

Hearing held in public

Summary

Name:	AKBAS, Advar [Registration no: 72730]
Type of case:	Interim Orders Committee (initial)
Outcome:	Interim Conditions
Duration:	18 months
Date:	27 February 2020
Case number:	CAS-193774

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.

Mr Akbas: The Committee has considered all the information before it, including the General Dental Council's (GDC) bundle of documents, as well as the documents provided on your behalf. It has had regard to the submissions made by Mr Johnson on behalf of the GDC and those made by Ms Lang on your behalf. The Committee's attention has been drawn to the GDC's "Interim orders guidance for decision makers - Interim Orders Committee" (October 2016). It has accepted the advice of the Legal Adviser.

Mr Johnson outlined the background to your case. In January 2020 the GDC received a letter dated 5 December 2019 from the Dental Practice Advisor (the Advisor) for Cardiff and Vale University Health Board in which the Advisor raised concerns regarding you. The Advisor stated that the concerns followed a report (dated 7 June 2019) on a record card check by a Clinical Advisor of the NHS Business Services Authority and the advice contained therein. The concerns expressed were confirmed during the Advisor's visit to the dental practice on 20 November 2019, when a wide range of issues were identified. The Committee has seen a copy of the notes of that meeting.

The Advisor explained in his letter to the GDC dated 5 December 2019 that he viewed the patient records in your presence. He stated that he spoke to you and was not satisfied that you showed the "degree of insight" into your practising shortcomings that he would expect from a dental professional. On return from the visit, the Advisor raised his concerns with the Board's governance team and sought advice from NHS Resolution. You were also invited to sign a voluntary agreement that you:

"Will not undertake elective crown and bridge work.

Will repair failing crown and bridge work where possible. Should replacement with a new crown or bridge be needed regard to the principles of best practice must be used. These include radiographic assessment of periapical tissues; documentation of treatment option discussions; due regard to function; periodontal statement of the tooth; any other active dental disease; the patient's medical history.”

You signed this agreement on 26 February 2020.

In addition, the Committee's attention has been drawn to the documents provided on your behalf. This includes a letter (undated), addressed to the GDC's Interim Orders Committee from a GDC registrant working as an independent clinical mentor who states that he is prepared to act as your workplace reporter and supervisor, should it be decided that this is required. The Committee was also provided with an email dated 26 February 2020 from Cardiff and Vale University Health Board to your solicitor (Ms Lang) in which they state that they are content that the voluntary agreement meets with their immediate concerns for patients and that the measures planned are a positive move.

Mr Johnson submitted that the allegations against you are serious and that an interim order is necessary to safeguard against the risk. Mr Johnson said that an interim order of conditions is necessary for the protection of the public and it is otherwise in the public interest. The Committee was provided with a set of conditions proposed by the GDC, which includes a requirement that your work must be directly supervised at all times by a person who is available on site at all times. He invited the Committee to consider making the order for a period of 18 months.

Ms Lang conceded that there are shortcomings in your record keeping, your radiographic practice and in the fitting of crowns and bridges. She referred to the information contained in the bundle which shows the steps you are planning on taking to address concerns. Ms Lang conceded that an interim order of conditions would be appropriate but said that some of the conditions proposed by the GDC are too onerous, not practical and not necessary to address the alleged concerns. In particular, Ms Lang questioned whether it is necessary for your work to be directly supervised at all times.

The Committee has borne in mind that its purpose is to assess the nature and substance of any risk to the public in all the circumstances of this case and to consider whether it is necessary for the protection of the public, is otherwise in the public interest, or is in your own interests to impose an interim order on your registration. In its considerations, the Committee has applied the principle of proportionality, balancing the public interest with your own interests. It has borne in mind the submissions made by Ms Lang in respect of your current financial and work arrangements.

The Committee has had regard to the information provided by two credible sources, namely NHS Business Services Authority and Cardiff and Vale University Health Board. They include significant and wide-ranging concerns across many aspects of your clinical practice, your record keeping, treatment planning and consent, radiographic practice and NHS claiming. The Committee notes that Cardiff and Vale University Health Board considered that the concerns were sufficiently serious as to request an immediate restriction on the type of treatment you will provide. In the notes of the practice visit dated 20 November 2019 it was stated that your clinical behaviour was “very poor and professionally unacceptable. The Dental Advisor agrees with the Clinical Advisor that this is widespread and serious.” In relation to your insight, the Dental Practice Advisor noted at the practice visit on 20 November 2019 that you showed “a complete lack of insight into how his clinical behaviours are at variance to good clinical practice. There was no reflection on how he has the potential to cause harm but instead Mr Akbas said: ‘We provide a good service. If we didn't, my patients would not come back.’ This was the major rationale as to why his treatment was acceptable.”

In the Committee's view, there is a real risk of significant harm to patients if you were to practise as a dentist without there being some restriction on your registration. The Committee is satisfied that an interim order is necessary for the protection of the public.

The Committee is also satisfied that an interim order is required on public interest grounds. The Committee is of the view that a fully informed member of the public would consider a Registrant should not be permitted to practise unrestricted whilst such serious concerns about their safety to practise are being investigated by their regulator. It believed that the public would be shocked to learn that the Registrant's regulatory body had been made aware of allegations of this nature and not imposed an interim order.

Accordingly, the Committee is satisfied that it is necessary for the protection of the public and is otherwise in the public interest that your registration be subject to an interim order in accordance with Section 32(4) of the Dentists Act 1984.

The Committee first considered whether it would be sufficient and proportionate to place an interim order of conditions on your registration. In so doing, the Committee has had regard to the nature of the allegations against you. It has concluded that it could formulate workable conditions to address the risks identified and that conditions, broadly in the terms proposed by the GDC, would be sufficient and proportionate.

Given the wide-ranging nature of the clinical concerns identified in this case, the Committee is satisfied that it is necessary for your work to be directly supervised, as proposed by the GDC and that any lesser form of supervision would not be sufficient to manage the risks. However, in view of the requirement that your work be directly supervised, the Committee considers it is not necessary for your registration to be subject to conditions 12 and 13, as proposed by the GDC. Condition 12, as proposed by the GDC, would have prevented you from being responsible for the administration/management of any dental practice. The Committee is satisfied that the risks associated with issues around your management of the practice are sufficiently addressed by Condition 8. Condition 13, as proposed by the GDC, would have required you not to work as a locum or engage in any out of hours work or on call duties. Again, the Committee is satisfied that this condition is not necessary given the requirement that your work be directly supervised. Finally, while noting your voluntary agreement to meet the Board's immediate concerns in relation to elective crown and bridge work, the Committee considers that it is not necessary to place conditions on your registration restricting the type of work you carry out, since all your work must be directly supervised at all times.

The Committee has applied the principle of proportionality, balancing the public interest with your own interests. It notes that the interim order of conditions places restrictions on your registration pending the GDC's investigation into these allegations. However, given the serious nature of the allegations against you, the Committee is satisfied that the need to protect the public and the wider public interest outweighs your own interests.

The Committee has therefore determined that it is appropriate and proportionate to impose an interim order of conditions on your registration for a period of 18 months. The Committee is satisfied that this period of time will be necessary for the GDC to carry out its investigations into this case, which it notes are at an early stage.

The interim conditions as they will appear against your name in the Register are as follows:

1. He must notify the GDC promptly 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 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 of any formal disciplinary proceedings taken against him, from the date of this determination.
4. He must inform the GDC within 7 days of any complaints made against him from the date these conditions take effect.
5. He must inform the GDC if he applies for dental employment outside the UK.
6. He must not engage in single-handed dental practice and must only work at premises where another dental professional or dental professionals are working at the same time as he is working and with whom he has made personal contact before he commences treatment of patients at each session.
7.
 - a) He must, at all times whilst he is providing dental services, which require him to be registered with the GDC, place himself under direct supervision* of a workplace supervisor nominated by him and agreed by the GDC. The workplace supervisor shall be a GDC registrant in the same category of the register as the registrant or higher.
 - b) He must not start or restart work until his workplace supervisor has been approved by the GDC.
 - c) He must provide the workplace supervisor with a copy of this determination immediately after the supervisor has been approved by the GDC. Evidence that this information has been provided to the workplace supervisor must be forwarded to the GDC within 7 days of disclosure.
 - d) He must allow the GDC to exchange information with his supervisor.
8. He must allow his workplace supervisor to provide reports to the GDC every three months and at least 14 days prior to any review hearing. The report will address the following areas:
 - a) Record keeping
 - b) Radiographic practice
 - c) Standard of clinical care
 - d) Regulatory compliance and probity
 - e) NHS Claiming
 - f) Treatment planning and consent
 - g) Confirmation that no private work has been carried out.
9.
 - a) He must not carry out any clinical work unless directly authorised and supervised by his workplace supervisor.
 - b) He must maintain a log detailing every case where he has undertaken any clinical work, which must be signed by the workplace supervisor.
 - c) He must provide a copy of this log to the GDC every three months and at least 14 days prior to any review hearing.

10. He must keep his professional commitments under review and limit his dental practice in accordance with his workplace supervisor's advice.
11. He must confine his dental practice to posts within the National Health Service and not undertake any private practice.
12. He must allow the GDC to exchange information with his employer or any organisation for which he is contracted to provide dental services, and any Postgraduate Dental Dean/Director, workplace supervisor or educational supervisor referred to in these conditions.
13. He must inform promptly within 1 week the following parties that his registration is subject to the conditions, listed at (1) to (12), above:
 - a) Any organisation or person employing or contracting with him to undertake dental work
 - b) Any prospective employer (at the time of application)
 - c) The Commissioning Body in whose Dental Performers List he is included, or seeking inclusion (at the time of application)
14. He must permit the GDC to disclose the above conditions, (1) to (12), to any person requesting information about his registration status.

Directly supervised

*The registrant's work must be directly supervised at all times by a person who is registered with the GDC in their category of the register or above and who must be on site and available at all times. The level of supervision required is equivalent to that of a Foundation Trainee.

Unless there has been a material change of circumstances, the Committee will review the interim order within the next six months, or earlier if so requested by either party.

Notification of this decision will be served on you in accordance with the Dentists Act 1984.

That concludes this determination.