

**WARNING: Contains reference to suicide and self-harm**

# **General Dental Council**

## **Guidance for the Registrar when considering voluntary removal applications from registrants who are subject to fitness to practise proceedings**

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## Introduction

1. The General Dental Council (GDC) is the UK-wide statutory regulator of dental professionals. Its overarching objective is the protection of the public and, in pursuit of this, it aims:
  - (i) to protect, promote, and maintain the health, safety, and wellbeing of the public
  - (ii) to promote and maintain public confidence in the dental professions
  - (iii) to promote and maintain proper professional standards and conduct for members of those professions.
2. The GDC pursues its objectives in a variety of ways. The specific mechanisms relevant to this guidance are the registering of qualified dental professionals, the setting of standards for the dental team and the investigation of concerns which are raised about dental professionals' fitness to practise.
3. A GDC registrant who has ceased practice may, upon application, be removed from the register. This process is known as voluntary removal<sup>1</sup>.
4. Many decisions on voluntary removal are very straightforward, for example when a dental professional has decided to retire. In cases where there are no ongoing fitness to practise proceedings, these types of voluntary removal applications are processed administratively by the Registration team. More [information about voluntary removal](#) can be found online. This guidance does not apply to those decisions.
5. When an application is submitted while the dental professional is subject to ongoing fitness to practise proceedings, a range of factors need to be considered in reaching a decision, because there will be circumstances where approval of an application for voluntary removal before a fitness to practise matter has been progressed or concluded may undermine public safety or the public interest. Decisions of this kind are made by the Registrar, or a person appointed by the Registrar, to act on their behalf. This guidance applies to those decisions.
6. The guidance supports consistency in the approach to voluntary removal applications made by dental professionals who are subject to fitness to practise proceedings. It also supports transparency and proportionality in decision-making by the Registrar.

## Central principles

7. Decisions on voluntary removal from the register involve balancing the interests of the public with the interests of the registrant. The Registrar will consider each application on its individual merits. However, in most cases where there are current fitness to practise

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<sup>1</sup> See section 23(2) or 36H(2), respectively, of the Dentists Act 1984 which provides that if a registered dentist or dental care professional has ceased to practise, the registrar may with their consent erase their name from the register.

proceedings, the dental professional's interests are unlikely to outweigh the public interest, unless there are exceptional circumstances (see paragraphs 51 to 52).

8. Before granting voluntary removal to a registrant who is subject to fitness to practise proceedings, the Registrar must be satisfied through their balancing exercise, that in all the circumstances, it is right to do so and is consistent with the GDC's overarching statutory objectives (see paragraph 1).
9. When weighing the public interest with consideration for the registrant, the Registrar will consider:
  - (i) Public protection.
  - (ii) Public confidence in the profession.
  - (iii) The promotion and maintenance of proper professional standards.
  - (iv) The likelihood of the intention to apply for restoration to the Register in future.
  - (v) The registrant's position in relation to allegations, and circumstances more broadly.
  - (vi) The registrant's health.
  - (vii) Any exceptional circumstances.
  - (viii) What stage the fitness to practise proceedings have reached when the application is made.
10. The relative importance of these factors in a particular case will turn on the specific circumstances of the case. As such, there is no fixed weighting that the Registrar will use when considering applications for voluntary removal. Instead, each of these will factors will be taken into account in the Registrar's balancing exercise.
11. While granting voluntary removal may be the quickest and most effective way of protecting the public in relation to a fitness to practise allegation (because the registrant will no longer be allowed to practise), removal from the register is not permanent because the dental professional can make an application to restore to the Register in future. As such, the Registrar will consider the potential risks to public safety should an application to restore registration be made at a later date (see paragraphs 32 to 34).
12. While any future restoration application would be a matter for the Registrar, it is important to note that for a restoration applicant to be successful, they would need to meet all statutory requirements, including satisfying the Registrar that they are of good character. The applicant's fitness to practise history, including any matters unresolved due to voluntary removal from the register (including any unexpired periods of suspension or conditions and demonstration of remediation), may be considered when assessing character. Any unresolved fitness to practise concerns may also be pursued to resolution in these circumstances.
13. Voluntary removal is not a legitimate way for a registrant to avoid a fitness to practise investigation. However, a voluntary removal application may result in the conclusion of a case where it is appropriate and proportionate to do so, and where the applicant has no intention of returning to the register in future, unless the investigation relates to the registrant's health (see paragraphs 43 to 47). Evidence suggesting that the registrant's sole or primary motivation for applying for voluntary removal is to avoid a fitness to

practise investigation is likely to weigh heavily against the granting of voluntary removal (see paragraphs 36 to 39).

14. At the initial stages of an investigation, it may not be possible for the Registrar to conduct an informed balancing exercise because the nature, scope and gravity of any potential allegations may not yet be established. The extent of any alleged harm may also not yet be discovered.
15. Furthermore, should an application for restoration to the Register be made at a later date, the assessment of that application will be facilitated where relevant evidence relating to any fitness to practise proceedings has been gathered prior to the granting of a voluntary removal application.
16. As such, it will rarely be appropriate for voluntary removal to be granted before the GDC has completed its initial investigation and where allegations have been considered by case examiners.
17. However, if the allegations are at the lower end of the scale of seriousness, and there appears to be a genuine wish to permanently leave the Register, this is likely to weigh in favour of granting voluntary removal as a proportionate solution which avoids a potentially long and stressful investigation that may not result in any further action being taken. As part of making this judgement, the Registrar will also weigh the potential impacts of an investigation on the registrant's mental health and wellbeing.
18. Even for cases involving more serious allegations, if it becomes apparent that evidence cannot be obtained to support an allegation, for example, if a witness or an informant withdraws their cooperation and the case is to be discontinued by exercise of the Registrar's decision or otherwise, that would be a strong reason in support of granting voluntary removal. An application which falls to be considered after the point at which a case has been formally discontinued is outside the scope of this guidance and should instead be considered under the administrative process referred to in paragraph 4.
19. Fitness to practise investigations can adversely impact registrants' mental health and wellbeing<sup>2</sup>. As such, the Registrar will weigh the effects a prolonged investigation may have if voluntary removal is not granted.

## **Considerations in the Registrar's balancing exercise**

20. The Registrar's decision on applications for voluntary removal must be recorded and include the grounds on which the decision was made. The Registrar will consider the factors set out in paragraphs 21 to 52 when deciding whether to grant voluntary removal. The Registrar will consider each of these factors and different factors may direct their decision in different ways. The considerations below will all be assessed in the

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<sup>2</sup> Within our [research on seriousness with the University of Plymouth](#), we examine how our statutory objectives are linked to seriousness, primarily by ensuring public safety and maintaining public confidence. Seriousness is defined by a multitude of factors, and will be examined as part of the Registrar's balancing exercise, as defined in section 6.3 of the research.

Registrar's overall evaluation of each application for voluntary removal to provide balance in decision-making.

### **Public protection**

21. Because dental professionals must be registered to legally practise, voluntary removal from the register may be the quickest and most effective way of protecting public safety. However, consideration should be given to how public safety would be protected should the dental professional apply to rejoin the register at a later date.
22. Factors which would indicate a lower risk to public safety are cases where the registrant has no fitness to practise history and the allegation is at the lower end of the scale of seriousness. These are factors which are likely to weigh in favour of granting voluntary removal.
23. Where the dental professional has extensive fitness to practise history, the Registrar's consideration is more complex. Public protection may be best served by granting voluntary removal, as the dental professional would no longer be allowed to practise dentistry.
24. A significant adverse fitness to practise history which indicates a persistent lack of regard for professional standards (even where there are no common themes within current allegations), is likely to weigh against granting voluntary removal.

### **Public confidence in the profession**

25. The Registrar will consider the extent of any alleged harm. Where serious and/or widespread harm is alleged, or where there is more than one open case regarding the same registrant, public confidence may be undermined should voluntary removal be granted without the allegations being fully investigated and, where appropriate, subjected to public scrutiny.
26. Where allegations are at the lower end of the scale of seriousness, i.e. those which are unlikely to progress as far as case examiner stage, the granting of voluntary removal may be a proportionate decision.
27. Dental professionals are required to cooperate with regulatory investigations. As such, the granting of voluntary removal to those who fail to cooperate may risk undermining public confidence, and is likely to weigh against granting voluntary removal.
28. Where a dental professional has been suspended indefinitely, for example, due to non-cooperation, the Registrar may consider granting voluntary removal to be the most appropriate and proportionate outcome. When considering such applications, the Registrar will have regard to the potential that the registrant may apply for restoration in future. However, non-cooperation with a prior investigation is likely to weigh against the approval of any future application for restoration.

## Promoting and maintaining proper professional standards

29. One of the GDC's statutory objectives is to promote and maintain proper professional standards and conduct in the interest of public protection. As such, there is the public interest to be considered, as part of the balancing exercise, in fitness to practise allegations being fully investigated and, where appropriate, being subjected to public scrutiny.
30. There are certain allegations which, if substantiated, are serious enough to come with a presumption of impaired fitness to practise (see paragraphs 48 to 50). In those circumstances, the public interest is likely to weigh more heavily against granting voluntary removal. Additionally, in instances where the case may highlight an important matter of principle in support of the promotion and maintenance of proper professional standards, the Registrar's decision may weigh more heavily against granting voluntary removal.
31. In these circumstances, the Registrar should consider the lack of public scrutiny and/or the lost opportunity to highlight an important principle that would result from the granting of voluntary removal.

## Likelihood of intention to apply for restoration to the register in future

32. As part of the voluntary removal application, registrants are required to complete a statutory declaration which confirms they are not practising and have no intention of returning to practice.
33. Where there is evidence which undermines that declaration, this is likely to weigh heavily against voluntary removal being granted, unless the allegations relate solely to health (see paragraphs 41 to 47).
34. When assessing the likelihood of a future application for restoration to the register, the Registrar will consider:
  - (i) the length of time since the registrant last practised; longer periods may indicate loss of skills or a strong desire not to return to practise
  - (ii) any further evidence that the registrant no longer intends to practise; registrants who can provide evidence to support their declared intention are less likely to apply for restoration in future (e.g. evidence that the retirement process had commenced prior to the allegations being made, such as arrangements to sell or otherwise hand over their practice, or any evidence of an intention to pursue an alternative profession and/or career).

## The registrant's position in relation to allegations, and circumstances more broadly

35. The Registrar will consider the registrant's circumstances when deciding on applications for voluntary removal.
36. Evidence suggesting that a registrant's sole or primary motivation is the avoidance of an investigation is likely to weigh heavily against the granting of voluntary removal, as this is

likely to undermine public confidence in professional regulation. Such evidence may include the registrant's motivation being articulated where they have, for example, stated they would like the investigation to end and suggested voluntary removal as a way to bring that outcome about.

37. However, where the public interest is not otherwise undermined by allowing voluntary removal, the application should not be turned down purely because a fitness to practise investigation has prompted or contributed in part to the registrant's decision to retire or cease practising.
38. Similarly, the registrant's insight into the allegations, as well as the consistency and truthfulness of any previous communications from them can inform the Registrar's balancing exercise.
39. Evidence that indicates the registrant wishes or intends to practise overseas is likely to weigh against the granting voluntary removal. Such evidence might include the registrant holding registration overseas, a primary qualification issued abroad or having applied to the GDC for a Certificate of Current Professional Status which is used by overseas authorities when considering applications for registration.
40. Where there is evidence to suggest that the registrant intends to work in a field related to dentistry (e.g. practice management or in education) or otherwise in healthcare, the Registrar will consider whether granting voluntary removal risks undermining public confidence in the dental professions and their regulation.

### **The registrant's health**

41. There are circumstances where health either functions as the primary concern for the open fitness to practise case or the current state of the registrant's health at the time of the voluntary removal application may impact the Registrar's considerations and will be considered as part of the Registrar's balancing exercise.
42. Certain cases are multifactorial, or cases which involve more than one ground of impairment. These cases may result in erasure depending upon the allegations. In multifactorial cases involving allegations of adverse health, which have become increasingly serious during or after fitness to practise considerations, alongside any other ground of potential impairment, the Registrar will consider:
  - (i) the seriousness of any underlying health condition
  - (ii) the impact on the registrant's ability to practise in any capacity
  - (iii) the likelihood of recovery
  - (iv) the extent to which they are able to participate in the fitness to practise process.

### **Health as the primary concern for the open fitness to practise case**

43. Where allegations relate exclusively to a registrant's health, voluntary removal is usually granted if the dental professional can demonstrate insight into their condition and how it affects their practice.

44. Where a registrant demonstrates limited or no insight about their health condition, or how it may affect their fitness to practise, the Registrar will consider if there is public interest in establishing their current state of health prior to granting voluntary removal. This may include waiting for a determination from a practice committee, should it not be possible to gather evidence to support a conclusion by any other means. Should voluntary removal be turned down, the dental professional may be invited to apply again once this has been established as part of the fitness to practise proceedings.
45. An indication of a future application for restoration, should the health condition improve, will not weigh against the granting of voluntary removal as there will typically be no public confidence issues to consider. When applying for restoration, the registrant will be asked to satisfy the Registrar that they are in good physical and mental health.

#### **The state of health of the registrant at the time of the application for voluntary removal**

46. Where allegations do not relate to the registrant's health, but the registrant's health deteriorates before their case is concluded, voluntary removal is less likely to be granted if the registrant has an acute or short-term condition as opposed to a chronic or long-term health condition where they are unlikely to return to work.
47. Where a registrant's health declines during consideration of a voluntary removal application, the Registrar will take account of any additional health information in their consideration of the voluntary removal application.

#### **Cases where voluntary removal should not be granted unless there are exceptional circumstances**

48. There are categories of fitness to practise allegations where, unless there are exceptional circumstances (see paragraphs 51 to 52), it will generally not be in the public interest to grant voluntary removal before fitness to practise proceedings are concluded. These are cases where the allegations are so serious that, if substantiated, public confidence in the profession would be seriously undermined if the allegations were not fully investigated and, where appropriate, subjected to public scrutiny at hearing.
49. The types of allegations include, but are not limited to:
  - (i) where there is an ongoing police investigation or conviction for a serious criminal offence or offences
  - (ii) sexual assault and/or misconduct
  - (iii) harassment on the grounds of any protected characteristic
  - (iv) discriminatory behaviour on the grounds of any protected characteristic
  - (v) violence
  - (vi) dishonesty
  - (vii) lack of integrity
  - (viii) gross negligence recklessness risking serious harm to patients.

50. If the Registrar grants voluntary removal where the weight of public interest might indicate otherwise (e.g. allegations such as those described at paragraphs 48 to 49), the written decision must clearly record the exceptional circumstances applied.

### **Exceptional circumstances**

51. There will always be a wider public interest in the scrutiny of the most serious allegations (see paragraphs 48 to 50). Only in exceptional circumstances will it be appropriate to grant voluntary removal when the allegations are of this nature.
52. Such circumstances include where medical evidence has been provided which demonstrates that the individual is, and will likely be, unfit to participate in fitness to practise proceedings. That evidence should be from a medical practitioner with familiarity with the registrant's medical condition, must clearly demonstrate the individual's condition, and explain how and why that condition prevents – and will likely continue to prevent - their participation in proceedings. Such circumstance may include, but is not limited to, where the registrant does not have capacity to understand the allegations or to seek and/or act on legal advice, or where the registrant is suffering from a terminal or serious illness and there is no prospect they will recover sufficiently to practise again. Exceptional circumstances may also include where there is evidence that the process carries with it a risk of suicide or serious self-harm on the part of the dental professional concerned.

### **Registrar considerations particular to the stage of fitness to practise proceedings**

53. There are certain considerations for the Registrar that depend on the stage of the fitness to practise investigation at which the voluntary removal application is received. These are set out in paragraphs 55 to 64.
54. If the registrant has made a previous application and has provided further supporting evidence, the Registrar will repeat the balancing exercise, paying attention to any new information provided.

### **Before, and at, case examiner stage**

55. For the reasons set out at paragraph 14, it is not always possible for the Registrar to conduct an informed balancing exercise at the early stages of an investigation.
56. Where an application for voluntary removal is received at an early stage of an investigation, the Registrar will consider whether there are factors which support the granting of voluntary removal (see paragraphs 20 to 52). In the absence of such factors, the registrant may be asked to resubmit their application after the initial investigation has been completed or case examiners have considered any allegations.
57. However, if evidence of remediation is provided (through the registrant's response or observations) before an investigation reaches case examiners, the Registrar can consider this evidence when weighing their decision.

58. At that stage, the registrant may also be asked, as part of the voluntary removal process and prior to the application being considered by the Registrar, whether they admit the allegations against them and that their fitness to practise is impaired.
59. If so, any admissions made should be recorded and, in the event that voluntary removal is granted, may be disclosed to those with an interest in the outcome of the fitness to practise case including the informant (if any), and/or the registrant's employers or contracting bodies. Any admissions made may also be considered in the event that the registrant applies for restoration in future.
60. When an application for voluntary removal is received, the informant is notified and allowed the opportunity to provide comments, in the majority of cases. This does not always apply for health cases or where the registrant has substantive conditions or suspension. These comments are then included in the application sent to the Registrar.
61. If the registrant does not admit the allegations, and/or does not admit that their fitness to practise is impaired, or, if they do, and there appears to be a dispute as to the seriousness of the allegation or any relevant surrounding circumstances, that will be a factor that the Registrar should consider, and may militate against granting voluntary removal.
62. The Registrar will also consider any allegations, and the likelihood that the investigation will be referred to case examiners. Single clinical incidents, for example, rarely progress beyond the assessment stage, and if a clinical dental adviser report indicates a referral to case examiners is unlikely, or if referral is likely to result in a finding of no further action, this will weigh in favour of granting voluntary removal.
63. Undertakings are a part of the case examiner stage of the Fitness to Practise process, and the continued registration of a registrant is dependent upon their compliance. Any breaches of undertakings, similarly to violations of conditions, agreed with case examiners are likely to weigh against the granting of voluntary removal.

### **Pre-hearing stage**

64. Evidence of a dental professional's insight and remediation has often been provided by the pre-hearing stage of the Fitness to Practise process (see paragraph 57). The Registrar will consider this information and how it may influence a practice committee's decision as part of the balancing exercise.