

**Hearing held in public**

Summary	
<b>Name:</b>	<b>MOSSA, Mustafa [Registration number: 261637]</b>
<b>Type of case:</b>	<b>Professional Conduct Committee (Review)</b>
<b>Outcome:</b>	<b>Suspended indefinitely</b>
<b>Date:</b>	<b>14 March 2022</b>
<b>Case number:</b>	<b>CAS-188822</b>

This is a resumed hearing of Mr Mossa's case before the Professional Conduct Committee (PCC), pursuant to section 27C of the *Dentists Act 1984 (as amended)* ('the Act').

The hearing is being conducted remotely by Microsoft Teams video-link in line with the current practice of the General Dental Council (GDC).

The purpose of the hearing has been to review a substantive order of suspension currently in place on Mr Mossa's registration. Neither party is present today, following a request made by the GDC for the review to take place on the papers. The Committee received written submissions from the GDC.

The Committee first considered the issues of service and proceeding in the absence of Mr Mossa, and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

***Decision on service***

The Committee considered whether notice of the hearing had been served on Mr Mossa in accordance with Rules 28 and 65 of the *General Dental Council (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), and section 50A of the Act.

The Committee received from the GDC an indexed hearing bundle and written submissions. The hearing bundle contained a copy of the Notice of Hearing, dated 11 February 2022 ('the notice'), which was sent to Mr Mossa's registered address by Special Delivery. The Committee noted from the Royal Mail 'Track and Trace' information, also included in the hearing bundle, that the notice was marked as "*Return to sender*" on 15 February 2022. The Committee took into account that there is no requirement within the Rules for the GDC to prove receipt of the notice, only that it was sent.

A copy of the notice was also sent to Mr Mossa on 11 February 2022 as an attachment within a secure email.

The Committee was satisfied that the notice sent to Mr Mossa complied with the 28-day notice period required by the Rules. It was further satisfied that the notice contained all the required particulars, including the date and time of this hearing, confirmation that it would be held remotely by video-link on Microsoft Teams, and that the Committee had the power to proceed with the hearing in his absence.

On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Mossa 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***

The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Mr Mossa, and any representative for either party. 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 *General Medical Council v Adeogba; General Medical Council v Visvardis [2016] EWCA Civ 162*.

The Committee remained mindful that fairness to Mr Mossa was an important consideration, but it also took into account the need to be fair to the GDC. The Committee had regard to the GDC's written submissions in which it invited the Committee to exercise its discretion to proceed. The Committee further had regard to the public interest in the expeditious review of the current order on Mr Mossa's registration.

The Committee determined that it would be appropriate to proceed in the absence of Mr Mossa. The Committee is mindful of the public interest in seeing an expeditious review of his suspension, particularly given its imminent expiry. Mr Mossa has not requested an adjournment of these proceedings and the Committee received no information to indicate that an adjournment today may secure his attendance on a future date, given his lack of attendance at all previous PCC hearings. The Committee considers that the GDC has made every effort to secure Mr Mossa's attendance, and that he has voluntarily absented himself. In the circumstances the Committee was content to proceed in Mr Mossa's absence, and for the hearing to take place on the papers.

### **Background**

Mr Mossa's case was first considered by the PCC at a hearing which took place in February 2020. Mr Mossa did not attend the hearing and was not represented. The Committee at the initial hearing considered and found proved allegations that Mr Mossa failed to provide an adequate standard of care to patients in a number of different respects:

- *Failures in examinations and assessments in relation to Patients 1, 2 and 5*
- *Failing to formulate treatment plans for Patients 1, 3 and 5*
- *Failures in radiographic practice for Patients 3 and 5*
- *Failures in the information provided to Patients 1, 2 and 3*
- *Failure to provide a prescription in relation to Patients 1, 2 and 3*
- *Failure to take a medical history in relation to Patient 6*
- *A number of record keeping failures including a failure to comply with IR(ME)R*

The initial Committee was of the view that the facts found proved, taken individually or cumulatively, did not reach the threshold for the finding of misconduct. It did however consider that the facts found proved amounted to deficient professional performance (DPP). The Committee concluded:

*"in the absence of any evidence of insight and remediation Mr Mossa presents an ongoing risk to patients. Furthermore, members of the public would be concerned by his acts and omissions and would expect his regulatory body to declare and uphold the standards expected of all registered practitioners."*

The Committee determined that Mr Mossa's fitness to practise was impaired by reason of his DPP and directed that his registration be suspended for a period of 12 months. It directed a review of Mr Mossa's case shortly before the end of the period of suspension. The Committee stated in its determination that:

*"The Committee considered that a Committee reviewing Mr Mossa's case may find it helpful to receive the following:*

- *evidence of his meaningful engagement with the GDC;*
- *evidence of CPD and training relevant to the clinical risks identified; and*
- *a reflective piece demonstrating his insight and understanding of the impact of his behaviour upon his patients and the wider public in the dental profession.”*

The order of suspension was reviewed by the PCC on 22 February 2021, when it was determined that Mr Mossa’s fitness to practise remained impaired. The reviewing Committee stated:

*“There is no evidence before this Committee that Mr Mossa has addressed his past DPP or provided any information as recommended to him by the initial Committee in February 2020. 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 Mossa could repeat the DPP identified and thus he remains a risk to the public. It also notes that Mr Mossa 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. The Committee considers that confidence in the profession and in the regulator would be undermined if a finding of impairment were not made. Accordingly, the Committee has determined that Mr Mossa’s fitness to practise remains impaired.”*

In terms of sanction, that reviewing Committee directed the suspension of Mr Mossa’s registration for a further period of 12 months. The reviewing Committee stated:

*“In the event that Mr Mossa decides to engage with the remediation process, a period of 12 months will afford him time to focus on the recommendations made by the previous Committee in February 2020. It would also provide him time to demonstrate a commitment to return to practice and provide any other evidence he considers relevant in advance of the next review.”*

### **Today’s review**

Today is the second review of the order of suspension. In comprehensively reviewing his case today, the Committee considered all the evidence presented to it. It took account of the written submissions provided by the GDC. The Committee accepted the advice of the Legal Adviser. No representations or any other information were provided by Mr Mossa.

In its written submissions, the GDC submits that there is no evidence to show any material change in position since the initial hearing in February 2020. There has been no engagement from Mr Mossa, there was no evidence before the previous Committees that his failings had been addressed and there continues to be no evidence submitted by Mr Mossa demonstrating his remediation and insight. For these reasons the GDC submits that Mr Mossa’s fitness to practise remains impaired. In relation to sanction, the GDC invites the Committee to impose an indefinite suspension on Mr Mossa’s registration.

### **Decision on impairment**

In considering whether Mr Mossa’s fitness to practise is currently impaired the Committee bore in mind that this was a matter for its own independent judgement. It also had regard to its duty to protect the public, declare and uphold proper standards of conduct and competence and maintain public confidence in the profession. The Committee accepted the advice of the Legal Adviser.

The Committee went on to consider whether Mr Mossa’s fitness to practise remains impaired. It 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. There is no evidence before this Committee that Mr Mossa has addressed his past DPP or provided any information as recommended to him by the initial Committee in February 2020 or the reviewing Committee

in February 2021. Mr Mossa has not provided any information to demonstrate any evidence of insight or remediation. The Committee noted that the DPP concerns identified are serious and wide ranging. In these circumstances, the Committee considers that there remains a risk that Mr Mossa could repeat the DPP identified and thus he remains a risk to the public. It also notes that Mr Mossa 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. The Committee considers that confidence in the profession and in the regulator would be undermined if a finding of impairment were not made. Accordingly, the Committee has determined that Mr Mossa's fitness to practise remains impaired.

### **Sanction**

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 Mossa'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.

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 it would not be appropriate to terminate the current order or to allow it to lapse, given Mr Mossa's complete failure to demonstrate sufficient insight or remedial steps in respect of the DPP identified. Terminating the suspension order would neither protect the public nor satisfy the wider public interest considerations in this case.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee bore in mind that, to date, Mr Mossa has not engaged with the GDC or provided any evidence of remediation, despite being given ample opportunity to do so. In these circumstances, given Mr Mossa's lack of engagement in these proceedings, the Committee could not identify any conditions of practice which could be formulated to be workable, measurable and proportionate. There was no evidence to suggest that Mr Mossa would be able or willing to engage with conditions; indeed his persistent lack of engagement with these proceedings suggests that he would not.

In the Committee's judgment, the continued suspension of Mr Mossa's registration remains necessary and proportionate. There is no information before the Committee to indicate that he will engage in these proceedings within the next 12 months: any reviewing Committee is unlikely to be in any different a position from that of the Committee today and to the previous reviewing Committee. There is therefore nothing to suggest that imposing a period of suspension for up to 12 months with a review would serve any purpose. Further, mindful of the time and expense involved in regulatory proceedings, the Committee is satisfied that the only proportionate and appropriate sanction is an order of indefinite suspension. Accordingly, the Committee gives a direction for indefinite suspension. Should Mr Mossa wish to resume his practice as a dentist, he is entitled to ask for a review of this suspension. In the circumstances, it would not be disproportionate or unfair to impose indefinite suspension at this stage. The Committee noted that it had the power to impose such an order as exactly 2 years of continuous suspension will have elapsed on the day that the current order is replaced with this order.

That concludes this determination.