

Public determination**Summary**

Name:	COWIE, James Charles Arthur [Registration number: 66391]
Type of case:	Health Committee (review)
Outcome:	Suspended indefinitely
Date:	21 June 2017

“Neither party was present at this resumed Health Committee hearing, as they requested that the review of Mr Cowie’s case be conducted on the papers provided.

The Committee received written submissions, dated June 2017, from the General Dental Council (GDC) and written submissions, dated 19 June 2017 from RadcliffeLeBrasseur, Solicitors for Mr Cowie.

Decision on service of the Notification of Hearing

Following advice from the Legal Adviser, the Committee first considered whether notice of this resumed hearing had been served upon Mr Cowie in accordance with Rules 28 and 65 of the GDC (Fitness to Practise) Rules 2006 (the Rules) and section 50A of the Dentists Act 1984, as amended (the Act). The Committee saw a copy of the Notification of Hearing letter, dated 16 May 2017, and the associated Royal Mail ‘Track and Trace’ receipt confirming that the letter was sent to Mr Cowie’s registered address by Special Delivery. A copy of the letter was also sent to Mr Cowie and to his legal representatives by email. The Committee was satisfied that the letter contained proper notification of today’s hearing, including its date and time, as well as notification that the Committee had the power to proceed with the hearing in Mr Cowie’s absence. On the basis of all of this information, the Committee determined that service had been effected in accordance with the Rules and the Act.

Proceeding with the hearing in the absence of Mr Cowie and on the basis of the papers

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in Mr Cowie’s absence and on the basis of the papers alone. It had regard to the written submissions of Mr Cowie’s representatives dated 19 June 2017 in which they submitted that this hearing could be dealt with on the papers. The Committee noted that this view was shared by the GDC. In the circumstances, the Committee determined that it was fair and reasonable to proceed with the hearing in the absence of both parties.

Decision to conduct the hearing in private

The Committee acceded to the application made by the GDC in their written submissions, to proceed with the hearing in private under Rule 53 of the Rules. It was satisfied that this was an appropriate course of action, as the matters under consideration relate solely to Mr Cowie’s health.

In the circumstances, the Committee has prepared a private version and a public version of its determination. This version of the determination is private.

Background

It determined there continued to be a risk to patients, and that Mr Cowie's fitness to practise was currently impaired.

That Committee determined it could not formulate conditions which would adequately address the identified risks, and that it was necessary and proportionate to extend the period of suspension for a period of twenty-four months.

Determination

The Committee took into account the written submissions of both parties. It accepted the advice of the Medical Adviser and that of the Legal Adviser.

The Committee has accepted the advice of the Legal Adviser and Medical Adviser. It has taken into account the GDC's *Guidance for Health Committee (November 2009)* and the *Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2015)*.

Impairment

The Committee first considered whether Mr Cowie's fitness to practise is currently impaired. In doing so, it has exercised its independent judgement. Throughout its deliberations, it has borne in mind that its primary duty is to address the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

The Committee determined that, taking into account the medical evidence before it, Mr Cowie's fitness to practise is currently impaired by reason of his adverse health condition.

Sanction

The Committee then determined what sanction, if any, would be appropriate in light of the finding of current impairment of Mr Cowie's fitness to practise that it has made. The Committee recognises that the purpose of a sanction is not punitive, although it may have that effect, but is instead imposed in order to protect patients and safeguard the wider public interest. In reaching its decision on sanction the Committee has again taken into account the GDC's Guidance. The Committee has applied the principle of proportionality, balancing the public interest with Mr Cowie's own interests.

The effect of the foregoing direction is that, unless Mr Cowie exercises his right of appeal, his registration will be suspended indefinitely from the date on which the direction takes effect.

The Committee would also highlight to Mr Cowie that should his condition sufficiently improve and he feels ready to return to clinical practice of dentistry, he can apply to the GDC for a review of the indefinite suspension order in two years after the direction for indefinite suspension takes effect.

That concludes the case for today."