

**Hearing part-held in private  
PUBLIC DETERMINATION**

**Summary**

<b>Name:</b>	<b>LUCIOLA, Beatrice Jepkemoi [Registration number: 75787]</b>
<b>Type of case:</b>	<b>Interim Orders Committee (initial)</b>
<b>Outcome:</b>	<b>Interim Suspension</b>
<b>Duration:</b>	<b>18 months</b>
<b>Date:</b>	<b>15 May 2018</b>
<b>Case number:</b>	<b>187360</b>

At this hearing the Committee made a determination that includes some private information. That information shall be omitted from any public version of this determination and the document marked to show where private material is removed.

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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.

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Mr Middleton is representing the General Dental Council (GDC). Ms Luciola is not present but is represented by Mr Stern, QC.

**Preliminary application for part of the hearing to be heard in private**

At the outset of the hearing Mr Stern indicated that he was intending to make an application under Rule 58 of the GDC's (Fitness to Practise) Rules 2006 (the Rules) to postpone today's initial Interim Orders Committee (IOC). He said that he wished to make this application in private, under Rule 53, since the grounds for making it related to Ms Luciola's private life. Mr Middleton confirmed that he had no objection to this course of action. The Committee accepted the advice of the Legal Adviser and agreed to hear Mr Stern's application to postpone in private in accordance with Rule 53. It agreed to announce to its decision to public.

**Application to postpone**

Mr Stern made an application under Rule 58 to postpone today's initial Interim Orders Committee (IOC).

[Private material removed]

Mr Middleton opposed Mr Stern's application and invited the Committee to proceed today. He said that the IOC hearing had already been postponed on 4 May 2018 when the IOC considered that the wider public interest would not be undermined by a short delay to the hearing. However, he said that there is a clear public interest in proceeding with the hearing today, given the serious nature of the concerns identified and the risks posed. Mr Middleton advised the Committee that since the referral was made to the IOC on 9 April 2018, the GDC has received further complaints from patients. He also said that Ms Luciola now has the benefit of legal representation at today's hearing, whereas that was not the position on 4 May 2018.

[Private material removed]

The Committee has considered carefully the submissions made by the parties. It has had regard to the factors it must take into account in considering this application, as set out in Rule 58(4), and as advised by the Legal Adviser. It has had regard to the statutory objectives of the IOC, which is to carry out a risk assessment and decide, based on the information before it, whether it is necessary to take action against a registrant's registration.

The Committee considers that there is a clear public interest in proceeding today, given the allegations against Ms Luciola, which raise concerns regarding patient safety. It has also borne in mind that Ms Luciola's case has already been postponed by the IOC on 4 May 2018 ago, to allow her time to prepare for, and attend for the hearing. While it recognises that Ms Luciola is entitled to attend her hearing, the Committee has borne in mind that she has the benefit of legal representation at today's hearing. It has also borne in mind that it is not making any substantive findings against her and that if it directs that her registration is subject to an interim order, then it is open for Ms Luciola to ask for a review of that order.

[Private material removed]

Accordingly, the Committee has decided to refuse Mr Stern's application and will proceed with the hearing.

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### **Decision on interim order**

The Committee has considered all the information before it, including the documents contained in the GDC's bundle and the letter dated 10 March 2018 presented on your behalf. It has had regard to the submissions made by Mr Middleton on behalf of the GDC and those made by Mr Stern on behalf of Ms Luciola. 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 Middleton outlined the background of Ms Luciola's case. The GDC received complaints between February 2018 and April 2018 from a number of Ms Luciola's patients, or parents of patients, concerning the provision of orthodontic dental treatment at Beyond Dental Care (the Practice). The gist of their complaints is that Ms Luciola took advance payment in the sum of several thousand pounds for orthodontic dental treatment from them without starting and/or completing the treatment. Some of the patients also alleged that Ms Luciola provided poor orthodontic treatment, leaving them, or their children, in pain and discomfort and having to pay more money to have the treatment corrected elsewhere. It is alleged that in some cases, Ms Luciola did not make adequate arrangements for the continuity of their care, including by indicating that arrangements had been made for patients to continue treatment with a different practitioner when in fact they had not. Some of the patients also allege that Ms Luciola did not respond to correspondence/telephone calls from them regarding their treatment and that she failed to compensate or refund them for treatment that had been paid for but not started or completed. Further, it is alleged that in some instances Ms Luciola continued to receive

payment from patients for treatment at the same time when the payment of her rent for the Practice was in arrears, and after her lease was terminated.

The Committee has noted the information relating to the closure of the Practice in or around December 2017.

The Committee also had regard to an email dated 25 April 2018 from NHS England to the GDC which confirms that Ms Luciola remains on the Performers List in Greater Manchester.

In addition, the Committee has been referred to an email dated 27 April 2018 from Cheshire East Council's Trading Standards Directorate to the GDC which confirms that it is currently investigating a number of complaints about Ms Luciola's orthodontic practice. The email states that a number of the patients have complained to the police and to Action Fraud.

Mr Middleton said that the information before the Committee raises serious concerns as to Ms Luciola's practice. He submitted that an interim order of suspension is necessary for the protection of the public and it is otherwise in the public interest, given the risks identified. His application is for an interim order of suspension for a period of 18 months and said that this period of time was necessary for the GDC to complete its investigation, which currently is at an early stage.

Mr Stern set out the background to Ms Luciola's personal circumstances from October 2017 until March 2018 and asked the Committee to have regard to this. He said that in some of the cases where patients had complained, treatment had already been ongoing for a period of time and that a number of the complaints were made in or around March 2018, soon after a website had been set up, encouraging patients to complain. Mr Stern also drew the Committee's attention to an email sent at the start of March 2018 from Ms Luciola to her patients, which sets out the difficulties she has been experiencing and the current arrangements regarding her Practice. He asked the Committee to consider all these matters carefully in making its decision.

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 Ms Luciola's own interests to impose an interim order on her registration. In its considerations, the Committee has applied the principle of proportionality, balancing the public interest with Ms Luciola's own interests.

The Committee considers that the allegations against Ms Luciola are serious. They encompass taking advance payment for dental treatment without starting and/or completing treatment, not making adequate arrangements for the continuity of care for patients and failing to respond to correspondence from patients. The Committee notes that a local authority's Trading Standards Team is carrying out an investigation into a number of complaints it has received from patients, with the possibility of bringing charges under the Fraud Act 2006. In the Committee's view, there is a real risk of significant harm to patients if Ms Luciola were to practise as a dentist without there being some restriction on her registration. It further considers that the public interest is engaged, given the serious nature of the allegations.

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

The Committee first considered whether to impose an interim order of conditions on Ms Luciola's registration. In so doing, it has had regard to the serious nature of the allegations against Ms Luciola, which raise concerns in relation to a number of areas of her practice. Further, it has had regard to Ms Luciola's limited engagement in these proceedings and the absence of any steps she has taken to address the concerns raised. Taking all these factors

into account the Committee is not satisfied that interim conditions would be sufficient or workable.

The Committee has therefore determined that it is appropriate and proportionate to impose an interim order of suspension on Ms Luciola's 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 are an early stage.

The order will be reviewed in six months or may be reviewed earlier if so requested by either party.

The Committee has applied the principle of proportionality, balancing the public interest with Ms Luciola's own interests. It notes that this interim suspension order prevents Ms Luciola from practising as a dentist pending the GDC's investigation into these allegations. However, given the serious nature of the allegations against Ms Luciola, the Committee is satisfied that the need to protect the public and the wider public interest outweighs her own interests.

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 Ms Luciola will be asked whether she wishes to put before the Committee any written submissions. Ms Luciola will then be notified of the outcome in writing following the decision of the Committee.

Alternatively, Ms Luciola is entitled to have the order reviewed at a hearing. This means that Ms Luciola will be able to attend in person or participate via Skype or telephone and make representations, send a representative on her behalf or submit written representations about whether the order continues to be necessary. Even if Ms Luciola does not request a hearing, where there has been a material change of circumstances, the Committee will review the order at a hearing to which she and her legal representatives will be invited to attend. Notification of this decision will be served on Ms Luciola in accordance with the Dentists Act 1984.

That concludes this determination.