

Hearing held in public

Summary

Name:	SHAW, Susan [registration no: 146655]
Type of case:	Interim Orders Committee (review)
Outcome:	Suspension continued
Duration:	Remainder of the High Court Extension
Date:	6 December 2019
Case number:	CAS-187118

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.

Neither party was present at today's hearing. The Council invited the Committee to review the interim order on Miss Shaw's registration on the basis of the papers without the parties present.

Service:

The Committee first sought to determine whether notice had been served on Miss Shaw 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 Miss Shaw by way of Special Delivery. Notice was sent to Miss Shaw's last known address on 11 November 2019. The notice outlined the date, time, location and purpose of today's hearing. The notice also informed Miss Shaw of the Committee's power to proceed with today's interim order review hearing in her absence. The Committee notes the GDC submission that the notice was also sent to Miss Shaw via email on 11 November 2019. A download receipt indicates that Miss Shaw downloaded the notification of today's hearing on 11 November 2019.

The Committee heard and accepted the advice of the Legal Adviser. The Committee had regard to the provisions of Rule 65 and S.50A of the Dentists Act 1984 and noted that the Council is not required to prove that notification was received, simply that the notification was sent. 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 Miss Shaw 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 Miss Shaw's

absence and on the papers alone, as was the request of the Council. The Committee remained mindful of the need to approach this issue with the utmost care and caution.

The Committee noted that the notice of hearing dated 11 November 2019 indicated that the GDC proposed the hearing should be considered on the papers without the parties present. The Committee was satisfied that the GDC had made all reasonable efforts to provide Miss Shaw with notice of this hearing. It was of the view that in the absence of any request from Miss Shaw for an adjournment, no useful purpose would be gained by adjourning today. It also had regard to the comments from Miss Shaw in an email dated 27 November 2019 which states, *"I'm happy for the hearing to proceed on the papers."*

Accordingly, the Committee determined to review the Interim Order on the basis of the papers before it and in the absence of both parties.

Background:

This case concerns a complaint from NHS Fife. When referring the matter to the GDC, NHS Fife stated that Miss Shaw was under investigation in connection with allegations of fraud and embezzlement. Miss Shaw has since been dismissed from NHS Fife's employment following a disciplinary hearing that took place in January 2018. That hearing found that Miss Shaw failed to properly bank payments that had been made by patients for dental services in both cash and cheque form in the approximate period of 2012 to 2017. It is understood that the sum of money in question is in the region of £30,000.00. It was further alleged that the majority of that sum, more particularly around £27,000.00, was embezzled by Miss Shaw. NHS Fife also found that Miss Shaw produced falsified banking paperwork to support her fraudulent actions, and further used other deceptions in an attempt to conceal her actions. Miss Shaw denied the allegations and stated that the apparent discrepancies arose from the introduction of a new computer system.

Decision on the review of the Interim Order:

This is the fourth review of an interim suspension order initially imposed on Miss Shaw's registration on 3 April 2018 for a period of 18 months. The matter went before the Court of Session on 2 October 2019 and the order was extended until October 2020.

In reviewing the order today, the Committee has had regard to the documents contained in the hearing bundle, the GDC's written submissions and the written submissions of Miss Shaw. The Committee has considered whether an interim order remains necessary for the protection of the public, is otherwise in the public interest or is in Miss Shaw's own interest. In making its decision the Committee has taken account of the *Interim orders guidance for decision makers – Interim Orders Committee* (October 2016). The Committee has also borne in mind that its function is not to find facts but to assess the nature and substance of any risk to the public in light of the allegations made. In all its deliberations, the Committee has applied the principle of proportionality, balancing the public interest with Miss Shaw's interests.

The Committee notes that since the consideration and the imposition of the interim suspension order at the 3 April 2018 hearing and the last review hearing on 1 March 2019, the Council had requested an update from the NHS Counter Fraud team who confirmed that their investigations remain ongoing and a trial date is to be listed shortly. In addition, it has taken into account the written submissions provided by Miss Shaw in her email dated 15 August 2019. In that email she asserts that she is innocent of all charges and outlines her current position. She states that she has, *"decided to not re-register with the GDC for the last 2 years while this case continues."*

The Committee considers that the allegations against Miss Shaw are serious and relate to dishonest conduct, fraud and embezzlement. It considers that there is a real risk of significant harm to the public in light of the concerns that have been raised. The Committee also considers that the interim order remains otherwise in the public interest in that serious damage

will be caused to public confidence in the profession if an order is not maintained. Further, the Committee is of the view that a fully informed member of the public looking on would be shocked and dismayed if no interim restriction was in place given the serious concerns alleged in this case.

In considering whether an interim order remains necessary in this case, the Committee notes that there has been no material change in the circumstances of this case to necessitate the revocation of the current interim order.

The Committee considered whether conditions would be appropriate, proportionate and workable in this case. However, it determined that given the severity of the allegations in this case, including fraud and embezzlement, conditions would not be appropriate or proportionate, and in any event could not be formulated in such a way that they might adequately address the probity concerns that have been raised. The Committee also concluded that an interim conditions of practice order would not be sufficient for the protection of the public and the wider public interest.

The Committee acknowledged the impact of a continued interim suspension on Miss Shaw. However, it considers that the public interest identified outweighs her own interest.

Accordingly, the Committee is satisfied that the current interim order for suspension remains necessary on the same grounds and for the same reasons as stated by the IOC at the initial hearing on 3 April 2018 and the last reviewing Committee on 16 August 2019.

Review of the Interim 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 six months. The Committee would be invited by the GDC to confirm the order and Miss Shaw would be asked whether there are any written submissions to be put before the Committee on her behalf. Miss Shaw would then be notified of the outcome in writing following the decision of the Committee.

Alternatively, Miss Shaw would be entitled to have the interim order reviewed at a hearing. This means that she would be able to attend and make representations, send a representative on her behalf or submit written representations about whether the order continues to be necessary. Miss Shaw must inform the GDC if she would like the interim order to be reviewed at a hearing.

Even if Miss Shaw does not request a hearing, where there has been a material change of circumstances that might mean that the order should be revoked, varied or replaced, the Committee would review the order at a hearing to which Miss Shaw would be invited to attend.

That concludes this determination.