

Hearing held on the papers

Summary

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| Name: | JASIM MOHAMAD, Salar [Registration no:127226] |
| Type of case: | Interim Orders Committee (review) |
| Outcome: | Conditions varied |
| Duration: | For the remainder of the high court order |
| Date: | 3 January 2019 |
| Case number: | CAS-178991 |

The role of the Interim Orders Committee (IOC) is to undertake a risk assessment based on the information before it. Its role is to assess the nature and substance of any risk to the public in all the circumstances of the case and to consider whether it is necessary for the protection of the public, is otherwise in the public interest, or is in the registrant's own interests to impose an interim order on their registration. It is not the role of the IOC to make findings of fact in relation to any charge. That is the role of a differently constituted committee at a later stage in the process.

This is an on the papers review of an interim conditions of practice order currently imposed on Mr Jasim Mohamad's registration. Both parties are not present.

Preliminary Matters

Proof of Service

The Committee noted neither party was present at today's hearing following the Council's request for this hearing to be held on the papers alone. Therefore, the Committee first sought to determine whether notice had been served on the registrant in accordance with Rules 35 and 65 of the *General Dental Council (GDC) (Fitness to Practise) Rules 2006* ("the Rules").

In reaching its decision, the Committee considered the documentation before it, which included a copy of the notification of today's hearing sent to Mr Jasim Mohamad. Notice was served by posting it to the Registrant at his registered address by Royal Mail Special Delivery and by email on 6 December 2018. The notice outlined the date, time, location and purpose of today's hearing. The notice also informed the Registrant of the Committee's power to proceed with today's interim order review hearing in his absence. The Committee had evidence of a download receipt confirming the Registrant had downloaded the email version of the notice. The Committee remained mindful there is no requirement within the Rules for the GDC to prove receipt of the notice.

The Committee heard and accepted the advice of the Legal Adviser. On the basis of the information provided to it, the Committee concluded that service of the notice of today's hearing had been properly effected in accordance with the Rules.

Proceeding in the absence of the Registrant and on the papers alone

As the Committee found that the notice had been properly served, it went on to consider whether to exercise its discretion under Rule 54 to proceed with the hearing in the Registrant's absence and on the papers alone, as was the request of the Council. The Committee approached this issue with the utmost care and caution.

The Committee noted an email dated 6 December 2018 from Mr Jasim Mohamad's representatives which stated that "I can confirm that our client is content for the hearing to proceed on the papers, in the absence of the parties". The Committee was therefore content that Mr Jasim Mohamad was aware of the hearing taking place today and has voluntarily waived his right to attend. The Committee also determined there is no evidence to suggest an adjournment would secure his attendance at a later date. The Committee also had regard to the public interest and the statutory requirement for a review of this order. Having balanced Mr Jasim Mohamad's interests with the public interest, it decided that it was fair to proceed in the absence of the Registrant and on the basis of the papers before it.

Background

This is the seventh review of an interim order, initially imposed on Mr Jasim Mohamad's registration on 27 May 2016 for a period of 18 months. The order was considered to be necessary for the purposes of public protection and was otherwise in the public interest. The initial Committee considered that the allegations against Mr Jasim Mohamad were serious and wide-ranging and could place patients at risk of harm. It further considered that the reputation of the profession could be undermined if these allegations were not responded to with the imposition of an interim order.

The GDC received information in May 2016 which raised concerns about Mr Jasim Mohamad's clinical practice and conduct towards members of his staff. The GDC subsequently received further information from NHS England – Cheshire and Merseyside - about two whistle blowing notifications which they were investigating. The information raised concerns regarding poor infection control practice which included treating an HIV-positive patient and then placing a used bloody probe into a pot of dental dressing material to be re-used on other patients. The GDC was also informed of concerns regarding Mr Jasim Mohamad's clinical practice, record keeping, increase in the number of Bands 2 and 3 courses of treatment over a period of two to four months, and the mixing of NHS and private treatment.

The interim order of suspension was reviewed at a hearing on 17 November 2016, when it was replaced with an interim conditions of practice order for the remainder of the 18-month period. That Committee determined that an interim order remained necessary on the same grounds identified by the previous Committee. In making its decision, it took into account new information it received from NHS England that cast doubt on the evidence from the whistle blowers, including the cross-infection concerns. It determined that the risk of harm had therefore reduced to a degree.

At a further review on 03 May 2017, the IOC determined to continue the interim order of conditions for the remainder of the 18-month period, on the same grounds as the IOC before it. The Committee in May 2017 noted there had not been a material change in circumstances since the previous review.

On 28 July 2017, the IOC determined to replace the interim conditions of practice order with an interim suspension order for the remainder of the 18-month period. The Committee in July 2017 received new information that Mr Jasim Mohamad had been suspended from the NHS Dental Performers List in April 2017 as a result of an investigation into his practice that raised concerns about a wide range of deficiencies in his practice. The Committee could not formulate workable conditions to address the risks identified and concluded that an interim order of suspension was necessary on public protection and wider public interest grounds.

At an IOC review hearing on 13 October 2017, the Committee determined that an order remained necessary for public protection and on wider public interest grounds, given that the allegations against Mr Jasim Mohamad were serious and wide ranging. It concluded that conditions could not be formulated that were workable and practicable, and therefore confirmed the interim suspension order.

On 02 November 2017, the High Court granted an extension of the order for a period of 12 months. The order was last reviewed on 06 February 2018, when the Committee determined that an interim order was necessary on the same grounds identified by the previous Committee, and similarly could not formulate conditions that could address patient risk in this case. That Committee confirmed the interim suspension order for the remainder of the High Court extension.

On 6 February 2018, at an IOC review hearing the Committee determined that an order remained necessary for public protection and wider public interest grounds. The Committee confirmed and continued the interim suspension order.

At an IOC review hearing on 19 July 2018, the Committee determined that an order remained necessary for public protection and wider public interest grounds, given that the allegations against Mr Jasim Mohamad were serious and wide ranging. The Committee revoked the interim suspension order and imposed an interim conditions of practice order for the remainder of the high court order.

Written submissions

It is the Council's submission that in the absence of any material change in circumstances since the initial IOC hearing, the interim conditions of practice order in place on the Registrant's registration remains necessary and proportionate for the reasons outlined at the previous IOC hearing and that the IOC should continue the interim conditions of practice unchanged for the remainder of the period of the order pending consideration of the Registrant's case before the PCC.

In an email dated 6 December 2018 Mr Jasim Mohamad's representative stated "I can confirm that our client is content for the hearing to proceed on the papers, in the absence of the parties and for the interim order to continue without variation".

Committee's decision

In comprehensively reviewing the order, the Committee had regard to all the documentary information provided to it, including written submissions from the GDC and Mr Jasim Mohamad's representatives. It also had regard to *the GDC'S Interim Order guidance for decision makers – Interim Orders Committee (October 2016)*. The Committee heard and accepted the advice of the Legal Adviser.

The Committee has borne in mind its purpose to assess if there remains a risk to the public in all the circumstances of this case. In its considerations, the Committee applied the principle of proportionality, balancing the public interest with Mr Jasim Mohamad's own interests.

The Committee was not bound by the decisions made by previous IOCs and sought to exercise its independent judgment. It had to consider whether it is still necessary, for the protection of the public, otherwise in the public interest, or in the Registrant's own interests, for there to remain an interim order on Mr Jasim Mohamad's registration.

The Committee considered whether there has been any new information made available to it that materially undermines the ongoing necessity for an interim order on Mr Jasim Mohamad's registration. However, the Committee is of the view that there are still a number of serious allegations, which concern wide ranging and basic clinical failings representing a significant risk to patients if Mr Jasim Mohamad were allowed to continue unrestricted practice until the substantive hearing. The Committee therefore determined that there remains a necessity for an interim order on the grounds of public protection. The Committee also considered that public confidence in the profession and the regulatory process would be undermined if an interim order were not continued. In these circumstances, the Committee determined that an order remains necessary and proportionate on the grounds of the protection of the public and otherwise in the public interest, as identified by the previous IOCs.

Having determined that an interim order continues to be necessary, the Committee then considered the most proportionate form of that order, beginning with the least restrictive necessary to guard against the risks identified. It first considered whether an interim conditions of practice order remained sufficient to protect the public and remained otherwise in the public interest.

The Committee had regard to a letter dated 23 July 2018 from the GDC to the registrant which highlighted concerns with the current interim conditions of practice order and the issue of supervision. In this case the Committee noted the large number of patients involved and the wide ranging, serious and basic clinical concerns raised in the allegations. It considered that close supervision of the registrant was necessary in order to manage the risks identified. While the Committee acknowledges that this represents a greater level of restriction on the registrant's ability to find work, it took the view that the requirement of the regulator to protect the public and the public interest should take precedence in this case.

Accordingly, the Committee determined to continue the order of interim conditions but subject to variation of conditions 5, 6 and 7 for the remainder of the duration of the order. It has expanded the condition regarding a report from the Registrants supervisor so that the registrant and the supervisor fully understand what needs to be incorporated in that report. It has also added a new condition not to allow the registrant to undertake locum work or out of hours work as he is unlikely to be able to be closely supervised in these environments. The Committee is of the view that the conditions as amended would sufficiently address any patient safety and clinical concerns.

The interim conditions will appear on the register in the following terms against the name of Salar JASIM MOHAMAD:

1. He must notify the GDC promptly of any post he accepts or is currently undertaking and provide the contact details of his employer or any organisation for which GDC registration is required and the Commissioning Body on whose Dental Performers List he is included.
2. If employed, he must provide contact details of his employer and allow the GDC to exchange information with his employer or any contracting body for which he provides his dental services.
3. He must inform the GDC of any formal disciplinary proceedings taken against him, from the date of this determination.
4. He must inform the GDC if he applies for dental employment outside the UK.
5. He must confine his dental practice to general practice posts as a Dentist under the close** supervision of a named Supervisor to be approved by the GDC. As a minimum this will require him to have his work reviewed at least twice a week by his supervisor onsite, having one to one meetings, focusing on all areas of concern identified. These meetings should take place face to face.
6. He must refrain from working as a locum or providing out-of-hours services.
7. He must seek a report from his Supervisor, for consideration by this Committee, prior to any review hearing. This report should include
 - any special areas identified in the determination/conditions;
 - the dates of any meetings;
 - notes of what is discussed at those meetings;
 - a progress report against the conditions and clinical and conduct areas identified

- anonymised case studies if applicable;
 - any miscellaneous information (comments on CPD/training courses taken or to be undertaken/attitude/feedback from other practice staff/any other issues).
8. He must inform, within one week, the following parties that his registration is subject to the conditions, listed at (1) to (7) above:
- Any organisation or person employing or contracting with him to undertake dental work.
 - Any prospective employer (at the time of application).
 - The Commissioning Body in whose Dental Performers List he is included or seeking inclusion of Local Health Board if in Wales, Scotland or Northern Ireland (at the time of application).
9. He must permit the GDC to disclose the above conditions, (1) to (8), to any person requesting information about his registration status.

****Closely supervised**

The registrant's day to day work must be supervised by a person who is registered with the GDC in their category of the register or above and who must be on site and available at all times. As a minimum, the registrant's work must be reviewed at least twice a week by the supervisor via one to one meetings and case-based discussion. These bi-weekly meetings must be focused on all areas of concern identified by the conditions. These meetings must take place face to face.

Review of the Order

Unless there has been a material change of circumstances, the Committee will review the interim order on the papers at an administrative meeting within the next six months. The Committee will be invited by the GDC to confirm this order and Mr Jasim Mohamad will be asked in advance whether he wishes to provide any written representations to be put to the Committee on his behalf. He will then be notified in writing following the Committee's decision.

Alternatively, Mr Jasim Mohamad is entitled to request this interim order to be reviewed at a hearing. This means he will be able to attend, with a representative if he wishes, and be able to make representations, or have them made on his behalf about whether the order continues to be necessary. Mr Jasim Mohamad must inform the GDC in writing if he would like the interim order to be reviewed at a hearing.

Even if the Registrant does not request a hearing, if there has been a material change of circumstances that may mean the order should be revoked, varied or replaced, the Committee will review the Order at a hearing, at which the Mr Jasim Mohamad will be invited to attend.

At any review, a future Committee has the power to revoke the order or any condition of it, or it may replace the order with an interim suspension order.

That concludes this determination.