**Hot off the press!**

*Aga v General Dental Council [2025] EWCA Civ 68*

By way of a judgment published on 4 February 2025, the Court of Appeal has overturned the High Court decision in *Aga*, accepting the reasoning of Morris J in *Danial*.

**Grounds of appeal**

The GDC appealed against the High Court judgment on grounds that Ritchie J had been wrong to treat a *direction* for substantive suspension and an *immediate order* of suspension as forming one continuous suspension. These orders arise from different statutory provisions and have different purposes.

The Respondent dentist argued that the GDC’s practice can produce an unfair result by, in effect, extending the period for which a dentist may be subject to an appeal beyond the total time directed by the PCC in their case, and longer than the statutory maximum of 12 months under s.27B(6)(b) Dentists Act 1984 (“DA”). Furthermore, it was argued that the GDC’s practice tends to discourage or caution a dentist against exercising their right of appeal.

**Decision**

The Court of Appeal overturned the High Court decision in this matter. They found that, as a matter of law and fact, a *direction* for suspension and an *immediate order* for suspension are distinct:

* They are made at different stages of the fitness to practise process;
* An immediate order for suspension is not “parasitic” on a direction for suspension, although a direction for suspension is a condition precedent for an immediate order for suspension;
* The 12 month maximum time limit for a suspension only applies to a direction for suspension under ss.27B-27C DA;
* The statute does not provide for an immediate order of suspension to be set off against a direction for suspension in the manner done by the High Court. Even though judges had expressed concern about this position, it is a matter for Parliament to resolve.

The Court of Appeal raised concern that Ritchie J’s judgment would undermine the overriding objective that governed the PCC’s decision making, i.e. the protection of the public. Furthermore, the Court of Appeal were concerned that allowing an immediate order for suspension to be set off against a direction for suspension would interfere with the purpose of the review process under s.27B DA. There could be circumstances where a review would not take place and the PCC would not have had appropriate opportunity to ensure that the dentist had fully remediated before returning to practice.

**Significance**

The Court of Appeal’s decision now returns the interaction between immediate orders for suspension and directions for suspension to the status quo. Should dentists - or registrants of other healthcare regulators – wish to challenge the chilling effect on appeals, or extended periods of suspension, those challenges will need to be directed to Parliament for a change to the legislation.