirements. The hearing is being held in accordance with the terms of the *General Dental Council (Registration Appeals) Rules Order of Council 2006* ('the Registration Appeal Rules'), pursuant to Schedule 4A of the *Dentists Act 1984* (as amended) ('the Act').
2. The hearing was conducted remotely via Microsoft Teams in line with current GDC practice. Neither party was present at today's hearing, following notification from the GDC that the appeal was to be conducted on the papers.

Preliminary matter

Decision to conduct the appeal in the absence of Ms Fitzgerald-Miller and on the papers

3. Neither party was present at today's meeting. The Committee noted that conducting the appeal on the papers is the default position of the GDC unless an appellant requests an oral hearing. Having considered the documents provided, the Committee was satisfied that Ms Fitzgerald-Miller had made no such request.
4. Notification of this appeal was sent to Ms Fitzgerald-Miller by Recorded Delivery and secure email on 5 February 2025 in accordance with Rule 5 of the Registration Appeal Rules.
5. The Committee was satisfied that it was appropriate to consider today's appeal in the absence of the parties and on the papers.

Decision and reasons on the appeal

Background

6. The General Dental Council (Continuing Professional Development) (Dentists and Dental Care Professionals) Rules 2017 ('the CPD Rules') set out the CPD requirements placed on DCP registrants as of 1 August 2018, and the steps that the GDC shall take in respect of registrants' compliance and non-compliance with those requirements.
7. The CPD Rules came into force on the 1 January 2018 and took effect in respect of dental care professionals on 1 August 2018.
8. In accordance with Rule 1, a 'CPD cycle' means, in respect of a dental care professional, a period of five years beginning on 1 August following the date the dental care professional is first registered and each subsequent period of five years. A 'CPD year' means, in respect of a dental care professional, a period of 12 months beginning on 1 August in any calendar year.
9. Ms Fitzgerald-Miller appealed against the Registrar's decision that their CPD is non-compliant because she failed to provide a compliant CPD record demonstrating that she had met the minimum requirement for the period 1 August 2022 – 31 July 2024 and asked the Registrar to consider exceptional circumstances.

Summary

10. The GDC's case in support of its decision was summarised as follows:

Ms Fitzgerald-Miller first registered with the General Dental Council ("the Council") as a dental care professional, with the title Dental Nurse, on 12 June 2012. Therefore, in accordance with Rule 1 as set out above, Ms Fitzgerald-Miller's current CPD cycle began on 1 August 2022 and will end on 31 July 2027. The CPD period which has been assessed, and the evidence for which has been deemed noncompliant, and which is the subject of this appeal, is Ms Fitzgerald-Miller's CPD years for the period 1 August 2022 to 31 July 2024

On 22 May 2024, the Council sent an email reminder to Ms Fitzgerald-Miller's registered email address. This reminder, notified Ms Fitzgerald-Miller that her CPD year was coming to an end and reminded her that she was required to submit her CPD statement, detailing how many CPD hours she had completed during that year, by 28 August 2024. Ms Fitzgerald-Miller was advised that if she did not submit a compliant statement before the deadline, her registration may be put at risk.

On 11 June 2024, the Council also sent Ms Fitzgerald-Miller an Annual Renewal Notice letter by post to her registered address. On 12 June 2024, the Council sent a further email reminder to Ms Fitzgerald-Miller's registered email address, requesting that she submit her CPD statement by 28 August 2024 and stating that she was required to complete a minimum of 10 hours of CPD during each period of two consecutive years. On 4 July 2024, the Council sent an email to Ms Fitzgerald-Miller in which she was reminded that her annual CPD statement is due 28 August 2024. It was noted that, the Council had not received her Annual Retention Fee and indemnity declaration, and it was yet to receive her annual CPD statement.

On 19 July 2024 and 5 August 2024, the Council sent further email reminders to Ms Fitzgerald-Miller's registered email address. Between 12 August 2024 and 28 August 2024, the Council sent three SMS reminders regarding the CPD statement to Ms Fitzgerald-Miller's registered mobile number.

On 20 August 2024, Ms Fitzgerald-Miller submitted an annual CPD statement for the 2023-2024 CPD year, declaring that she had completed 6 verifiable CPD hours.

Rule 6 notice

On 25 September 2024, the Council sent a notice under Rule 6 to Ms Fitzgerald-Miller by recorded delivery to her registered address. The notice stated that, although Ms Fitzgerald-Miller had submitted a CPD statement to the Council, she had not declared enough hours to meet the requirement to complete a minimum of 10 hours of CPD over two consecutive years. It was noted that she had submitted an annual CPD statement of 2 verifiable hours for the 2022-2023 CPD year and an annual CPD statement of 6 verifiable hours for the 2023-2024 CPD year. The notice stated that if Ms Fitzgerald-Miller wished to retain her registration, she should submit her CPD record to the Registrar by 23 October 2024 in order to demonstrate that she had met the requirement.

Correspondence with Ms Fitzgerald-Miller

On 15 October 2024, the Council received a letter from Ms Fitzgerald-Miller. Ms Fitzgerald-Miller apologised for falling short of her CPD requirements. She explained that from November 2022 to October 2023 [IN PRIVATE]. She accepted this was not an excuse, however said this contributed to her being behind in her CPD. Ms Fitzgerald-Miller stated that she really enjoys dental nursing and hopes to stay on the register. Ms Fitzgerald-Miller indicated that she enclosed a further 10 hours of CPD to show she is keen to continue her professional development. Ms Fitzgerald-Miller finally indicated she understood it was important to keep up with her CPD, and that she would ensure this did not happen again if she was kept on the register

Rule 8 notice

On 5 November 2024, the Council sent a Rule 8 notice to Ms Fitzgerald-Miller's registered address by recorded delivery. This notice confirmed that Ms Fitzgerald-Miller had failed to provide a compliant CPD record demonstrating that she had met the minimum requirement for the period 1 August 2022 to 31 July 2024. It was noted that she had completed 0 verifiable hours in 2022-2023 and 5 verifiable hours in 2023- 2024 which is not enough to satisfy the 10 over 2 consecutive years requirement. It was also noted that several CPD documents submitted by Ms Fitzgerald-Miller were dated outside the relevant cycle years. The Notice confirmed the Registrar had considered Ms Fitzgerald-Miller's letter dated 15 October 2024 and explained the reasons why it did not amount to exceptional circumstances.

Notice of Appeal

On 27 November 2024, the Council received a Notice of Appeal (NOA) from Ms Fitzgerald-Miller which confirmed that she wished to appeal against the decision to remove her from the dental care professionals register.

On 29 November 2024, Ms Fitzgerald-Miller's CPD evidence was assessed by an Operations Officer. Ms Fitzgerald-Miller was deemed to be non-compliant with her CPD requirements on the basis that she had 5 verifiable CPD hours outstanding for the period 1 August 2022 to 31 July 2024. The 10 CPD dental nurses certificates were not accepted as they were not within the requested assessment period. It was confirmed that, as of 29 November 2024, Ms Fitzgerald-Miller had completed 5 verifiable CPD hours between 1 August 2022 to 31 July 2024.

Submissions

11. In its written submissions, the Council's position is that Ms Fitzgerald-Miller's CPD is non-compliant because she has failed to demonstrate that she has completed the minimum requirement to undertake 10 hours of verifiable CPD during the period 1 August 2022 to 31 July 2024. It is submitted by the Registrar that Ms Fitzgerald-Miller was reminded on numerous occasions of the need to complete her CPD hours and of the requirement to complete 10 verifiable CPD hours in each two-year period, as set out in detail above.
12. The Registrar submits that Ms Fitzgerald-Miller would have had sufficient opportunities to complete the required CPD and further, she ought to be aware of the requirements for continued registration, which includes ongoing compliance with the CPD requirements annually and during each two-year consecutive CPD cycle.

13. The Registrar acknowledges and is sympathetic to the personal circumstances experienced by Ms Fitzgerald-Miller during the relevant period. [IN PRIVATE], the Registrar submits that Ms Fitzgerald-Miller would have had sufficient opportunity to complete the minimum number of CPD required [IN PRIVATE]. Furthermore, Registrants ought to be aware of the requirements for continued registration, which includes ongoing compliance with the CPD requirements annually and during each five-year CPD cycle.
14. While the Registrar is afforded a discretion not to erase a registrant where there are exceptional circumstances, the Registrar did not consider Ms Fitzgerald-Miller's circumstances amounted to exceptional circumstances. [IN PRIVATE].
15. Lastly, it is noted that Ms Fitzgerald-Miller completed additional CPD after the stipulated deadline, to demonstrate her willingness to her professional development. The Registrar submits that, any CPD completed outside of the 1 August 2022 to 31 July 2024 CPD cycle years cannot be considered for the purpose of this appeal as she was required to have completed a minimum of 10 hours of CPD over the two consecutive years period.
16. As of 29 November 2024, Ms Fitzgerald-Miller had completed 5 verifiable CPD hours between 1 August 2022 and 31 July 2024, which clearly breaches the requirement that dental care professionals submit evidence that they have completed a minimum of 10 verifiable CPD hours in each two-year period. Having originally declared 8 hours of verifiable CPD in that period, some of the hours were determined by the Registrar to be non-verifiable.
17. It is open to Ms Fitzgerald-Miller to apply to restore her registration at any time following this appeal.

Committee's decision

18. The Committee had regard to the documentary evidence provided today and took account of the written submissions made on behalf of the GDC and those made by Ms Fitzgerald-Miller in her Notice of Appeal. It heard and accepted the advice of the Legal Adviser.
19. The Committee first calculated the number of hours of CPD which Ms Fitzgerald-Miller was required to undertake. The Committee was in agreement with the Registrar (and it is not in dispute on appeal) that Ms Fitzgerald-Miller was required to complete at least 10 hours of verifiable CPD during her two-year CPD cycle. She is only short of 5 hours in a two-year period. The Committee considered that she could have completed this CPD prior to the deadline of 31 July 2024.
20. The Committee was satisfied that Ms Fitzgerald-Miller had not complied with this requirement.
21. The Committee has taken full account of the personal circumstances Ms Fitzgerald-Miller experienced. It noted the number of reminders that were sent by both email and text to Ms Fitzgerald-Miller. The Committee determined that it was her responsibility to be familiar with the CPD requirements. Having carefully considered Ms Fitzgerald-Miller's personal circumstances, the Committee did not consider these to amount to exceptional circumstances that would have prevented her from completing her CPD requirements in the statutory time frame. As of today, Ms Fitzgerald-Miller, as agreed by both parties, had only completed five hours of verifiable CPD in the requisite period. The Committee is satisfied that Ms Fitzgerald-Miller was non-compliant with her CPD requirements.

22. The Committee was satisfied that the GDC has complied with the 2017 Rules in dealing with Ms Fitzgerald-Miller's CPD requirements including the serving of the statutory notices on her.
23. The Committee also balanced the interests of Ms Fitzgerald-Miller against the wider public interest and to the public expectation that registered dental professionals will meet their statutory CPD requirements in order to remain on the Register. The Committee was satisfied that the decision was proportionate, and this appeal therefore fails.
24. Accordingly, the appeal is dismissed. The Committee wished to remind Ms Fitzgerald-Miller that it is open to her to apply for the restoration of her name to the Register upon completion of the required number of CPD hours.
25. This will be confirmed to Ms Fitzgerald-Miller in writing.
26. That concludes this determination.