

Hearing held on the papers**PUBLIC DETERMINATION****Summary**

Name:	KHABRA, Simon Harjinder Singh [Registration no: 229471]
Type of case:	Interim Orders Committee (review)
Outcome:	Conditions continued
Duration:	For the remainder of the term of the order
Date:	13 December 2019
Case number:	CAS-191434

At this hearing the Committee made a determination that includes some private information. That information has been omitted from this public version of the determination and the document marked [PRIVATE] to show where private material has been removed.

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 Interim Orders Committee (IOC) review hearing in respect of an interim order currently in place on Mr Khabra's registration. Neither party is present today, following a request for the review of the interim order to be conducted on the papers.

The Committee considered a preliminary issue regarding its composition in the light of a declaration by one of the Committee members that they knew professionally the registrant's representative. Given the nature of the hearing, the Committee did not consider that a fair minded and informed observer, having considered the given facts, could conclude that there was any real possibility that the Committee was biased. Therefore, the Committee continued in its original composition.

In accordance with the *General Dental Council (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), the Committee first considered the issues of service and whether to proceed with the hearing in the absence of Mr Khabra and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

Decision on service of the Notice of Hearing

The Committee considered whether notice of the hearing had been served on Mr Khabra in accordance with Rules 35 and 65 and Section 50A of the *Dentists Act 1984 (as amended)* ('the Act'). The Committee received from the General Dental Council (GDC) an indexed review hearing bundle of 105 pages, which contained a copy of the Notice of Hearing ('the notice'), dated 19 November 2019. The hearing bundle also contained a Royal Mail Track and Trace receipt confirming that the notice was sent to Mr Khabra's registered address by Special Delivery. Whilst the Committee took into account that there is no requirement within the Rules for the GDC to prove delivery, it saw from the Track and Trace receipt that the notice was successfully delivered on 20 November 2019 and signed for in the printed name of 'KAUR'. The Committee further noted that a copy of the notice was sent to Mr Khabra by email.

The Committee was satisfied that the notice sent to Mr Khabra contained proper notification of today's hearing, including its time, date and venue, as well as notification that the Committee had the power to proceed with the hearing in Mr Khabra's absence.

On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Khabra in accordance with the Rules and the Act. The Committee was also satisfied that the period of notice given was reasonable in the circumstances.

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 of the Rules to proceed with the hearing in the absence of Mr Khabra 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 and General Medical Council v Visvardis [2016] EWCA Civ 162*. The Committee remained mindful of the need to be fair to both Mr Khabra and the GDC, taking into account the public interest in the expeditious review of the interim order.

In reaching its decision, the Committee took into account the email, dated 3 December 2019, as contained in an addendum bundle. The email is from Mr Cameron, Mr Khabra's representative. Mr Cameron states in the email, "*As previously confirmed my client and I are happy for this matter to proceed on the papers on Friday 13th December 2019.*"

The Committee also took into account the written submissions of the GDC prepared in respect of today's review. They submitted that it would be appropriate for the hearing to proceed in the absence of the parties and for the matter be considered and determined on the basis of the papers placed before the IOC.

Given the indication from both parties, the Committee determined that it was fair and appropriate to proceed with today's hearing on the papers, in the absence of Mr Khabra and any representatives for either party.

Decision on privacy under Rule 53 of the Rules

In the absence of either party, the Committee's review of the interim order on Mr Khabra's registration was conducted on the basis of the papers in camera. Nevertheless, in light of some of the information before it, which relates to the registrant's health, and following advice from the Legal Adviser, the Committee had regard to its power under Rule 53. It decided that, given the circumstances of this case, a private and public version of its determination would be handed down.

Background

Mr Khabra's case was first considered by the IOC at a hearing held on 24 June 2019, when an interim order of conditions was imposed on his registration for a period of 18 months. [PRIVATE].

The Committee in June 2019 determined that the imposition of an interim order on Mr Khabra's registration was necessary for the protection of the public, was otherwise in the public interest and was in Mr Khabra's own interests. That Committee concluded that it could formulate clear, workable, measurable and enforceable interim conditions to address the risks identified in Mr Khabra's case.

Decision on today's review of the order

This has been the first review of the order imposed on Mr Khabra's registration on 24 June 2019. In comprehensively reviewing the order today, the Committee considered all the information placed before it, which included:

- the indexed review hearing bundle of 105 pages;
- an addendum hearing bundle of 3 pages;
- a further addendum bundle of 30 pages, which includes a number of documents provided on Mr Khabra's behalf.
- the written submissions of the GDC.

The Committee accepted the advice of the Legal Adviser.

The Committee noted the information received since the imposition of the interim order in June 2019. [PRIVATE].

[PRIVATE].

[PRIVATE].

In their written submissions, the GDC submitted that there has been no material change in circumstances following the last hearing before the IOC on 24 June 2019 that would necessitate an amendment to the current interim order of conditions. The GDC highlighted that Mr Khabra's case has very recently been considered by the Case Examiners, who determined that the matter should be referred to a Professional Conduct Committee.

In reaching its decision in respect of the interim order, the Committee remained mindful that its task is not to find facts, but to conduct an assessment of risk based on the information that has been placed before it. In all its considerations, it applied the principle of proportionality, balancing the public interest with Mr Khabra's interests. It had regard to the *Interim orders guidance for decision makers – Interim Orders Committee (October 2016)*.

This Committee is not bound by the decision of the previous Committee. However, it decided that the information before it indicates that there has been no material change of circumstances to undermine the ongoing requirement for an interim order on Mr Khabra's registration. [PRIVATE]. In these circumstances, the Committee decided that an interim order on Mr Khabra's registration continues to be necessary for the protection of the public, is otherwise in the public interest and is in his own interests.

Given that there has been no material change in Mr Khabra's case since the last review, the Committee decided that it would be appropriate and proportionate to continue the existing order of conditions without variation. In deciding to continue the conditions, the Committee took into account the information confirming Mr Khabra's compliance, with which it had no concerns. It noted that Mr Khabra is engaging with the current conditions and appears to be co-operating with the regulatory process. The Committee further noted that there has been no

request from the GDC or from Mr Khabra for any variation. In the circumstances, it was satisfied that the current interim conditions continue to be workable and are mitigating against the identified risks. The Committee was also satisfied that the conditions continued to be helpful for Mr Khabra.

Accordingly, the followings interim conditions will continue to apply to Mr Khabra's registration:

1. He must notify the GDC within 7 days of any post he accepts 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 within 7 days and allow the GDC to exchange information with his employer or any contracting body for which he provides dental services.
3. He must inform the GDC, within 7 days of notification, of any formal disciplinary proceedings taken against him from the date of this determination.
4. He must inform the GDC within 7 days if he applies for dental employment outside the UK.
5.
 - a. At any time he is providing dental services which require him to be registered with the GDC, he must agree to the appointment of a reporter, nominated by him and approved by the GDC. The reporter shall be a GDC registrant in the same category as the registrant or higher and must be based at the registrant's place of work.
 - b. The registrant must make personal contact with the reporter prior to commencing treatment of patients at each session. If the reporter is not available at the practice, he must make personal contact with the practice manager. If the manager considers that he is not fit to treat patients, he must comply with the practice manager's request to refrain from work until the appointed reporter is present.
 - c. He must allow the reporter to exchange information with the GDC provide reports to the GDC every three months and at least 14 days prior to any review hearing.
6. He must not engage in single-handed dental practice.
7. He must not undertake any out-of-hours work or on-call duties.
8. [PRIVATE];
9. [PRIVATE];
10. [PRIVATE].
11. [PRIVATE].
12. [PRIVATE].
13. [PRIVATE].
14. a) [PRIVATE].
b) [PRIVATE].
15. [PRIVATE].
16. a) [PRIVATE].
b) [PRIVATE].
17. [PRIVATE].
18. [PRIVATE].
19. [PRIVATE].

20. He must inform promptly the following parties that his registration is subject to the conditions, listed at 1 to 19 above:

- Any organisation or person employing or contracting with him to undertake dental work
- Any locum agency or out-of-hours service he is registered with or apply to be registered with (at the time of application)
- Any prospective employer (at the time of application)
- The Commissioning Body in whose Dental Performers List he is included or seeking inclusion (at the time of application).

21. He must permit the GDC to disclose the above conditions 1 to 7 and 20 to any person requesting information about his registration status.

Next 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 the next six months. The Committee will be invited by the GDC to confirm the order and Mr Khabra will be asked whether there are any written submissions to be put before the Committee on his behalf. Mr Khabra will then be notified of the outcome in writing following the decision of the Committee.

Alternatively, Mr Khabra is entitled to have the interim order reviewed at a hearing. This means that he will be able to attend and make representations, send a representative on his behalf or submit written representations about whether the order continues to be necessary. Mr Khabra must inform the GDC if he would like the interim order to be reviewed at a hearing.

Even if Mr Khabra 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 will review the order at a hearing to which he and his representative will be invited to attend.

That concludes this determination.