

Private & Confidential

Katrina Hepburn
HM Area Coroner
Central and South East Kent Coroners
Oakwood House
Oakwood Park
Maidstone
Kent ME16 8AE



10th October 2023

Dear Ms Hepburn,

I write in response to your Regulation 28 Report to Prevent Future Deaths (the Report), dated 15 August 2023, in respect of the investigation and inquest into the death of Mr Barry Lall, a registrant of the General Dental Council (GDC).

I should say at the outset of this response that it was with great sadness that we learned about the death of Mr Lall, particularly given the circumstances, and we send our condolences to his family.

The GDC was not made aware of the investigation and inquest and, had we known, we would have been willing to attend to provide further information about our regulatory role, and the specific action taken in respect of our fitness to practise investigation into Mr Lall. We have provided some of this information as part of this response and would be happy to provide further information should that be useful to you.

I understand that you have concerns about regulatory action taken by the GDC in respect of Mr Lall and in particular, the extent of the information which was published with respect to Mr Lall's Interim Order. While there are sound legal and policy reasons to be open and transparent about all aspects of our regulation, including Interim Orders, as we explain below, we are in the process of undertaking a review of the policy in these areas.

I have set out below brief details of the GDC's role, an overview of our regulatory investigations, some relevant details in relation to Mr Lall's case, the work we have started regarding how we hear Interim Order applications and what information we then publish.

The General Dental Council

The GDC is the UK regulator of dentists and dental care professionals. The overarching objective of the GDC, as set out in section 1(1ZA) of the Dentists Act 1984 (the Act), is the protection of the public. We do this by quality assuring dental education, undertaking checks and taking decisions about those wishing to join the register, setting standards for the professions, and investigating concerns about the fitness to practise of registrants and taking regulatory action where necessary.

In carrying out our functions we are obliged to pursue our overarching objective of protecting the public, and also to pursue the objectives of protecting, promoting and maintaining the health, safety and wellbeing of the public, public confidence in the professions, and promoting and maintaining proper professional standards and conduct for members of the profession.



Fitness to Practise

Concerns raised about individuals on the GDC's register are dealt with through the Fitness to Practise (FTP) process. The legislative requirements of this process are set out in the Act and in [The General Dental Council \(Fitness to Practise\) Rules Order of Council 2006](#) (the Rules).

FTP proceedings consist of a number of stages, with decisions taken at key points as to whether a case should proceed to the next stage. The most serious cases proceed through all stages, with the final stage being a hearing held in public. Decisions at a final hearing are made by an independent panel, which includes GDC registrants. Determinations of hearings are published on our website. There is [further information about each stage of the process](#) on our website.

In addition to the substantive proceedings, described above, and which can take some time to conclude, the GDC may make an application to an Interim Order Committee (IOC) for an Interim Order (IO). These applications are made when the GDC considers that there is a risk if the registrant continues to practice unrestricted. The risk may be to the public, to the registrant themselves, or the restriction can be made otherwise in the public interest. Restrictions that can be imposed include conditions on the practice of the registrant (for example a requirement not to undertake a certain treatment unsupervised or at all), or to suspend the registrant, which means they cannot practice at all.

Unlike substantive proceedings which will look at whether allegations are proved on a balance of probabilities an IOC will not make findings of fact. The Committee only assesses risk when considering whether to put an IO in place. The assessment of risk takes into account concerns that have been raised about the registrant, and other relevant information, including representations from the registrant (or their representatives) and the GDC. Our [Interim Orders Guidance for Decision Makers—Interim Orders Committee \(the Guidance\)](#) is available online.

For some considerable time, the GDC has sought amendments to its legislation to make the FTP process quicker and more effective. In parallel, we have undertaken work to maximise the efficiency of the current framework and to make improvements within legal constraints. Even with changes we have implemented, we are aware that FTP matters take a long time to resolve, and we recognise that this can put considerable stress on registrants under investigation.

We have a number of measures in place to support registrants within the FTP process, including the provision of a participant support officer who is available to provide advice and support to registrants and witnesses at hearings. There is [further information online about the support that is available](#).

Mr Lall's FTP Case

As you have set out in your Report, Mr Lall was a dentist who had been referred to the GDC due to concerns about his practice. A high-level timeline of the FTP case is as follows:

July 2022 - Concerns were raised by Mr Lall's NHS employer, stating that he was under investigation and would be required to attend a capability panel due to concerns about his clinical performance.

August 2022 - Given the seriousness and volume of concerns raised by a credible source (an NHS employer), Mr Lall was referred to a panel to consider whether an interim order should be imposed.

September 2022 – Following a short postponement to accommodate Mr Lall being out of the country, a panel imposed an interim order of conditions of practice. The hearing was held in public (although over MS Teams) and the determination was published on the Dental

Professionals Hearings Service website and on Mr Lall's entry on the GDC register. In the hearing, Mr Lall's representative accepted, on Mr Lall's behalf, that it was reasonable and proportionate to impose an interim conditions of practice order.

November 2022 – the initial investigation into the case concluded, with allegations made that Mr Lall's fitness to practice may be impaired. These allegations were referred to the next stage of the FTP process (Case Examiners) and Mr Lall and his representatives were asked to provide observations about the allegations.

February 2023 – the Interim Order was reviewed without an oral hearing following agreement between the GDC and Mr Lall's lawyers. The IOC reviewed written submissions made by both parties and decided to continue the interim order. Mr Lall's representatives informed the IOC that Mr Lall was content for the order to continue. The outcome of the review hearing was published on the GDC website.

April 2023 – having received information from the NHS about the outcome of their hearing and identifying some potential health issues (which were identified as stress which was being treated by a therapist), the GDC requested occupational health records so that we could understand if further action was necessary to support Mr Lall, and whether the FTP case should be reviewed to take the health concerns into account.

May 2023 – the GDC was informed by Mr Lall's legal team that he had sadly passed away. We understand from your Report that in November Mr Lall was dismissed from his employment and that December 2022 Mr Lall *"approached his GP reporting anxiety and depression with fleeting thoughts of suicide since the loss of his job and the fitness to practice enquiries."* We were not aware of the information regarding Mr Lall's interaction with his GP and were not aware until much later that Mr Lall had been dismissed by his employer.

Concerns raised in the Report

The Report includes the following paragraphs:

"Whilst I accept that the report states in its preamble that "It is not the role of the IOC to make findings of fact in relation to any charge" the report detailed significant allegations, (which Mr Lall contested) which were undetermined by the GDC at that time. The report was then made available to the public via the GDC website.

Given that this was an interim order only, my concern is whether the the [sic] level of detail provided to the public at that stage of proceedings, was necessary or required.

The family gave evidence at the inquest of Mr Lall that he was "an extremely private individual so the impact this had on his mental health was tremendous." By putting detailed allegations into the public domain via the GDC website, at a stage before any final determination has taken place, I am concerned that others going through a similar process may also suffer a detrimental effect to their mental health. Consequently, in my view, there exists a risk that future deaths will occur."

We take this concern to be about the level of detail that the GDC publishes about allegations at Interim Order proceedings and the outcome of those proceedings.

The GDC's starting position for what properly ought to be in public about these types of proceedings is that they are judicial proceedings taken in the public interest. You will be aware, including through your own work, that the interests of open justice are of great importance in ensuring that the public can have confidence in the work of regulators or other public sector bodies.

In pursuit of the overarching objective of public protection and of maintaining confidence in the professions it is important that the public can see where the GDC takes substantive action including, in the most serious cases, erasure and suspension. It is also important, particularly given the time it takes to get to a substantive hearing, that the public can see that immediate risks are addressed. The latter being undertaken through the IO process.

Given that restricting a registrant's practice is a very serious matter, including in the interim, the GDC considers it important to be clear and transparent about the circumstances as to when happens, both to ensure public confidence in the dental professions and to ensure that those we regulate are clear as to when we might take action.

Currently the GDC publishes the name of the registrant, the date that the IO hearing is due to take place, and, following the hearing, the relevant details of the outcome in accordance with the GDC's Disclosure and Publication policy (The Policy). The outcome published includes the reasons for an IO being imposed as they have been set out in the public hearing.

We recognise however, that there are times when matters ought properly to be heard in private, and our legislation, guidance for our panels and our practice allows for this. Our Rules set out that hearings before Committees (including the IOC) should take place in public. The IOC considers guidance in relation to when hearings should be held in private. If a hearing is held in private, then the details that are heard in private will not be made public. I set out the relevant part of the Guidance, as follows:

"In principle all hearings, including IOC hearings, are held in public although all Committees have discretion to allow a hearing to proceed in private in certain circumstances.

Circumstances in which all or part of a hearing may be held in private include:

- *where it is necessary to protect the interests of the parties or the protection of the private and family life of the respondent or any other person so requires e.g. vulnerable or juvenile witnesses; or*
- *where the Committee is of the opinion that publicity would prejudice the interests of justice.*

The IOC should invite representations from the Registrant and the GDC and take advice from the legal adviser before making a decision to hear a case in private."

From your reporting of your concerns, it is not clear to us when Mr Lall became unwell, and whether there was a missed opportunity to hold the initial IO hearing (held in September 2022) in private under the circumstances. It was not an issue which was brought up by Mr Lall's legal representatives at the review hearing.

Registration

You asked a specific question as to why Mr Lall no longer appears on the Register. This is because the Register is a record of all dental professionals who are *currently* entitled to practice as dentists and dental professionals. Those who are taking a career break, who have been removed, have retired or who have died do not appear on the register.

Policy review


I have set out the reasons for our current policy position regarding the publication of IO determinations above. However, although we remain committed to transparency and to the principles of open justice, we recognise that we need to keep the policy decisions we have taken

in relation to our legal framework under review. Work to review the Guidance and the Policy and reviewing our position in relation to holding hearings in public had already been started by our Policy Team prior to receiving your report. Following the sad news of Mr Lall's death and your Report, this work has been prioritised.

This work is reviewing the policy in relation to the publication of outcomes of IOs and, due to the overlapping nature of the issues involved, the position set out in the Rules in relation to holding IO hearings and the guidance provided to the panel in relation to holding hearings in public or private is also being reviewed. The aim of the review is to ensure that we are correctly balancing the public interest in open justice against the interests of the registrant, particularly when considering as yet untested allegations. The timeframe for completion of this work depends on the outcome of the review. In some circumstances public consultation to any changes that we may wish to make is required, which will inevitably mean a longer timeframe. If it were to become apparent that it would be desirable to make changes to the Rules, that is likely to take longer still and is not a process fully under our control. While the Rules themselves are made by our Council, they are subject to approval by the Privy Council and so can take effect only after having been approved by Parliament as a statutory instrument. We intend to complete the first stage of our review by early next year.

Yours sincerely,




Chief Executive and Registrar
General Dental Council