

Guidance on the Registrar's Discretion to Erase for CPD Non-Compliance

Introduction

1. The CPD requirements for all GDC registrants are governed by S.34A(1) and S.36Z1(1) of the Dentists Act 1981 ("the Act") for Dentists and Dental Care Professionals respectively. The current Rules as created under the Act are [The GDC \(CPD\) \(Dentists and Dental Care Professionals\) Rules Order of Council 2017](#) ("the Rules"). These have been in force since 1st January 2018 and are referred to as the enhanced CPD scheme.
2. By way of enforcement, the Registrar has the discretionary power under the Act and the Rules to erase a registrant where they are not satisfied that they have met their CPD requirements.
3. This Guidance sets out the factors to be taken into account by the Registrar, or person with delegated authority¹, when considering whether to erase a registrant for failing to comply with their CPD requirements. The aim of this Guidance is to promote consistency and transparency in decision making.

The Registrar's power to erase

4. Section 34A(2) of the Act states in relation to Dentists: "*if it appears to the registrar that a person has failed to comply with the requirements of the rules made under subsection (1), the registrar may erase the person's name from the register.*" [emphasis added]. An identical provision in relation to Dental Care Professionals appears at S.36Z1(2).
5. The Rules specify the procedure to be followed before the Registrar may erase, namely sending notices to the practitioner under Rule 6 or 7 as applicable.
6. The power to erase is at Rule 8:

8. The registrar may erase the practitioner's name from the register or, in the case of a dental care professional, any of the titles under which the dental care professional is registered if—

(a) the registrar—

(i) has not received from the practitioner any representations or written evidence in response to the notice sent under rule 6 within the time limit specified by virtue of paragraph (1)(c) of that rule, or

¹ Under the current [Scheme of Delegation of the Registrar's Functions](#), erasure under S.34A(2) and S.36Z1(2) of the Act is delegated to the Registrations team.

(ii) having considered any written representations or written evidence submitted by the practitioner in response to the notice sent under that rule, is not satisfied that the practitioner has met the requirements under rules 2, 3, 13 or 14 (as the case may be);

(b) the practitioner has failed to comply with a notice sent under rule 7 within the time limit specified by virtue of paragraph (2)(b) of that rule.

Test to be applied: Exceptional Circumstances

7. The Act and Rules do not specify a test to be applied by the Registrar in determining whether to exercise their discretion to erase a registrant under these provisions.
8. The Registrar, in exercising this function under the Act, must do so in pursuit of the Council's statutory over-arching objective of the protection of the public. This involves the pursuit of objectives of protecting the health, safety and well-being of the public, and promoting and maintaining public confidence in the professions and proper professional standards and conduct for members². The Council also has a general concern to promote high standards of education at all its stages in all aspects of dentistry³.
9. The purpose of the CPD requirements is to ensure that GDC registrants are, at all times, appropriately educated and trained to provide safe care to the public, in line with the over-arching and other objectives. Compliance with CPD is mandatory for all dental professionals and is a requirement for their continued registration. The only means of enforcement afforded under the Act and Rules, is discretionary erasure⁴.
10. The starting position is that the Registrar should exercise their discretion to erase a person's name from the GDC register where any of Rule 8(a)(i), (a)(ii) or (b) are satisfied.
11. The Registrar may exercise their discretion *not* to erase a registrant if it appears to the Registrar that there are exceptional circumstances which justify allowing the registrant to remain on the GDC's register, notwithstanding their failure to meet their CPD requirements.
12. Whether there are "exceptional circumstances" will be a matter of assessment on a case-by-case basis. In pursuit of the over-arching objective, the threshold is necessarily high and the words are to be given their ordinary meaning.

Assessing Exceptional Circumstances

13. In determining whether to erase under Rule 8, the Registrar⁵ should first consider whether there is any evidence that the registrant was prevented from completing their required CPD hours due to exceptional personal circumstances which were beyond their control. This may

² See Section 1(1ZA) and 1(1ZB) of the Dentists Act 1984, as amended

³ See Section 1(2) of the Dentists Act 1984, as amended

⁴ The Registrar does not have any power to issue a warning, nor any other alternative or lesser sanction, for a registrant's failure to meet their CPD requirements.

⁵ Or person with delegated authority, as above.

include serious illness, for which medical evidence has been provided, or other unforeseen events such as bereavement of a close relative (spouse/partner, parent, child, or sibling).

14. Where a registrant seeks to rely on exceptional personal circumstances, the Registrar should only take into consideration events that occurred or were ongoing during the timeframe under consideration for CPD non-compliance.
15. The Registrar should also consider whether the personal circumstances put forward have prevented the registrant from working during the period under consideration. If a registrant has, notwithstanding their circumstances, been able to continue working as a dental professional, the Registrar is highly unlikely to exercise their discretion not to erase for a failure to meet their CPD requirements during the same timeframe.
16. Similarly, the Registrar will consider any available evidence of the registrant's general attitude towards their regulatory obligations during the period under consideration, including whether the registrant had attempted to meet their CPD requirements, notwithstanding their personal circumstances, and if so, to what extent. Where a minimal shortfall in CPD hours can be directly attributed to an exceptional personal circumstance, the Registrar is likely to exercise their discretion not to erase.
17. Where there is evidence that a registrant failed to meet their requirements because they were either not aware of them, or aware that they were mandatory, this will not amount to exceptional circumstances.
18. The following factors are not relevant to the Registrar's assessment at Rule 8, as they are outweighed by the public interest in upholding CPD requirements consistently across the profession:
 - a. CPD hours completed outside the statutory timeframe under consideration for non-compliance.
 - b. Length of prior GDC registration and dental career, with or without prior CPD compliance.
 - c. The professional standing and/or seniority of a registrant.
 - d. The adverse impact on a registrant, or their employer, of immediate erasure (such as job loss, financial and resourcing consequences).
 - e. Pregnancy during the period under consideration, unless related to other exceptional circumstances. The enhanced CPD scheme allows any registrant to not complete any CPD for the full period of standard parental leave and remain fully compliant with their requirements.
 - f. General matters which are not specific to a registrant personally. For example, the current national shortage of NHS dentists.

Procedure

19. The Registrar, or person with delegated authority, should provide written reasons for their decision. This should state which documents have been reviewed, including the registrant's CPD records, previous correspondence and anything received from or on behalf of the registrant (or, confirm that nothing has been received). The reasons should state what factors were considered in line with this Guidance. Where relevant this should also include the absence of factors, for example: *"the Registrar has not been provided with any evidence of extenuating personal circumstances which may have prevented the registrant completing their CPD as required."*
20. If the decision is made to exercise the Registrar's discretion to erase, this reasoning can be incorporated within the existing Rule 8 Notification letter. If the decision is made to not erase a registrant due to exceptional circumstances, a separate letter should be sent to the registrant explaining this decision as above and confirming that no action will be taken on their registration in this instance. Registrants should be reminded that they will be expected to meet their CPD requirements going forwards.

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