

**Hearing held on the papers**

**Summary**

<b>Name:</b>	<b>KHORSHIDPOUR NOBANDEGANI, Kianoosh [Registration no: 72806]</b>
<b>Type of case:</b>	<b>Interim Orders Committee (review)</b>
<b>Outcome:</b>	<b>Conditions continued</b>
<b>Duration:</b>	<b>For the remainder of the term of the order</b>
<b>Date:</b>	<b>20 January 2020</b>
<b>Case number:</b>	<b>CAS-183650</b>

*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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This is an Interim Orders Committee (IOC) review hearing in respect of an interim order currently in place on Mr Khorshidpour Nobandegani's registration. Neither party is present today, following a request for the review of the interim order to be conducted on the papers.

In accordance with the *General Dental Council (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), the Committee first considered the issues of service and whether to proceed with the hearing in the absence of Mr Khorshidpour Nobandegani and any representatives for either party. The Committee accepted the advice of the Legal Adviser on these matters.

**Decision on service**

The Committee considered whether notice of the hearing had been served on Mr Khorshidpour Nobandegani in accordance with Rules 35 and 65. The Committee received within the documentation for this review hearing, a copy of the Notice of Hearing ('the notice') dated 21 November 2019, which was sent to Mr Khorshidpour Nobandegani's registered address by Special Delivery and First Class post. The Committee also received a copy of the associated Royal Mail Track and Trace receipt showing that delivery of the notice was unsuccessfully attempted on 22 November 2019. Whilst the Committee had regard to this information, it took into account that there is no requirement within the Rules for the GDC to prove delivery of the notice, only that it was posted. It also took into account that a copy of the notice was sent to Mr Khorshidpour Nobandegani by email, as well as to his solicitors, Hempsons. The Committee noted that there has been a response on Mr Khorshidpour Nobandegani's behalf.

With regard to the contents of the notice sent to Mr Khorshidpour Nobandegani, the Committee was satisfied that it contained proper notification of today's hearing, including its time, date and venue, as well as notification that the Committee had the power to proceed with the hearing in his absence.

On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Mr Khorshidpour Nobandegani in accordance with the Rules. The Committee was also satisfied that the period of notice given was reasonable in the circumstances.

### **Decision on whether to proceed with the hearing on the papers**

The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Mr Khorshidpour Nobandegani and any representative for either party. It approached this issue with the utmost care and caution. The Committee took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones [2003] 1 AC 1HL* and as explained in the cases of *General Medical Council v Adeogba* and *General Medical Council v Visvardis [2016] EWCA Civ 162*. The Committee remained mindful of the need to be fair to both Mr Khorshidpour Nobandegani and the GDC, taking into account the public interest in the expeditious review of the interim order, as well as its statutory duty.

In reaching its decision, the Committee took into account the letter from Hempsons, dated 12 December 2019. In their letter, Hempsons confirmed that Mr Khorshidpour Nobandegani "*is content for the IOC review to be conducted on the papers rather than at a hearing and he does not propose to attend or be represented at the IOC Review Hearing*".

The Committee also took into account the written submissions from Capsticks, as set out in a letter dated 13 January 2020, in which they invited the IOC to conduct the review on the papers in the absence of both parties.

Given the indications received, the Committee determined that it was fair and in the public interest to proceed with today's hearing on the papers in the absence of both parties.

### **Background**

Mr Khorshidpour Nobandegani's case was first considered by the IOC at a hearing held on 22 June 2017, when an interim order of conditions was imposed on his registration for a period of 18 months. The information before that Committee raised a number of concerns regarding Mr Khorshidpour Nobandegani's personal and professional conduct. However, the interim order of conditions was imposed only in relation to the professional matters. The Committee in June 2017 was not satisfied that the statutory test for the imposition of an interim order was met in relation to the personal matters.

A number of the allegations relating to Mr Khorshidpour Nobandegani's practice as a dentist were brought to the attention of the GDC by NHS England. In a letter dated 9 June 2017, NHS England raised concerns regarding the following:

- the removal of patient records from the practice premises;
- not complying with infection control procedures;
- inadequate standard of care and treatment;
- inadequate record keeping;
- unprofessional, aggressive and threatening behaviour towards members of staff; and
- obtaining prescription medicine without a prescription.

There was also information which had been provided by Mr Khorshidpour Nobandegani's former business partner, raising further concerns as follows:

- inadequate handling of confidential information;
- unprofessional, inappropriate and threatening behaviour towards colleagues; and
- inappropriate financial practices.

In the light of all the above allegations, the Committee in June 2017 determined that the imposition of an interim order on Mr Khorshidpour Nobandegani's registration was necessary for the protection of the public and was otherwise in the public interest. It concluded that it could formulate workable conditions to address the risks identified in Mr Khorshidpour Nobandegani's case.

The interim order of conditions was reviewed at a hearing held on 13 December 2017. That Committee determined to continue the interim order of conditions in relation to the ongoing concerns about Mr Khorshidpour Nobandegani's professional practice, on the same statutory grounds as the previous Committee.

On 25 May 2018, the interim order of conditions was again reviewed and continued.

At a further review hearing on 1 November 2018, the IOC determined to vary and continue the interim conditions.

On 11 December 2018, the interim order of conditions was extended by consent at the High Court by a period of six months. The order was then reviewed and continued by the IOC on 1 March 2019.

On 14 June 2019, the interim order of conditions was again extended by consent at the High Court by a period of eight months. The order is now due to expire on 7 March 2020. Following this second extension, the order was reviewed by the IOC on 8 August 2019 and the interim conditions continued.

### **Decision on today's review of the interim order**

This has been the sixth review of the interim order imposed on Mr Khorshidpour Nobandegani's registration on 22 June 2017. In comprehensively reviewing the order today, the Committee considered all of the information placed before it, which included three indexed hearing bundles. It also took into account the written submissions of Capsticks, as contained in their letter, dated 13 January 2020 and the written submissions of Hempsons, as contained in their letter of 12 December 2019. The Committee accepted the advice of the Legal Adviser.

In their written submissions, Capsticks stated that a Professional Conduct Committee (PCC) hearing of Mr Khorshidpour Nobandegani's case was listed to take place from 20 January to 14 February 2020, but these dates have been vacated for various procedural reasons. The dates for the PCC hearing are to be re-listed.

It was the submission of Capsticks, made on behalf of the GDC, that, in the absence of any material change in circumstances since the last IOC review hearing, the current interim order of conditions remains necessary and proportionate for the reasons outlined by the previous Committee. In inviting this Committee to continue the order, Capsticks submitted that the GDC considered that Mr Khorshidpour Nobandegani has complied with the interim conditions on his registration.

Hempsons, in their written submissions, confirmed that Mr Khorshidpour Nobandegani has complied with the interim conditions and is content for the current conditions to remain in force, pending the conclusion of the GDC's investigation.

In reaching its decision in respect of the interim order, the Committee remained mindful that its task is not to find facts, but to conduct an assessment of risk based on the information

before it. In all its considerations, it applied the principle of proportionality, balancing the public interest with Mr Khorshidpour Nobandegani's interests. It had regard to the *Interim orders guidance for decision makers – Interim Orders Committee (October 2016)*.

This Committee is not bound by the decisions of the previous Committees. However, it decided that the information before it indicates that there has been no material change of circumstances to undermine the ongoing requirement for an interim order on Mr Khorshidpour Nobandegani's registration. Whilst the Committee had regard to the evidence of Mr Khorshidpour Nobandegani's compliance with his interim conditions, it took into account the serious and wide-ranging nature of the allegations against him, which remain outstanding. The allegations include concerns relating to unprofessional conduct, infection control, clinical care, patient confidentiality, and record keeping. There are also allegations relating to Mr Khorshidpour Nobandegani's probity. This Committee noted that the matters in question are due to be considered by the PCC at a substantive hearing and it was satisfied that, pending the resolution of Mr Khorshidpour Nobandegani's case, an interim order remains necessary on the grounds of public protection and in the wider public interest.

Given that there has been no material change in Mr Khorshidpour Nobandegani's case since the last review, the Committee decided that it would be appropriate and proportionate to continue the existing order of conditions without variation. In deciding to continue the conditions, the Committee took into account the confirmation from both parties that Mr Khorshidpour Nobandegani has been complying with the interim conditions. The Committee also took into account that it had received no information to justify revoking or varying the existing order, nor was there any justification for changing the order to one of suspension.

Accordingly, for the remainder of the term of the interim order, Mr Khorshidpour Nobandegani will remain subject to the interim conditions currently listed against his name in the GDC Register.

#### **Next review of the interim order**

Unless there has been a material change of circumstances, the Committee will, in due course, review the interim order on the papers at an administrative meeting. The Committee will be invited by the GDC to confirm the order, and Mr Khorshidpour Nobandegani will be asked whether there are any written submissions to be put before the Committee on his behalf. Mr Khorshidpour Nobandegani will then be notified of the outcome in writing following the decision of the Committee.

Alternatively, Mr Khorshidpour Nobandegani is entitled to have the interim order reviewed at a hearing. This means that he will be able to attend and make representations, send a representative on his behalf or submit written representations about whether the order continues to be necessary. Mr Khorshidpour Nobandegani must inform the GDC if he would like the interim order to be reviewed at a hearing.

Even if Mr Khorshidpour Nobandegani does not request a hearing, where there has been a material change of circumstances that might mean that the order should be revoked, varied or replaced, the Committee will review the order at a hearing to which Mr Khorshidpour Nobandegani and his representatives will be invited to attend.

That concludes this determination.