

PUBLIC HEARING**Professional Conduct Committee
Review Hearing****24 October 2023****Name:** ROBERTS, Rachael Louise**Registration number:** 131090**Case number:** CAS-194283-L8J3H1

General Dental Council: Manuel Cao Hernandez, IHLPS.**Registrant:** Not present
Unrepresented

Fitness to practise: Impaired by reason of misconduct**Outcome:** Indefinite suspension confirmed**Duration:** N/A**Immediate order:** N/A

Committee members: Elizabeth Rantzen
Harpreet Ark
Louise Gilbert**Legal adviser:** Andrew Reid**Committee Secretary:** Lydia Kinsella

1. This is the third review hearing of Ms Roberts' case before the Professional Conduct Committee (PCC). The hearing is being held pursuant to section 36Q of the Dentists Act 1984 (*as amended*) (the Act). Neither party was present as the Committee was asked to consider this review on the papers.

Service and Proceeding in absence

2. The Committee first considered whether notice of the hearing had been served on Ms Roberts in accordance with the General Dental Council (Fitness to Practise) Rules Order of Council 2006 ('the Rules'). It was provided with a copy of the Notification of Hearing, dated 19 September 2023 which had been sent by the Royal Mail track and trace service. A copy of that letter was also sent to her by email.
3. The Committee was satisfied that the letter contained proper notification of today's hearing, including its date and time and that it would be conducted remotely via Microsoft Teams. The letter also included the required information, including that the Committee may proceed with the hearing in the absence of Ms Roberts. The letter was sent at least 28 days in advance of the hearing.
4. Therefore, the Committee was satisfied that the notification of hearing had been served on Ms Roberts in accordance with Rules 28 and 65 of the Rules and section 50(A) of the Act.
5. The Committee then went on to consider whether to proceed in the absence of Ms Roberts under Rule 54 of the Rules. The Committee noted that there has not been any engagement by Ms Roberts in relation to today's hearing and, as a consequence, there was no reason to believe that an adjournment would secure Ms Roberts' attendance on some future occasion.
6. In these circumstances, the Committee concluded that Ms Roberts had voluntarily absented herself from today's hearing. In addition, the Committee considered that there is a clear public interest in reviewing the order today, given its imminent expiry. Accordingly, the Committee determined that it is fair to proceed with today's review in the absence of Ms Roberts.
7. In view of the submissions on behalf of the GDC the Committee also decided to proceed in the absence of both parties and to conduct this review on the papers.

Background

8. This is the third review of a suspension order initially imposed on Ms Roberts' registration, following the decision by the Professional Conduct Committee (PCC) in January 2021.
9. In its determination, the initial PCC found that Ms Roberts' fitness to practise was impaired by reason of misconduct and summarised their reasoning as:

"This is a case where the Committee has found that Ms Roberts:

- *Failed to maintain adequate standards of cross-infection control by not wearing PPE while handling dirty instruments on four separate occasions.*
- *Failed to maintain adequate standards of cross-infection control by smoking an e-cigarette in the decontamination room on at least two occasions.*
- *Behaved in an inappropriate and unprofessional manner towards two separate colleagues, on two separate occasions.*

In considering the gravity of Ms Roberts' clinical failures, the Committee took into account the opinion of the expert witness in this case, Ms Mulchinock for the GDC. In her report and her oral evidence, she explained the seriousness of cross infection matters and opined that Ms Roberts' conduct put herself, colleagues and patients at risk of harm through cross infection. Ms Mulchinock expressed her view that in

relation to each of the cross-infection charges, Ms Roberts' conduct was far below the standard expected. In relation to the wearing of appropriate PPE Ms Mulchinock characterised this as an 'essential requirement' and 'a basic skill.' In relation to smoking an e-cigarette in the decontamination room Ms Mulchinock stated that Ms Roberts 'may have posed a significant risk to the sterility of the instruments and therefore contamination of the instruments may have occurred. These instruments could be used with patients, therefore there is an increased risk to patients.'

In relation to Charges 2 and 3, Ms Roberts swore at two colleagues on two separate occasions and the Committee found that she had acted in an inappropriate and unprofessional manner. The Committee considered that colleagues should be treated with respect at all times. In the context of this case the Committee considered that swearing at colleagues would have undoubtedly left a very negative impression upon passers-by/patients if they had happened to witness Ms Roberts swearing.

The Committee was satisfied that Ms Roberts' repeated clinical failures concern basic and fundamental obligations of a competent dental nurse and directly impacted upon the overarching issue of patient safety. Further, the Committee considered that Ms Roberts failure to act appropriately and professionally towards colleagues would be considered deplorable by members of the profession and public. In the Committee's view the findings in relation to failing to maintain cross infection control amounted to misconduct and the use of inappropriate and unprofessional language directed towards colleagues also amounted to misconduct."

10. The January 2021 PCC directed that Ms Roberts' registration be suspended for a period of 9 months with a review, stating:

"The Committee also has concerns about Ms Roberts' limited insight into the consequences of her conduct and how it impacts on public confidence in the dental profession. However, it had no evidence before it of harmful deep seated personality or professional attitudinal problems which would justify erasure. This is not, in the Committee's opinion, a case which is incompatible with Ms Roberts remaining on the register. Consequently, the Committee concluded that the sanction of erasure would not be appropriate or proportionate as it is not the only course that would adequately protect the public interest. Taking all these factors into account, the Committee is satisfied that the public protection and public interest concerns in this case are sufficiently met by a period of suspension.

Accordingly, the Committee directs that Ms Roberts' registration be suspended for a period of 9 months. The Committee is satisfied that this period of time is appropriate to mark the seriousness of Ms Roberts' misconduct and to indicate to the profession and the public that this type of conduct is not acceptable. A period of 9 months suspension would also provide Ms Roberts with the opportunity to demonstrate a wish to work towards a return to the register unrestricted.

The Committee considers that Ms Roberts' case should be reviewed at a resumed hearing to be held shortly before the end of the period of suspension. That Committee will consider what action it should take in relation to Ms Roberts' registration. The Committee considered that a Committee reviewing Ms Roberts' case may find it helpful to receive the following:

- *evidence of her meaningful engagement with the GDC;*
- *evidence of CPD and training relevant to cross infection, clinical risks and implications of poor cross infection practices;*
- *evidence of training or development to address her use of inappropriate and unprofessional language; and*

- *a reflective piece demonstrating her insight into and understanding of the impact of her behaviour upon colleagues, patients and the wider public and the dental profession.”*

11. The matter was reviewed on 22 October 2021 and 27 October 2022, and both reviewing Committees determined that Ms Roberts’ fitness to practise remained impaired on both public protection and wider public interest grounds. Both reviewing Committees extended the suspension order for a period of 12 months. They repeated the recommendations of the January 2021 PCC about evidence which would assist a future reviewing Committee.

Submissions

12. In its written submissions, the GDC stated that it has received no evidence of insight, reflection or remediation from Ms Roberts since the previous hearing. The GDC further submitted that there has not been a material change since the previous hearing and Ms Roberts’ fitness to practise remains impaired by reason of her misconduct for the same reasons as identified by the previous Committee. In light of her lack of engagement, the absence of any evidence of remediation, lack of insight and the ongoing risks, the GDC submitted that an indefinite suspension should be imposed upon Ms Roberts’ registration on both public protection and public interest grounds.

13. Ms Roberts has not provided any submissions for the Committee to consider today.

Decision on review

14. In considering whether Ms Roberts’ 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.

15. 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 Roberts has not engaged with these proceedings and has not provided any evidence of having addressed the concerns identified at the initial PCC hearing. It determined that there remains a risk of repetition of the misconduct. The Committee also considered that public 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 Ms Roberts’ fitness to practise remains impaired by reason of misconduct.

Sanction

16. The Committee next considered what direction, if any, to make under section 36Q(1) of the Act. It has had regard to the GDC’s “Guidance for the Practice Committees including Indicative Sanctions Guidance” (Effective October 2016, revised December 2020).

17. The Committee has borne in mind the principle of proportionality, balancing the wider public interest against Ms Roberts’ own interests. The wider 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.

18. The Committee 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 that Ms Roberts has not engaged with these proceedings and has not addressed the concerns identified at

the initial PCC hearing. Terminating the order would not protect the public against the risk of repetition of her misconduct.

19. The Committee considered whether a conditions of practice order would be appropriate and workable. As Ms Roberts has neither engaged with these proceedings nor provided any evidence of insight into or remediation of the failings identified by the January 2021 PCC, it was satisfied that imposing conditions of practice would not address the risk of a repetition of the misconduct. As a consequence a conditions of practice order would be insufficient to protect the public or to meet the wider public interest in declaring and upholding proper standards of conduct and performance and maintaining public confidence in the profession.
20. The Committee next considered whether to suspend Ms Roberts' registration for a further specified period. In doing so, the Committee took into account that an extension of the current suspension order would safeguard the public from any repetition of the identified concerns.
21. However, the Committee considered the public interest in these matters, in particular the use of resources in conducting repeated review hearings. Ms Roberts has failed to meaningfully engage with the fitness to practise hearings and there is nothing to indicate any future engagement on her part. There has been no evidence to suggest that she has acknowledged the serious findings made against her. For these reasons, the Committee determined that a fixed term extension of the current suspension order would be unlikely to secure renewed engagement by Ms Roberts and that an indefinite suspension order would be a proportionate measure.
22. In reaching its decision, the Committee considered Ms Roberts' interests and the potential consequences that an indefinite suspension may have for her. However, it decided that the public interest outweighs her own interests in this particular case.
23. Accordingly, the Committee directs the indefinite suspension of Ms Roberts' registration in accordance with section 36Q(1)(d) of the Act. In making this direction, the Committee was satisfied that the criteria for imposing an indefinite suspension are met; it is more than two years since the initial suspension order was made and less than two months before the current order expires.
24. The Committee noted that the onus now rests with Ms Roberts 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.
25. Unless Ms Roberts 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.
26. That concludes this determination.