

HEARING HEARD IN PUBLIC

PEZESHKI, Peyman

Registration No: 83524

PROFESSIONAL CONDUCT COMMITTEE

OCTOBER 2017

Outcome: Erased with Immediate Suspension

Peyman PEZESHKI, a dentist, BDS Lpool 2004, was summoned to appear before the Professional Conduct Committee on 19 October 2017 for an inquiry into the following charge:

Charge

“That being registered as a dentist Peyman Pezeshki’s (83524) fitness to practise is impaired by reason of misconduct. In that:

1. On 10 February 2017 you sent two emails to representatives of the General Dental Council containing the following statements;
 - a. “I must say you Jews, Greeks and Baha’is are far more stupid that I thought you would be. Firstly, How did you manage to suspend me I am not registered with GDC? That was a Moronic move!”
 - b. “Secondly the level of corruption is so high that I would tell the British dentists not to be supportive of GDC, they would be digging their own grave in future.”
 - c. “And Finally you see that I am right even your Human rights lawyers and high court judges are mercenaries. They are prepared to ignore the evidence and do case fixing. I know approximately how much money has been exchanged between GDC, MDU, NHS England and some lawyers. Make sure you don’t piss off intelligent services because they can drop you right in the s..... .They are friendly with you now but circumstances could change!!”
 - d. “Hope to meet again to thank you and the team in person”
 - e. “Just want to tell you Chinks, Motherfuckers, Gandou Brownies and Head Bangers that the game is not over yet”
 - f. “My time will come and we will meet again!”
2. On 4 April 2017 you sent an email to a representative of the General Dental Council containing the following statements;
 - a. “I don’t recognize General Dental Council. You are a criminal organization and highly corrupt”
 - b. “Keep on writing and please yourself that you are important.”
3. Your conduct was threatening in respect of:
 - a. 1d above;

- b. 1f above.
- 4. Your conduct was unprofessional in respect of:
 - a. 1a above;
 - b. 1b above;
 - c. 1c above;
 - d. 1d above;
 - e. 1e above;
 - f. 1f above;
 - g. 2a above;
 - h. 2b above.
- 5. Your conduct was offensive and/or abusive in respect of:
 - a. 1a above;
 - b. 1e above.

And that, in consequence of the matters set out above, your fitness to practise is impaired by reason of your misconduct”.

Mr Pezeshki was not present and was not represented. On 19 October 2017 the Chairman announced the findings of fact to the Counsel for the GDC:

“Mr Ahmed

Decision on service

Mr Pezeshki was neither present nor represented at the Professional Conduct Committee (PCC) hearing of his case. Mr Ahmed appeared on behalf of the General Dental Council (GDC). In Mr Pezeshki’s absence, the Committee first considered whether the GDC had complied with service of the Notice of Hearing in accordance with Rules 13 and 65 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules).

The Committee took into account the submissions made by Mr Ahmed on behalf of the GDC. It accepted the advice of the Legal Adviser.

The Committee had sight of a copy of the Notification of hearing, dated 7 September 2017, which was sent to Mr Pezeshki’s registered address by way of Special Delivery and First Class Post. The Committee was satisfied that the letter contained proper notification of this hearing, including its time, date and location, as well as notification that the Committee has the power to proceed with the PCC hearing in Mr Pezeshki’s absence. The Notification of Hearing also contained a copy of the charge against Mr Pezeshki. A copy of the Notification of Hearing was also sent to Mr Pezeshki via email on the same date which was recorded as downloaded.

The Committee also had sight of a Track and Trace receipt which confirmed ‘its progressing through the network’ on 7 September 2017.

The Committee was satisfied that the notice of this PCC hearing was served on Mr Pezeshki in compliance with the rules.

Decision on proceeding in the absence of Mr Pezeshki

The Committee then considered whether to exercise its discretion under Rule 54 to proceed with this PCC hearing in Mr Pezeshki's absence.

The Committee bore in mind the submissions made by Mr Ahmed on behalf of the GDC. It accepted the advice of the Legal Adviser.

The Committee was mindful that this was a discretion that must be exercised with the utmost care and caution. It also had regard to the need for fairness to both parties, as well as the public interest in the expeditious disposal of the hearing.

Mr Pezeshki had been sent notification of this hearing. The Committee was provided with evidence of subsequent contacts with Mr Pezeshki in relation to this hearing. The Committee noted an email response dated 8 September 2017 from Mr Pezeshki confirming that he would not be attending the hearing today. It also noted his last email dated 12 October 2017 in which he said "it was not safe for me to be in UK" but that he did not elaborate further.

The Committee was therefore satisfied that he was aware of today's hearing. It took into account that Mr Pezeshki had not requested an adjournment of this hearing. The Committee considered that it had no evidence before it to suggest that an adjournment would secure Mr Pezeshki's attendance at a future date. Whilst noting his assertion that "it was not safe for me to be in the UK" THE Committee was also aware that Mr Pezeshki had been advised that he could request to attend via video-link. No such request had been received.

Taking all this into account, having weighed the interests of Mr Pezeshki with those of the GDC and the public interest in the expeditious disposal of this hearing, the Committee determined to proceed in his absence.

Background to the case and summary of the allegations

It is alleged that on 10 February 2017 Mr Pezeshki sent two emails to representatives of the General Dental Council which were threatening in nature, unprofessional and offensive/abusive. It is further alleged that on 4 April 2017 Mr Pezeshki sent an email to another representative of the General Dental Council which was unprofessional.

Evidence

The Committee was also provided with documentary material in relation to the heads of charge, including: witness statements from [name redacted], the recipient of one of the emails sent by Mr Pezeshki on 10 February 2017, and from a trainee solicitor within the GDC, each with associated exhibits, and a number of correspondence documents between Mr Pezeshki and the GDC.

Committee's findings of fact

The Committee took into account all the evidence presented to it. It considered the submissions made by Mr Ahmed on behalf of the GDC and the written representations made by Mr Pezeshki.

The Committee accepted the advice of the Legal Adviser.

The Committee reminded itself that the burden of proof lies with the GDC, and considered the heads of charge against the civil standard of proof, that is to say, on the balance of probabilities. In accordance with that advice it has considered each head of charge separately.

I will now announce the Committee's findings in relation to each head of charge:

1(a).	Found proved.
1(b).	Found proved.
1(c).	Found proved.
1(d).	Found proved.
1(e).	Found proved.
1(f).	<p>Found proved.</p> <p>The Committee had before it copies of the emails dated 10 February 2017, which were sent to two representatives of the GDC. Mr Pezeshki states in subsequent correspondence that “most of the emails have not come from me”. The Committee was provided with a screen shot copy of Mr Pezeshki's registration details, which confirms the email address used to send the emails is the email address registered with the GDC and the one which Mr Pezeschki has used in all his correspondence with the GDC.</p> <p>The Committee also took into account the witness statement of [name redacted], who also made reference to the emails in question. Further, the Committee notes that the emails contained information relating to Mr Pezeshki's previous fitness to practise hearing, and considers it unlikely that a third party would email the GDC lawyers involved in that hearing.</p> <p>Having taken all of the evidence in account, the Committee is satisfied based on the balance of probabilities that these emails were sent from the registrant.</p> <p>In light of these reasons the Committee finds charge 1 proved in its entirety.</p>
2(a).	<p>Found proved.</p> <p>For the same reasons as given in charge 1.</p>
2(b).	<p>Found proved.</p> <p>For the same reasons as given in charge 1.</p>
3(a).	Found proved.
3(b).	<p>Found proved.</p> <p>In considering this charge the Committee was satisfied that an ordinary meaning of a threat is one in which a person indicates by word or action that if another does not do what they want they, in turn, will do something disadvantageous to the other, whether it be physical or mental damage.</p> <p>The Committee noted how threatening behaviour is defined in criminal law, which is a threat of harm involving a perception of injury, physical or mental damage.</p> <p>The Committee considered the language and the tone of the comments as stated in charges 1d and 1f, particularly the comment “my time will come and we will meet again”, which immediately follows the comment “the game is</p>

	<p>not over yet”.</p> <p>It took into account the evidence of [name redacted] who subsequently referred the emails on for a GDC investigation. He stated in his written statements that after reading these emails he was “surprised” and “disturbed” by their tone and content. The Committee is satisfied that a recipient of either of the two emails would have perceived a threat in the context of the overall correspondence. It concluded that they were intended to threaten and amounted to threatening conduct.</p> <p>Taking all this into account the Committee considered that on a balance of probabilities the email sent from Mr Pezeshki on 10 February 2017 was threatening. It therefore finds charge 3 proved in its entirety.</p>
4(a).	Found proved.
4(b).	Found proved.
4(c).	Found proved.
4(d).	Found proved.
4(e).	Found proved.
4(f).	Found proved.
4(g).	Found proved.
4(h).	<p>Found proved.</p> <p>The Committee took into account that dental professionals should treat both their regulatory body and members of the public with respect. It also took into account that it found Mr Pezeshki’s conduct at 1d and 1f above to be threatening. The Committee considers the language, and the tone of his remarks to be unprofessional.</p> <p>In light of these reasons the Committee concluded that the conduct of Mr Pezeshki in relation to 1a,1b, 1c, 1d, 1e, 1f, 2a, and 2b above was unprofessional and it therefore finds charge 4 proved in its entirety</p>
5(a).	Found proved.
5(b).	<p>Found proved.</p> <p>The Committee is satisfied that the comments made in charges 1a and 1e by Mr Pezeshki would be considered by a reasonable member of the public to be offensive and abusive. They contain terms which identify certain racial groupings in a derogatory manner and use offensive language.</p> <p>In light of these reasons the Committee concluded that Mr Pezeshki’s conduct in relation to charges 1a and 1e above was both offensive and abusive, and it therefore finds charge 5 proved in its entirety.</p>

We move to Stage Two.”

On 19 October 2017 the Chairman announced the determination as follows:

“Having made its findings on the facts, the Committee heard submissions on misconduct, impairment and sanction from Mr Ahmed. It received no specific representations from Mr Pezeshki at this stage. The Committee heard and accepted the advice of the Legal Adviser.

Background

This case concerns the contents of communications sent by Mr Pezeshki to employees of the General Dental Council (GDC) in relation to previous fitness to practise proceedings. Mr Pezeshki's communications to the GDC were via emails. The Committee found proved all of the facts alleged against Mr Pezeshki. In particular it found proved that Mr Pezeshki made abusive and offensive comments. Mr Pezeshki's comments were also threatening. Mr Pezeshki made offensive comments referring to nationality, race and ethnicity in his communications.

Mr Pezeshki has previously been before a Professional Conduct Committee regarding similar incidents of threatening and unprofessional behaviour, which was towards representatives of NHS England. That Committee suspended his registration for a period of 3 months. The matter was reviewed on 29 May 2017 where a reviewing Committee determined to extend the period of suspension for a period of 12 months.

Misconduct

The Committee first considered whether its findings of fact amount to misconduct. Mr Ahmed, on behalf of the GDC referred to details of Mr Pezeshki's previous fitness to practise history. Mr Ahmed drew the Committee's attention to the issues which were considered at these previous hearings. Mr Ahmed invited the Committee to consider whether the same attitudinal issues and lack of insight highlighted by the previous PCC underpin the conduct in this case.

The Committee found that Mr Pezeshki's conduct was unprofessional and threatening towards staff at the GDC. Mr Pezeshki's comments were offensive and intended to abuse and cause offence. Mr Pezeshki's behaviour demonstrates a blatant and wilful disregard for his regulatory body. The Committee was of the view that if Mr Pezeshki had concerns which he wished to raise, he could have made his complaints without resorting to offensive language in his emails.

The Committee is satisfied that Mr Pezeshki's behaviour was a serious departure from the following GDC Guidance:

- Paragraph 1.32 which states – “You must make sure you do not bring the profession into disrepute.”
- Paragraph 6.12 which states – “You must treat colleagues fairly and with respect, in all situations and all forms of interaction and communication. You must not bully, harass or unfairly discriminate against them.
- Paragraph 9.1 which states that – “Ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.
- Paragraph 9.1.1 which states – “You must treat all members, other colleagues and members of the public fairly, with dignity and in line with the law.”

Taking all these matters into account including the previous history with the GDC, the Committee was of the view that Mr Pezeshki's behaviour fell far short of that expected of a registered dental professional and that it would be considered deplorable by fellow professionals. The Committee is in no doubt that his behaviour amounted to misconduct.

Impairment

The Committee next considered whether Mr Pezeshki's fitness to practise is currently impaired by reason of his misconduct. In reaching its decision, it exercised its own independent judgement.

Mr Ahmed referred the Committee to the guidance set out in the case of Cohen v GMC in relation to consideration of current impairment. He invited the Committee to consider whether Mr Pezeshki's conduct damages the reputation of the profession such that confidence in the profession would be undermined if a finding of impairment were not made - CHRE v NMC and Paula Grant [2011] EWHC 927 (Admin).

The Committee first considered whether Mr Pezeshki's behaviour is remediable. It noted that there are no clinical concerns in this case but his failings are attitudinal in nature. The Committee was of the view that attitudinal issues may theoretically be remediable but they are more difficult to remedy than clinical deficiencies. There is no evidence before this Committee of any attempts by the registrant to remedy his behaviour. Mr Pezeshki has continued to behave in the same manner demonstrating a complete lack of insight. There is no evidence before this Committee that Mr Pezeshki has even acknowledged his behaviour, still less that he has reflected on it or taken steps to address it. The Committee concluded that given the nature of Mr Pezeshki's conduct, his lack of insight, and the absence of any remorse, remediation or reflection, such conduct is likely to be repeated. The Committee considers that GDC staff are part of the wider public and therefore a finding of impairment is required on public protection grounds.

The Committee was of the view that Mr Pezeshki's threatening behaviour has damaged the reputation of the profession and undermined public confidence in it. It was also of the view that it breached fundamental tenets of the profession. It concluded that the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances of this case. The Committee determined that Mr Pezeshki's fitness to practise is impaired by reason of his misconduct.

Sanction

Having found Mr Pezeshki's fitness to practise to be impaired by reason of his misconduct, the Committee next considered what sanction, if any, to impose upon his registration. It reminded itself that the purpose of a sanction is not to be punitive although it may have that effect. The Committee bore in mind the principle of proportionality and its duty to protect the public and declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession.

Mr Ahmed emphasised that the Committee must consider the available sanctions from the least serious. He submitted however that the appropriate and proportionate outcome in this case is erasure. Mr Ahmed referred the Committee to the GDC's *Guidance for the Professional Conduct Committee*, November 2016 (the Guidance).

The Committee was of the view that to conclude this case with no further action would not reflect the gravity of Mr Pezeshki's misconduct and current impairment.

The Committee considered whether a reprimand would be sufficient to address Mr Pezeshki's misconduct and current impairment. Given the nature and gravity of the behaviour and the Committee's conclusion that Mr Pezeshki's conduct is likely to be repeated, a reprimand would be wholly disproportionate and inappropriate in the circumstances of this case.

The Committee then considered whether to impose conditions on Mr Pezeshki's registration. The Committee was of the view that the issues in this case, like those of the previous PCC are more concerned with behaviour and attitude and there are no conditions that could be imposed to address such concerns. Conditions requiring a registered dental professional to desist from writing emails containing abusive and offensive comments are unlikely to be workable, practicable or enforceable. In addition, given the lack of insight by Mr Pezeshki, the Committee is not confident that conditions would be complied with.

The Committee then considered whether a period of suspension would adequately reflect the gravity of Mr Pezeshki's misconduct. There is no evidence of remediation or insight before this Committee. As such the Committee considered that a period of suspension is not appropriate or proportionate to address Mr Pezeshki's misconduct and current impairment.

The Committee took account of the 2009 Guidance particularly paragraph 40 (h) which states:

“In a small number of cases, a registrant's behaviour or the attitudes demonstrated can identify him or her as being unfit to be a member of a caring and responsible profession. This problem could be evidenced by serious or persistent contempt for the safety, rights or dignity of others...”

Mr Pezeshki's inappropriate communications were sustained, offensive, and on occasion contained racist language. The Committee considered them to be beyond what is reasonably expected in correspondence to a regulator from a registered dental professional. Mr Pezeshki has displayed contempt for the regulatory process which is designed to keep patients safe and uphold standards within the profession. His behaviour has continued despite the fact that he has been suspended for similar matters which demonstrates a lack of insight. The Committee balanced Mr Pezeshki's right to practise in his chosen profession with the least restriction against the wider public interest which includes protection of the public, maintaining confidence in the profession and upholding proper standards. The Committee considers that Mr Pezeshki's behaviour has damaged public confidence in dental professionals such that removal of his professional status is the appropriate outcome in this case.

As a consequence, the Committee has determined to direct that Mr Pezeshki's name should be erased from the Dentists Register pursuant to section 27B(6)(a) of the Dentists Act 1984, as amended.

The Committee will now invite submissions on whether an immediate order should be imposed in this case.

The Committee considered the submissions made by Mr Ahmed on behalf of the GDC that, in view of the Committee's findings, an order for immediate suspension is required on public interests grounds. It has accepted the advice of the Legal Adviser.

Given the Committee's findings regarding Mr Pezeshki's attitudinal failings, his lack of insight, the risk of repetition identified and the damage that his behaviour has had on the reputation of the profession, the Committee has determined that an immediate order for the suspension of Mr Pezeshki's registration is in the wider public interest.

The effect of the foregoing direction and this decision is that Mr Pezeshki's registration will be suspended forthwith and unless he exercises his right to appeal, the substantive direction for erasure will take effect 28 days from when notice is deemed served on him. Should Mr Pezeshki exercise his right to appeal, this order for immediate suspension will remain in place pending the resolution of any appeal proceedings.

That concludes the case."