

Hearing held on the papers

Summary

Name:	GUPTA, Rahul [Registration no: 254692]
Type of case:	Interim Orders Committee (review)
Outcome:	Conditions continued
Duration:	For the remainder of the High Court Extension
Date:	6 December 2019
Case number:	CAS-188206-P5B3M7

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 is present today.

In its written submissions, the General Dental Council (GDC) calls for the matter to be reviewed on the papers, submitting that *"The current interim order to due to be reviewed on 6 December 2019. In the absence of any material change in circumstances since the initial IOC hearing, we submit that:*

- (i) the interim order in place on the Registrant's registration remains necessary and proportionate for the reasons outlined at the previous IOC hearing; and*
- (ii) the IOC should continue the interim order unchanged for the remainder of the period of the order pending consideration of the Registrant's case before the Professional Conduct Committee".*

By email sent to the GDC on 4 November 2019, Mr Gupta's solicitor at Radcliffes LeBrasseur states: *"Further to your letter of 29 October 2019, I can confirm that Dr Gupta agrees to the IOC review Hearing on 6 December 2019 taking place on the papers."*

The Committee was satisfied that the notification of hearing dated 29 October.2019 had been served on Mr Gupta in accordance with Rules 35 and 65 of the General Dental Council (Fitness to Practise) Rules 2006. Given the agreed position of both parties, the Committee was satisfied that it would be fair and in the interests of justice to proceed with the hearing in Mr Gupta's absence and to review the interim order on the papers.

Background

This is the third review of an order for interim conditional registration made on 26 July 2018 for a period of 15 months. The interim order was made on the grounds that it was necessary for the protection of the public and was otherwise in the public interest, in response to concerns which were summarised as follows in the initial IOC determination:

On 29 July 2017 the GDC received a complaint from Patient A regarding the standard of care provided to him concerning the extraction of teeth at an appointment that took place on 21 June 2017. Patient A states that you were present as well as another dentist (Dentist 2) and a dental nurse. Patient A's partner was also present. Patient A's account is that he was told at this appointment that he would need seven teeth extracted and not six as previously advised. The extractions were to be completed under sedation. Patient A says that he was not asked to sign any paperwork or consent forms and he was not made aware of any risks. Patient A's partner is said to have seen Dentist 2 administer the sedation until Patient A was asleep. She then waited in reception. Patient A asserts that you told him that you had extracted six teeth but that you were not able to extract a wisdom tooth on the bottom right (the seventh tooth) and that it would be dealt with at a later date. The next day Patient A describes feeling in pain in his gums, difficulties swallowing, breathing difficulty and swelling and tried to get an emergency appointment that day with you. He was told that there was no emergency appointment available and was given an appointment two days later with you at another practice. Patient A attended an emergency appointment with you on 24 June 2017. On Patient A's account, by this time he was in severe pain, had lots of swelling and was finding it difficult to open his mouth and swallow. You prescribed antibiotics for Patient A.

The GDC obtained a clinical advice report, dated 9 December 2017, in respect of the treatment provided to Patient A between 2 November 2016 and 24 June 2017. The Clinical Advisor's opinion was that "serious concerns are raised with almost all aspects of the registrant's work. The clinical record as supplied is not fit for purpose... There are deficiencies in treatment planning, specifically lack of prioritisation of treatments e.g. ensuring stabilisation of the periodontal condition before commencing definitive endodontics. ...The start and completion of endodontic procedures have been consistently implemented without appropriate radiography. Whilst it is unfortunate that the patient suffered such severe post-operative complications, this cannot be construed as a direct result of the registrant's failings, however the registrant's failings are serious enough to be below the level expected."

In addition, the Committee's attention has been drawn to the documents contained in the Defence bundle. This includes a copy of the treatment plan for Patient A dated 19 December 2016, which has been referred to by the Clinical Advisor in his report under the heading "Clinical Issues Identified in the Complaint."

On 11 October 2019, a High Court Extension was granted to extend the Interim Order for a period of 12 months.

Decision

The Committee accepted the advice of the Legal Adviser. The Committee had regard to the *Interim orders guidance for decision makers – Interim Orders Committee* (October 2016). The role of the Committee is to assess risk as part of a continuing investigation and not to make findings of fact.

In reaching its decision, the Committee applied the principle of proportionality, balancing the public interest with Mr Gupta's interests.

In view of the seriousness of the initial patient complaint, the Committee is satisfied that an interim order remains necessary for the protection of the public and that it remains otherwise in the public interest. The allegations relate to basic and fundamental aspects of dentistry and are serious. There is a real risk of harm to patients should Mr Gupta be allowed to practise without restriction. Further, a fair minded and well informed member of the public would be troubled to learn that no interim order remained in place whilst those allegations continue to be investigated.

Mr Gupta is complying with the interim conditions on his registration. There is nothing to suggest that the interim conditions have ceased to be workable and proportionate in their current form. The Committee notes that a recent patient complaint has been raised relating to clinical treatment of a different nature from that which is the subject of the PCC referral and the Registrant's current conditions. On the information available, the Committee does not consider that this complaint constitutes a material change in circumstances.

The Committee is satisfied that the interim conditions remain sufficient to protect the public and to maintain public confidence in the profession.

Accordingly, the order for interim conditional registration shall continue for the remainder of the High Court extension.

This interim order will be reviewed in 6 months, or may be reviewed earlier on the application of either party.

That concludes the hearing.