HEARING PARTLY HEARD IN PRIVATE

OGILVIE, Eilidh Catriona

Registration No: 67719

PROFESSIONAL CONDUCT COMMITTEE

AUGUST 2015 – AUGUST 2018 **

Most recent outcome: Suspended indefinitely **

** See page 27 for the latest determination.

Eilidh Catriona OGILVIE, a dentist, BDS Edin 1992, was summoned to appear before the Professional Conduct Committee on 17 August 2015 for an inquiry into the following charge:

Charge (as amended)

"That, being a registered dentist:

1. From approximately 2008 to 2013 you were employed by Sussex Community NHS Trust ("the Trust") as:
   (a) a dentist; and
   (b) Assistant Clinical Director of Dental Services for the Trust.
2. On dates between approximately 2008 and 2013 you:
   (a) failed to make and keep accurate patient records in that you:
      (i) [deleted by amendment];
      (ii) did not transfer manuscript records of treatment to the Trust's computer based record system adequately, promptly or at all, as set out in Schedule B[1].
   (b) failed to ensure patients and/or colleagues had easy access to patient records in that you stored such records at your home when such storage was not justified, as set out in Schedule C;
   (c) failed to ensure patient confidentiality was protected in that you stored patient records at your home when such storage was not justified, as set out in Schedule C.
3. Your conduct at paragraphs 2(a) and/or 2(b) above had the potential to put patients' safety at risk.
4. From approximately January 2013 to April 2013 you failed to co-operate with an investigation by the Trust in relation to your conduct in that you did not respond appropriately to requests to return patient records you held or were believed to hold.
5. Your treatment and/or record keeping was inadequate in that:
   (a) in relation to Patient 17, from approximately 28 May 2010 to 6 July 2012, when treatment needs had been diagnosed you did not refer the patient for

[1] All schedules are private documents that cannot be disclosed to the public.

treatment promptly or at all or made no or no adequate record of such referral;

(b) in relation to Patient 20, in approximately February 2012 you did not diagnose treatment needs and/or did not refer the patient for treatment promptly or at all or made no or no adequate record of such referral;

(c) in relation to Patient 26, from approximately April 2009 to May 2009 you failed to make any or any appropriate arrangements for treatment in light of the presence of gross calculus deposits;

(d) in relation to Patient 83 you made no or no adequate record of a prescription of Diazepam you provided in approximately November 2012;

(e) in relation to Patient 87, in approximately September 2012 when the patient was encountering problems with an existing denture you did not provide the options of relining and/or rebasing that denture, or made no or no adequate record of providing such options;

(f) in relation to Patient 95:

(i) on or around 11 February 2010 you proposed a porcelain jacketed crown for UL2 without undertaking any or any adequate prior radiographic investigation and/or when there was no or no adequate justification for such treatment;

(ii) on or around 28 October 2008 you made no or no adequate record of the details of local anaesthetic used, including batch number and/or expiry date;

(g) in relation to Patient 98:

(i) on or around 14 April 2010 you made no or no adequate record of the details of local anaesthetic used, including batch number and/or expiry date;

(ii) on or around 20 May 2010 you made no or no adequate record of the details of local anaesthetic used, including batch number and/or expiry date;

(iii) on or around 22 July 2010 you did not make any or any adequate record of the justification for keeping UR8 and/or UL5 under observation;

(iv) from approximately 14 April 2010 to 22 July 2010 you did not provide any or any adequate advice as to the rebound phase of sedation used in treating the patient, or made no or no adequate record of such advice;

(h) in relation to Patient 104, from approximately March 2009 to 29 August 2012, having diagnosed treatment needs you did not refer the patient for treatment promptly or at all, or made no or no adequate record of such referral;

(i) in relation to Patient 117, on or around 16 November 2011 you failed to make any or any appropriate arrangements for treatment for a cavity at LL3.

And that in relation to the matters set out above your fitness to practise is impaired by reason of:

(a) misconduct; and/or

(b) deficient professional performance."

On 20 August 2015 the hearing adjourned part-heard and resumed on 23 November 2015.

Ms Ogilvie was not present and was not represented. On 26 November 2015 the Chairman announced the findings of fact to the Counsel for the GDC:

"Mr Ramasamy,

The Committee has considered your submissions on behalf of the General Dental Council ('GDC'). It has accepted the advice of the Legal Adviser in reaching its decisions.

Service of the documents

Ms Ogilvie was not present and not represented in the hearing. At the outset of the hearing, the Committee considered whether service of the documents had taken place in accordance with the relevant rules. It examined the notification letter dated 17 July 2015 sent by recorded mail to Ms Ogilvie's registered address in Hove, East Sussex, as well as to an alternative address in Perthshire, Scotland which had been identified by an enquiry agent instructed by the GDC. The Committee was provided with Royal Mail certificates which indicated that the Hove letter was returned undelivered on 24 July 2015. The Perthshire letter was signed for on 18 July 2015, with the printed name 'Ogilvie'. The notification letter was sent more than 28 days in advance and contained the date, time, location and nature of this hearing. The Committee has concluded that the notification has been served in accordance with the relevant rules.

Proceeding in the absence of the Registrant

The Committee next considered whether it was fair to proceed in Ms Ogilvie's absence. It has borne in mind its duty to exercise the utmost care and caution, and the need to balance the public interest in the expeditious disposal of this case with Ms Ogilvie's own interests.

There has been no response to the GDC from Ms Ogilvie in respect of any part of the regulatory process. It is incumbent upon a regulated professional to ensure their regulator has a current address for contact and that the registrant in question is prepared to respond to any concerns raised in respect of their conduct or performance. Ms Ogilvie appears to have failed to comply with these obligations. Ms Ogilvie's health was an important feature throughout the internal investigation and disciplinary conduct by her then employer, the Sussex NHS Trust ('the Trust'). It is noted that Ms Ogilvie engaged with occupational health during the material times. Ms Ogilvie was, however, not declared unfit to attend the internal meetings, albeit accompanied if necessary. The Committee noted that, in this case, there is no allegation of impairment of Ms Ogilvie's fitness to practise by reason of adverse physical or mental health.

The charge against Ms Ogilvie is serious. However, she has not engaged with these regulatory proceedings and, in the Committee's view, has voluntarily waived her right to attend. She has decided not to submit written representations. An adjournment of this case would be unlikely to lead to Ms Ogilvie attending any future hearing. Taking into account the public interest in the expeditious disposal of this case, the Committee has concluded that it is fair for this hearing to proceed in Ms Ogilvie's absence. The Committee appreciated that it was taking upon itself an obligation to test the evidence against Ms Ogilvie and to investigate any issues arising which might tend in Ms Ogilvie's favour.

This hearing adjourned part-heard on 20 August 2015, which was the fourth day of proceedings. When the hearing resumed on 23 November 2015, the Committee re-considered its decision to proceed in absence. On behalf of the GDC, you exhibited copies of letters notifying Ms Ogilvie of the resuming hearing. You submitted that, during the intervening period of some three months, Ms Ogilvie had not engaged with the GDC nor expressed any desire to do so in the future. Accordingly, the Committee concluded that the hearing should continue in Ms Ogilvie's absence. The Committee has not drawn any adverse inferences from Ms Ogilvie's absence and it has borne in mind that the burden of proof belongs to the GDC in reaching its findings of fact.

Amendment to the Charge

During this hearing you applied to amend the charge and schedules appended to it. The Committee was of the view that the proposed amendments did not cause unfairness to Ms Ogilvie, nor would they result in any injustice to either party. Accordingly, the following amendments were made:

- Paragraph 2(a)(i) of the charge: deleted in entirety;
- Schedule A: deleted in entirety;
- Schedule B: Patient 2: "18 August 2011" deleted;
- Schedule B: Patient 6: "16 December 2011" deleted;
- Schedule B: Patient 17: deleted in entirety;
- Schedule B: Patient 52: "13 June 2012", "27 June 2012" and "29 August 2012" deleted;
- Schedule B: Patient 68: deleted in entirety;
- Schedule B: Patient 95: deleted in entirety;
- Schedule B: Patient 99: deleted in entirety;
- Schedule B: Patient 103: deleted in entirety;
- Schedule B: Patient 104: deleted in entirety;
- Schedule C: Patient 97 deleted; and
- Schedule C: Patient 103 deleted.

Background

Ms Ogilvie was first registered as a dentist on 26 June 1994. At the relevant time, Ms Ogilvie was employed by Sussex Community NHS Trust ('the Trust') as a dentist and Assistant Clinical Director of Dental Services. In these roles, Ms Ogilvie simultaneously had clinical and managerial responsibilities. Ms Ogilvie practised in two of the Trust's clinics. A significant number of her patients had special needs, including vulnerable young and elderly, and severely disabled patients, and patients living in specialist care and residential facilities, requiring domiciliary visits. You accepted on behalf of the GDC that Ms Ogilvie's work was more challenging than most due to her special needs client base.

A significant aspect of this case concerned clinical record-keeping. At one time, the Trust had provided laptops to dental professionals for their community visits, however, this method proved ineffectual due to connectivity problems, and was subsequently abandoned. Throughout the material time, Ms Ogilvie and her immediate colleagues were using the *'Kodak R4'* system ("R4"), although it was noted that, for at least some of the time, other clinics within the Trust were using at least one other computerised

system at the same time as R4, due a merger of two trusts (Brighton & Hove and West Sussex) in 2010. For the purposes of domiciliary visits, clinical notes were handwritten on a purpose made form (referred to as 'manuscript records' in the charge) ("11M form"), which was then inserted into the hard-copy clinical record alongside other documents which could not be recorded electronically, such as referral letters, medical histories etc. In respect of those heads of charge which concern clinical record-keeping, this case has focussed upon Ms Ogilvie's use of the hard-copy 11M forms and R4 computerised records. As a matter of Trust policy, dental practitioners were expected to transfer some information from 11Ms on to R4 after their domiciliary visits. In addition to her duties as a 'special care' dentist and as the Assistant Clinical Director of Dental Services, Ms Ogilvie was also the designated lead for the R4 software, meaning that she held responsibility for resolving any difficulties experienced by all of her immediate colleagues. Additionally, she held administrator status with regard to the R4 system.

In early 2012, a Trust investigation took place into concerns raised in respect of Ms Ogilvie's record-keeping. This process culminated in steps being taken which, the Trust concluded at that time, had resolved those concerns. During December 2012 however, similar issues were raised again, this time by another dentist within the Trust (Witness 3), who reported her concerns to her Clinical Director (Witness 1). It was alleged that the clinical records of a particular 'special needs' patient were not updated for approximately one year. Following an initial audit of Ms Ogilvie's records, the Trust went on to investigate a sample of more than a hundred patient records. This investigation revealed a significant number of missing hard copies of patient records. It was thought that the missing records might be in Ms Ogilvie's possession. By this time, however, Ms Ogilvie was absent from work due to a health matter. Letters to Ms Ogilvie, and a visit to her home on 10 January 2013, were unsuccessful, in that the missing records were not returned to the Trust. Eventually, however, a quantity of missing records were returned in batches on 15 and 21 February, 15 March, and 4 April 2013. It was noted at the time that a number of allegedly missing records were found to have been stored in filing cabinets within the Trust premises all along.

The Trust considered that where an 11M form was completed, but the content of it not transferred on to R4, this meant that the clinical record itself was not complete. Having found that some of the missing records were in Ms Ogilvie's possession, the Trust instigated disciplinary proceedings against her. During the disciplinary process, Ms Ogilvie was accompanied by a representative from the Medical and Dental Defence Union of Scotland (MDDUS). During the course of those proceedings, Ms Ogilvie conceded that she had omitted to transfer all of the 11M forms content on to R4, had stored hard-copy clinical records in her home and had delayed returning them to the Trust. She also submitted that there were mitigating circumstances.

The Committee received oral and documentary evidence from a number of Ms Ogilvie's colleagues at the time. Witness 1 was the Clinical Director of the Trust and the person for whom Ms Ogilvie deputised throughout the period. Witness 2 was the investigating officer who conducted the disciplinary case against Ms Ogilvie within the Trust, prior to the matter being referred to the GDC. Witness 3 was a dentist working in the dental team with Ms Ogilvie during the material time. Witnesses 4 and 5 were dental nurses, both of whom had worked with Ms Ogilvie. Evidence relating to Ms Ogilvie's health was heard in private.

Findings of Fact

The Committee has considered each head of charge separately. I will now announce the Committee's findings in relation to each head of charge:

1(a)	Proved.
1(b)	Proved.
2(a)(ii)	The GDC based this head of charge upon 234 specific appointments which Ms Ogilvie attended with 84 patients. Schedule B to the Notice of Inquiry listed the appointment dates for the respective patients. The Committee noted that, on more than half of the occasion identified in Schedule B, Ms Ogilvie recorded in the 11Ms that she had experienced problems with the R4 system preventing her from gaining access to R4. The Committee first considered the extent of Ms Ogilvie's duty to make and keep accurate patient records and her use of the 11M forms and R4 system for the purpose of discharging this duty. In her oral evidence, Witness 1 was questioned about Ms Ogilvie's duty: *"Q But what was your purpose in suggesting that she could write on the computer system a short summary and then direct the person to the 11M? What was the aim in doing that?* *A The aim was so that (a) we could submit the claims so that we got the UDAs, which is our contractual obligation; and, secondly, to try and make it a bit quicker for her so that she was not transcribing three pages.* *Q Subsequently, anyone looking at the computer record would be directed to the 11M as well?* *A Correct. Yes, that is what I would have expected, "Please see entry on 11M for further detail"*, and later: *"Q At that time, at any rate, you would not have criticised her if she had made a note saying "See 11M"?* *A No. I would have expected a bit more than just "See 11M". She would have needed to have entered in what she had done so that a claim could have been processed. So she would need to have entered in what teeth she had filled, extracted, whatever she had done. But, if there was a lot of notes about maybe the way the patient behaved, that kind of more sort of softer information maybe that could have been left in the notes. I do not recall discussing it in huge amounts of detail. I really left it to her as a professional for her commonsense as to how she might approach it."* The Committee noted that this represented a change of position by Witness 1, because in her written statement dated 19 March 2015, she had stated that *all* content of the 11M forms must be transferred to R4. This was also the standard adopted by Ms Karpeta in her expert report dated 1 May 2015. The Committee accepted the later oral evidence of Witness 1. The system of working in the Trust, at that time, involved heavy reliance on hard-copy records. They were kept at the clinics and were taken with them by dentists when they made domiciliary visits. Patient notes were usually recorded on 11M forms initially, and only rarely on the R4 system – which was often unavailable because of technical problems. Ms Ogilvie was not expected or required to copy verbatim every detail of the 11M notes on to the R4

	system. The *"patient records"* referred to in head of charge 2(a) were, at that time, in that Trust, the combination of 11M and R4 records. Provided that a proper note was made on the 11M forms, Ms Ogilvie, and her colleagues operating the same system, were compliant with the duty to make and keep accurate patient records. However, the Committee accepts that there was an additional duty to record some information on the R4 system for each patient. The amount of information which was required to be recorded on R4 was only sufficient information to flag up the need for a claim for payment from the NHS to be made. This was why Witness 1 said at one stage in her evidence that the entry *"See 11M"* would be sufficient, which she later modified to *"what [the dentist] had done"*. The Committee accepts that *"See 11M"* would be sufficient. The Committee has therefore approached this head of charge on the basis that where Ms Ogilvie carried out treatment for which payment could be claimed, she ought to have made an entry on the R4 system, at the time of treatment or within a reasonable time afterwards, indicating that some treatment had been given, so that a claim could be made for payment, with the benefit of details in the 11M notes. The Committee found that Ms Ogilvie made a comprehensive and well-written clinical note on the 11M forms in relation to the majority of the patient appointments identified in Schedule B. On some of these occasions, she did not make any entry on R4. On other occasions, there are entries in the R4 records which have appeared 'automatically' as a result of a charting entry. The Committee concluded that such entries were not sufficient to comply with Ms Ogilvie's record-keeping duty. There was evidence before the Committee that some dental professionals had experienced problems at the relevant time with the R4 system because records which they had made apparently disappeared subsequently from R4. The Committee decided, nevertheless, that it could rely on the R4 system to show where Ms Ogilvie had failed to make any entry in respect of a particular treatment appointment, because these failings were occasional, and not frequent. Furthermore, Ms Ogilvie told the Trust, in the course of its investigation, that she had failed on some occasions to make entries on the R4 system. Accordingly the Committee finds head of charge 2(a)(ii) **proved**, except those listed below. Patient 2: 7 July 2010 (a sufficient note was made in R4) Patient 2: 29 July 2010 (a sufficient note was made in R4) Patient 19: 10 October 2012 (a sufficient note was made in R4) Patient 74: 17 March 2010 (a sufficient note was made in R4 retrospectively on 26 May 2010) In the examples listed below, the Committee found that the appointment did not proceed, or there is no evidence that any treatment was provided by Ms Ogilvie in the absence of an 11M form. Accordingly, this head of charge was found **not proved** in respect of these particular cases. Patient 40: 2 May 2012 Patient 106: 1 August 2012

	Patient 120: 21 September 2011
2(b)	Proved. Witness 1 exhibited a schedule compiled by the Trust, which showed which clinical records had been found to have been stored in Ms Ogilvie's home. These were also listed in Schedule C to the charge. The Committee also read the transcript of Ms Ogilvie's interview during the Trust investigation, during which she admitted her actions.
2(c)	Proved for the same reasons as paragraph 2(b) of the charge.
3	The Committee found this head of charge proved in respect of paragraph 2(b) of the charge, on the basis that, during the time when the records were stored in Ms Ogilvie's home, they were not available for access by her colleagues or the patients concerned. The Committee found this head of charge not proved in respect of paragraph 2(a) of the charge, on the basis that, as stated in the Committee's reasoning for 2(a), the purpose of transferring the information on to R4 was only to enable a claim for NHS treatment to be processed by the Trust.
4	Proved. During part of the time when the Trust was investigating the missing records, Ms Ogilvie was absent from work on health grounds. The Trust wrote a letter dated 18 January 2013, informing her of the investigation and attempting to make arrangements to collect the records at Ms Ogilvie's earliest convenience. Around this time, the Trust called at Ms Ogilvie's home on two occasions to attempt to retrieve the missing files. There was no response from Ogilvie to any of these attempts to communicate with her. The first contact came via a text message from Ms Ogilvie's mother on 10 February. In the circumstances, the Committee did not consider that Ms Ogilvie's failure to respond promptly to the Trust's requests to return patient records, was an appropriate response.
5(a)	Not proved. The Committee noted that the 11M form notes have not been provided for the appointment concerned and no explanation has been provided for why they are missing. The only evidence before the Committee is the limited R4 notes printed from the Trust's computer system. By contrast, on every occasion where the 11M forms are provided, Ms Ogilvie has made a comprehensive note which contains significantly more detail than is normally recorded, describing the care provided and decisions made, in a clear and logical manner. Accordingly, the Committee was not satisfied that Ms Ogilvie's treatment or record-keeping were inadequate as alleged in the head of charge.
5(b)	Not proved for the same reasons as paragraph 5(a) of the charge. The Committee cannot be certain that Ms Ogilvie saw Patient 20 at all given that the R4 record states that an appointment on 16 February 2012 was cancelled. The radiograph taken on 1 September 2011, which was mentioned by Ms Karpeta in her report dated 1 May 2015, was taken by another practitioner (JY). No 11M form notes are provided for any appointments after the material time to enable the Committee to reach any further conclusions.

5(c)	Not proved. In her report of 1 May 2015, Ms Karpeta stated that, *"It is clear from Ms Ogilvie's records that the patient was very uncooperative during the exam and that a detailed examination was not possible. No action was taken to refer the patient for an exam or treatment because the patient's carers raised concerns that he should not receive general anaesthetic."* The notes also show that there were strong contra-indications for treatment under general anaesthetic, including the opinion of an anaesthetist, properly summarised by Ms Ogilvie in the R4 clinical records. In her oral evidence, Ms Karpeta was unable to concede that there might be any sufficient contra-indications for treatment under general anaesthetic in this case. However, the Committee noted that you conceded in your submissions that there was a *"fine balance"*. The Committee could not therefore find that Ms Ogilvie's clinical decision amounted to inadequate treatment or record-keeping.
5(d)	Not proved. The Committee examined the 11M form and R4 records before it for Patient 83 and found that, whilst she documented on 15 June 2012 her intention to write a prescription before the next appointment, there is no evidence that Ms Ogilvie was asked to, or ever did, write a prescription for Diazepam in November 2012. There is therefore no evidence of inadequate treatment or record-keeping.
5(e)	Not proved. Ms Ogilvie's reasons for deciding to make a new denture are well explained in her comprehensive clinical note of this particular appointment. The Committee could not accept Ms Karpeta's criticism of Ms Ogilvie's treatment or record-keeping as she had not seen the patient or examined the denture in question.
5(f)(i)	Not proved for the same reasons as paragraph 5(a) of the charge. The R4 states that the treatment was proposed by Ms Ogilvie, but not that it was completed by her. No 11M form notes are provided for any appointments to enable the Committee to reach any further conclusions.
5(f)(ii)	Not proved. No 11M forms are available for this patient. Further, the Committee was told by Ms Karpeta that the relevant guidelines, the *'Clinical Examination and Record Keeping: Good Practice Guidelines'* published by the Faculty of General Dental Practice in 2001 and 2009, stated that batch numbers of local anaesthetic used should be recorded in patient notes. In fact they say that batch numbers need not be recorded in patient notes.
5(g)(i)	Not proved. The Committee was surprised that the expert should have misquoted the relevant guidelines and appeared not to understand the impact of her misquotation on the charge against Ms Ogilvie. The Committee was provided with both the 2001 and the 2009 versions of the *'Clinical Examination and Record Keeping: Good Practice Guidelines'*, which was advanced by Ms Karpeta as the basis for her criticisms. Both versions placed before the Committee stated, in respect of the batch numbers and

	materials used in the administration of anaesthetics, *"These need not be recorded in the patient's notes"*. There is no requirement in the guidelines for expiry dates to be recorded.
5(g)(ii)	Not proved for the same reasons as paragraph 5(g)(i) of the charge.
5(g)(iii)	Not proved. The Committee noted the comprehensive records made by Ms Ogilvie on those 11M form which are available. Ms Ogilvie has noted that she intends to keep UR8 and UL5 under review. It is not possible for the Committee, on the information available, to determine whether the justification was recorded adequately in the earlier records relating to this particular course of treatment. The Committee did not accept that it was necessary in the circumstances to repeat the justification on every occasion that Ms Ogilvie saw the patient for an appointment, where no changes worthy of recording have been identified for teeth which remain under review.
5(g)(iv)	Not proved. The Committee noted that, prior to the appointment on 14 April 2010, a planning meeting had been held, which involved detailed discussions about such matters as who will be present at the appointment and who will hold the patient and provide support etc. The content of that meeting appears from the letter dated 22 January 2010, from Ms Ogilvie to the care home manager, in relation to the plans. Further, some of the 11M forms for this patient are missing. For these reasons, there is no evidence of any failure by Ms Ogilvie to give proper advice when diazepam was first discussed.
5(h)	Not proved. The R4 notes show that Ms Ogilvie had a referral in mind for this patient, because the R4 notes for 26 March 2010 show that Uckfield Hospital was contacted for treatment under general anaesthetic. Given Ms Ogilvie's consistent practice of making detailed handwritten notes on 11M forms, none of which have been available to Ms Karpeta or to the Committee, there is insufficient evidence to conclude that the referral was not made promptly or at all, or that it was not recorded adequately.
5(i)	Not proved. Given Ms Ogilvie's consistent practice of making detailed handwritten notes on 11M forms, none of which have been available to Ms Karpeta or to the Committee, there is insufficient evidence to conclude that appropriate arrangements for treatment were not made promptly or at all, or that there was no adequate record.

We move to Stage Two."

On 27 November 2015 the hearing adjourned part-heard and resumed on 3 December 2015.

On 3 December 2015 the Chairman announced the determination as follows:

"Mr Ramasamy,

The Committee has considered your submissions on behalf of the General Dental Council ('GDC'). It has read carefully all the documents and taken into account all the

oral evidence. The Committee has accepted the advice of the Legal Adviser in reaching its decisions.

During this hearing, the Committee has found the following allegations proved:

- that Ms Ogilvie failed to make and keep accurate patient records in that she did not transfer data contained in manuscript records (11M forms) to the Trust's computer based record system (R4) promptly or at all in some 227 cases;
- that Ms Ogilvie stored patient records at her home, thereby failing to ensure that patients and/or colleagues had easy access to them, and this had the potential to put patients' safety at risk;
- that Ms Ogilvie failed to ensure patient confidentiality in storing records in her home; and
- that Ms Ogilvie failed to cooperate with her employers' investigation in that she did not respond appropriately to their requests to return patient records she was holding.

Misconduct

The Committee first considered whether the facts found proved amount to misconduct. In order to make a finding of misconduct the Committee must be satisfied that Ms Ogilvie's actions fell short of the appropriate standard and that the falling short was serious. Mr Ramasamy drew the Committee's attention to a number of professional standards set by the GDC, which provided ethical guidance for the dental profession throughout the material time.

These included, from *Standards for Dental Professionals* dated May 2005, the following:

> *"1.4 Make and keep accurate and complete patient records, including a medical history, at the time you treat them. Make sure that patients have easy access to their records."*
>
> *4.1 Co-operate with other team members and colleagues and respect their role in caring for patients.*
>
> *4.3 Communicate effectively and share your knowledge and skills with other team members and colleagues as necessary in the interests of patients. In all dealings with other team members and colleagues, make the interests of patients your first priority. Follow our guidance 'Principles of dental team working'",*

the following from *Principles of Patient Confidentiality* dated May 2005:

> *"1.1 Patients are entitled to expect that you will keep the information you hold about them confidential.*
>
> *3.2 Store records securely and don't leave them where they might be seen by other patients, unauthorised healthcare staff or members of the public.*

The Committee was of the view that Mr Ogilvie's conduct contravened the above Standards and Principles. It next considered whether Ms Ogilvie's departures from acceptable standards were sufficiently serious to amount to misconduct.

The Committee has not drawn adverse inferences from Ms Ogilvie's absence from these proceedings, but it has noted that Ms Ogilvie has not engaged with the GDC during its investigation, or provided her response to the allegations at any time. The Committee was, however, provided with a transcript of her interviews with the Trust,

which took place after it had become known that the missing 11M records were being stored in her home. She was interviewed by Witness 3, Assistant Director of Operations within the Trust and the nominated investigating officer, on 11 April 2013. This was a formal disciplinary interview, at which Ms Ogilvie had the support of a representative from the MDDUS. The Committee attached weight to the interview because Ms Ogilvie's responses were candid. She made concessions appropriately and did not seek to avoid responsibility for her failings. The Committee also heard evidence from Witness 5, who worked closely with Ms Ogilvie, as her dental nurse. Witness 5 was frank and gave detailed oral evidence in respect of the material circumstances and Ms Ogilvie's actions at the time. The Committee was of the view that her evidence was reliable, genuine and insightful, especially about working conditions in the Trust and Ms Ogilvie's relationship with Witness 1, Clinical Director of Dental Services.

In respect of its finding that Ms Ogilvie had failed to make and keep accurate patient records, in that she did not transfer the content of 11M forms to R4 promptly or at all in some 227 cases, the Committee found that in a significant number of those cases, Ms Ogilvie had recorded in her clinical notes that she was unable to access R4 at all. These included the following examples:

- *"IT Problems & insufficient time to follow this up"* (21 September 2009);
- *"able to amend chart of R4 but unable to add notes"* (26 May 2010);
- *"unable to input notes to R4 & had to leave clinic to go on doms"* (27 May 2010);
- *"Recent notes require input – R4 but IT problems (again!) today"* (18 August 2010);
- *"R4 crashed"* (6 February 2011);
- *"flashing black box at top of screen & screen 'greyed out'"* (2 November 2011);
- *"Still unable to access clinical notes on R4"* (25 January 2012);
- *"ongoing problem since upgrade"* (15 February 2012);
- *"EO unable to access R4 & due to meet SC"* (30 May 2012); and
- *"EO to contact Phil as unable to access pts clinical notes on R4 again"* (28 September 2012).

All of the examples fell into two categories. Either Ms Ogilvie was simply unable to access R4, or she was overwhelmed by the pressures of time constraints because of her complicated remit, combining an NHS management role and a challenging list of patients across numerous domiciliary sites and clinics. On more than 10 occasions, Ms Ogilvie recorded both categories, in that she had tried in vain to access R4 and was unable to follow the problem up immediately as she had to move on to the next domiciliary visit, clinic or meeting. Despite these difficulties, the Committee found that Ms Ogilvie's written clinical notes were clear and comprehensive. On her appointment with Patient 25 on 3 August 2011, for example, she recorded 3 pages of written notes, but was unable to access R4 to input a summary of treatment provided.

Despite the pressure of her combined remit, and the problems Ms Ogilvie experienced with R4, the Committee found that, at times, she was left unsupported by her line manager, Witness 1. The Committee found this relevant to its findings on misconduct. In a Trust meeting on 25 April 2013, Witness 5 stated, *"When there was a patient death, EO was the one who was asked to do everything with the investigation and the*

coroner's report… EO had everything left to her." Witness 5 said much in her evidence about the difficult relationship between Ms Ogilvie and her line manager, Witness 1. At some time during 2012, Ms Ogilvie had become a carer for a relative. To accommodate this, Ms Ogilvie arranged with Witness 1 to reduce her working days to four days per week. However, there was no reduction in her duties. After just one month, Ms Ogilvie sought to resume working a five day week but Witness 1 refused. Further, the Committee found, Ms Ogilvie's office was taken away and she was no longer allocated a personal assistant. Witness 5, in her oral evidence, stated that Ms Ogilvie, in the months leading up to her disciplinary interview, displayed symptoms of increasingly serious adverse health. From December 2012, Ms Ogilvie was absent from work on health grounds.

A number of the witnesses confirmed in their oral evidence that the problems Ms Ogilvie was having with R4 were well known. The responsibility for resolving the Trust's R4-related problems fell upon Ms Ogilvie. She was a *"superuser"*, meaning that she had administrator responsibilities. Witness 5 gave evidence about her own experience of the R4 system,

> *"Basically you turn on your computer in the morning, you try to get logged in and it was impossible. You could not get logged in. You then have to ring up to find out if it was an IT issue within our department or if it was an R4 issue. You could be on the phone all morning trying to get something sorted out. However, for me I only ever did charting so often what would happen is we only had one computer in the surgery so Eilidh would log on. She would be the person logged in and from her log in, then the patient arrived and then I would do the charting so I was doing it on her log in. It was not mine that was the biggest problem, it was hers. She was not the only one. There were a number of people."*

The Committee found that Witness 1 must have been aware of R4 problems, and, in any event, was aware of Ms Ogilvie's carer responsibilities and her increasingly adverse health. Despite this, little by way of any substantive support was provided to her during this time.

Witness 5 stated in her evidence that it was Ms Ogilvie's practice to take patients' 11Ms with her to domiciliary appointments, and she was often required to go to a different clinic site afterwards. The Committee has already found that Witness 1 told her that only a summary was required on R4 to flag up that an NHS claim for payment could be made. The Committee found that the information required to be transferred was limited to information for accounting purposes only and not for purposes of patient care.

Since Ms Ogilvie's written notes were clear and comprehensive, there were unresolved R4 problems and there was a lack of management support, the Committee concluded that Ms Ogilvie's failure to transfer notes to R4 was not, by itself, or in combination with the other facts found proved, serious enough to amount to misconduct.

The remaining facts found proved relate to Ms Ogilvie's actions in storing records at her home, which posed a risk to patient confidentiality and patient safety, and her failing to respond appropriately when she was asked to return the records promptly. As set out above, there were mitigating circumstances to Ms Ogilvie's actions at the material time, which resulted in her actions due to the pressures of her workload and home life, the problems with accessing R4 and her patient base being spread over numerous sites. However, there are no circumstances in which it is acceptable for a dental professional to place their own adverse professional or personal situations ahead of patient safety. In this case, the evidence shows that a number of clinical records were stored in trolley cases in Ms Ogilvie's home when they ought to have

been properly secured in locked cabinets within Trust premises. Further, during the time when the records were not on Trust premises, no other dental professional or patient could gain access to them. It would have been impossible for any practitioner to build a picture of past treatment or patient history without being able to view the hard-copy file, which could deprive the patient of receiving fully informed and safe dental care. The Committee found that fellow dental professionals would consider this risk to patient safety to constitute deplorable behaviour. Accordingly, the Committee determined that, in storing records in her home and failing to respond appropriately when asked to return the records promptly, Ms Ogilvie's actions were sufficiently serious to amount to misconduct.

Having found misconduct, the Committee next considered whether Ms Ogilvie's fitness to practise is currently impaired. The Committee was referred to the guidance set out by Mrs Justice Cox by reference to the fifth report to the Shipman Inquiry, namely:

> "*Do the findings of fact in respect of the dentist's misconduct show that her fitness to practise is impaired in the sense that she:*
>
> *a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> *b. has in the past brought and/or is liable in the future to bring the dental profession into disrepute; and/or*
>
> *c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the dental profession…?"*

The Committee has determined that Ms Ogilvie's misconduct placed patients at an unwarranted risk of harm because the records she was storing in her home, were not accessible by Trust staff or patients. The Committee considered that patient safety and patient confidentiality are both fundamental tenets of the dental profession. These tenets were breached by Ms Ogilvie's misconduct. The Committee noted, however, that no patient was harmed, nor is there any evidence of any breach of patient confidentiality. Although Ms Ogilvie admitted in the Trust interview that her actions were wrong, nonetheless she had no malicious intention and was experiencing exceptional mitigating circumstances in her professional and personal life at the time.

In all the circumstances, the Committee concluded that Ms Ogilvie's misconduct has not brought the dental profession into disrepute.

The Committee next considered the principles from *Cohen v GMC [2008] EWHC 581 (Admin)*. It was of the view that Ms Ogilvie's misconduct is capable of remediation. However, due her inability or unwillingness to engage with the GDC, there is no evidence before the Committee of any remedial steps which she may have taken. Given a similar level of pressure upon Ms Ogilvie, there is nothing before the Committee to reassure it that she would not react in a similar way. Accordingly, the Committee has determined that there remains some risk of repetition in this case.

The Committee has determined that Ms Ogilvie's fitness to practise is currently impaired by reason of misconduct.

Deficient Professional Performance

The Committee next considered whether the facts found proved amount to deficient professional performance. The Committee noted the judgment in *Calhaem v General Medical Council [2007] EWHC 2606 (Admin)* which stated that,

> "*deficient professional performance connotes a standard of professional performance which is unacceptably low and which (save in exceptional*

circumstances) has been demonstrated by reference to a fair sample of the [dentist's] work"

The Committee was of the view that the sample before it, featuring more than a hundred patients, constitutes a fair sample of Ms Ogilvie's work. It noted that Ms Ogilvie specialised in treating patients whose needs were complex. Many of them required special care because of disability or adverse mental and / or physical health. In addition to performing domiciliary visits, treating patients at different clinics, deputising for Witness 1 as her assistant director, line managing 12 other staff and acting as administrator for the R4 system, Ms Ogilvie suffered from time to time from ill health and had to contend with caring for a family member. Further, Ms Ogilvie was not supported adequately by her employer.

In respect of Ms Ogilvie's failure to transfer clinical notes to the R4 system, the Committee found that Ms Ogilvie was unable to access R4 on many occasions and sometimes had severe time pressure put upon her.

In spite of the significant adversity in her personal and professional life, Ms Ogilvie nonetheless attempted to fulfil her role. In her interview on 11 April 2013 with the Trust, she stated that,

"I had been full time since I started in 1996 when I started as a Dental Officer. I was promoted to a senior Dental Officer in 2001 then to the Assistant Clinical Director in 2005. I reduced my hours to 0.8 FTE and stopped working on Mondays in September 2012. Although I was no longer working on Mondays I worked on 7 Mondays between September and December because Clinics were already booked in the diary which we couldn't move. I did these as additional hours. I went off sick on 12th December but I was due to work on the 24th which I said I would work"

The Committee found that Ms Ogilvie had devoted an enormous amount of time to attempting to resolve her problems. She appears to have attended for work even when she was ill. She engaged fully with Occupational Health, and tried performing her remit with reduced hours when she undertook additional carer responsibilities in her personal life.

Ms Ogilvie's supervision records dated 31 January, 17 May and 4 October 2011 all contain notes from Witness 1 in which she acknowledged Ms Ogilvie's ongoing failure to transfer clinical notes on to R4. The Committee found it disappointing that no meaningful support was provided to Ms Ogilvie following these meetings, and the same problem remained ongoing throughout 2012. Further, the interview notes dated 11 April 2013 and oral evidence from Witness 5 suggest that the pressure upon Ms Ogilvie continued to increase despite supervision meetings. In the supervision record dated 21 February 2012, Witness 1 considered the option of Ms Ogilvie taking a *"more clinical role"*. The Committee interpreted this to mean reducing Ms Ogilvie's management role to alleviate some of the pressure upon her. However, there is no evidence before the Committee that any steps were taken as a result of that suggestion.

From the evidence before it, the Committee was satisfied that Ms Ogilvie was regarded as a highly skilled and empathetic clinician. She maintained clear and comprehensive clinical notes and worked assiduously to try to remedy wider problems within the Trust. Ms Ogilvie tried to match the adverse circumstances in her personal and professional life in order to continuing delivering a high standard of care. The Committee considered its factual findings both individually and globally, and concluded that the facts found proved related to a narrow area of Ms Ogilvie's practice, and that those deficiencies arose in circumstances which were peculiar to her particular

situation. It was of the view that Ms Ogilvie's actions occurred in what were, on any view of it, exceptional circumstances. Accordingly, the Committee determined that the facts found proved do not amount to deficient professional performance.

Sanction

Having found Ms Ogilvie's fitness to practise to be currently impaired by reason of misconduct, the Committee next considered what sanction, if any, was applicable in this case. The Committee has borne in mind that the purpose of a sanction is not to be punitive, although that may be an unintended effect. The Committee has had regard to the principle of proportionality, and in particular the need to balance the public interest with Ms Ogilvie's own interests in the outcome of this case.

The Committee first considered taking no further action. Having identified an ongoing risk of repetition, the Committee was of the view that concluding the matter with no further action would not protect the public.

For the same reason the Committee considered that issuing a reprimand would not be appropriate. It would permit Ms Ogilvie to return immediately to unrestricted dental practice.

The Committee then considered imposing conditions of practice on Ms Ogilvie's registration. It concluded that no conditions can be formulated which could be workable, practicable and measurable in the circumstances. Ms Ogilvie would need to be fully participating in the regulatory process for conditions to be effective.

The Committee next considered suspending Ms Ogilvie's registration for a prescribed period of time. In accordance with the GDC publication *Guidance for the Professional Conduct Committee, including Indicative Sanctions Guidance,* effective on 1 October 2015, the Committee considered the aggravating and mitigating factors in this case. It identified the following aggravating factors:

- the clinical records stored in Ms Ogilvie's home related to patients with special needs who may not have been able to explain their dental problems easily or at all;
- Ms Ogilvie's misconduct involved a large number of records which appear to have been retained for an extended period of time;
- as Assistant Clinical Director, Ms Ogilvie occupied a senior position and it was her own responsibility to organise her work efficiently; and,
- an unintended consequence of Ms Ogilvie's misconduct was that it resulted in other members of staff becoming involved in disciplinary investigations concerning their attempts to recover the patient records.

The Committee next identified the following mitigating factors:

- Ms Ogilvie has no previous history of adverse regulatory intervention by the GDC;
- there is no evidence in this case of actual harm to patients, although there is plenty of evidence supporting the proposition that Ms Ogilvie's clinical skills and record-keeping were exemplary;
- Ms Ogilvie was under considerable time pressure in that, during the period in question, her responsibilities increased to cover a much larger geographical area and she became responsible for line managing more than three times the number of staff;

- meetings and training sessions were frequently scheduled for directly after her domiciliary visits;
- Ms Ogilvie was not supported adequately despite the fact that many of her problems were known by her employer. In fact Ms Ogilvie's own office and personal assistant facilities were removed;
- Ms Ogilvie's clinical day was frequently interrupted by her seniors, in that she was sometimes called upon to return to Trust premises to deal with complaints, without any prior notice;
- Ms Ogilvie routinely worked effectively with highly challenging patients; and
- Ms Ogilvie had periods of time away from work due to her own ill health. She also had responsibility for caring for a relative.

In the course of considering a suspension order, the Committee discussed whether an order for erasure was proportionate in this case. It concluded that erasure would not be appropriate or proportionate given that the mitigating factors significantly outweigh the aggravating factors in this case. The Committee was of the view that, if Ms Ogilvie can demonstrate insight into her past misconduct, and engages with the GDC as her regulatory body, she may be able to demonstrate that she is fit to return to unrestricted practice. It would not be appropriate to erase the registration of an otherwise well regarded and dedicated dental professional.

In light of the above, the Committee has concluded that a period of two months suspension would adequately meet the need to protect the public. It is sufficient to mark the disapproval of the public and the profession in the special circumstances of this case. It would accord with the public interest in this case and also provide Ms Ogilvie with an opportunity to initiate a return to unrestricted practice. Prior to the end of the suspension, the order will be reviewed by the Professional Conduct Committee. Ms Ogilvie may wish to present evidence of her remedial steps, any relevant continuing professional development she has achieved or intends to do, and provide some form of reflective account demonstrating her insight into her misconduct. In particular, Ms Ogilvie will need to provide sufficient evidence to satisfy the reviewing Committee that, given similar circumstances, her misconduct will not be repeated.

Accordingly, the Committee directs that Ms Ogilvie's registration be suspended for 2 months, with a review prior to its expiry.

The Committee now invites submissions regarding an immediate order."

……

"The Committee revokes the interim order of suspension on Ms Ogilvie's registration, which was imposed by the Interim Orders Committee.

Ms Ogilvie has 28 days during which she can appeal against the order for suspension. On behalf of the GDC, you submitted that an immediate suspension should be imposed for the protection of the public and is otherwise in the public interest. You also submitted that an immediate order would also be in Ms Ogilvie's own interests.

The Committee was of the view that the misconduct in this case is serious, and that a finding of current impairment has been made in relation to Ms Ogilvie's fitness to practice. The Committee has determined that Ms Ogilvie's registration should be subject to immediate suspension, and this decision is necessary for the protection of the public and is in the public interest, for the same reasons as set out previously.

Unless Ms Ogilvie exercises her right of appeal, the substantive suspension of his registration shall come into effect as soon as the period of appeal expires.

That concludes this hearing for today."

On 25 February 2016 at a review hearing, the Chair announced the determination as follows:

"Mr Williams,

This is a resumed hearing pursuant to Section 27C of the Dentists Act 1984 (as amended) ('the Act') to review the order of suspension of Ms Ogilvie's registration as directed by the Professional Conduct Committee (PCC) on 3 December 2015.

At that hearing, that Committee found proved that between 2008 and 2013:

- Ms Ogilvie failed to make and keep accurate patient records in that she did not transfer data contained in manuscript records (11M forms) to the Trust's computer based record system (R4) promptly or at all in some 227 cases;
- Ms Ogilvie stored patient records at her home, thereby failing to ensure that patients and/or colleagues had easy access to them, and this had the potential to put patients' safety at risk;
- Ms Ogilvie failed to ensure patient confidentiality in storing records in her home; and
- Ms Ogilvie failed to cooperate with her employers' investigation in that she did not respond appropriately to their requests to return patient records she was holding.

That Committee determined that Ms Ogilvie's fitness to practise was impaired by reason of her misconduct and directed that her registration in the Dentists' Register be suspended for a period of 2 months, with a review prior to the end of that period. That Committee also recommended evidence of remediation which Ms Ogilvie could present before this Committee.

Today this Committee has considered all the evidence presented. It has taken account of the submissions made by Ms French on behalf of the General Dental Council (GDC) and those made by you on Ms Ogilvie's behalf. The Committee accepted the advice of the Legal Adviser.

Impairment

The Committee first considered whether Ms Ogilvie's fitness to practise remains impaired. In reaching its decision, the Committee exercised its own independent judgement. It bore in mind that its duty is to consider the public interest which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

Ms Ogilvie was not present at the initial PCC inquiry and she was not represented. Ms French informed the Committee that the GDC had not received any information from Ms Ogilvie until 24 February 2016 in relation to your attendance on her behalf today. The Committee has not drawn any adverse inferences from Ms Ogilvie's absence.

There is no evidence before the Committee upon which it could assess the extent of Ms Ogilvie's remediation and insight. There is no evidence of Ms Ogilvie's Continuing Professional Development (CPD). Ms French informed the Committee that Ms Ogilvie was yet to submit any evidence of CPD for her current CPD cycle. The Committee concluded that Ms Ogilvie's failings, though remediable, have not been remedied. Furthermore it took the view that the failings found proved were likely to be repeated in the absence of any remedial action.

The Committee determined that Ms Ogilvie's fitness to practise is currently impaired by reason of her misconduct.

Sanction

The Committee next considered what sanction, if any, to impose on Ms Ogilvie's registration. It reminded itself that the purpose of a sanction is not to be punitive although it may have that effect. The Committee bore in mind the principle of proportionality and its duty to protect the public and declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession. It carefully considered the GDC's Guidance for the Practice Committee, including Indicative Sanctions Guidance (October 2015).

The Committee determined that to revoke the order of suspension in the absence of any evidence demonstrating that the failings have been addressed would put patients at risk and undermine public confidence in the GDC as a regulator.

The Committee next considered whether conditions would be appropriate. It bore in mind that any conditions imposed on a respondent's registration must be relevant, workable, measurable, enforceable and appropriate to the findings made. Prior to her communication with the GDC on 24 February 2016, Ms Ogilvie had not engaged with the GDC. You informed the Committee that Ms Ogilvie had expressed a wish to return to dental practise but that she is not currently in a position to do so. In the light of your submissions the Committee took the view that conditions are currently not workable or appropriate.

The Committee next considered whether to suspend Ms Ogilvie's registration. It noted from the previous PCC determination that Ms Ogilvie was regarded as a highly skilled and empathetic clinician. It was further acknowledged that "Ms Ogilvie maintained clear and comprehensive clinical notes and worked assiduously to try to remedy wider problems within the Trust." The Committee noted "Ms Ogilvie tried to match the adverse circumstances in her personal and professional life in order to continue to deliver a high standard of care." This Committee understood that to mean that Ms Ogilvie was trying to manage the adverse circumstances whilst continuing to deliver a high standard of care. These findings by the previous PCC together with your submissions about Ms Ogilvie's current intentions have led the Committee to conclude that a further short period of suspension would be appropriate in the circumstances of this case. The Committee therefore determined to extend the suspension of Ms Ogilvie's registration.

Accordingly the Committee directs that Ms Ogilvie's registration be suspended for a further period of 6 months pursuant to Section 27C(1)(b) of the Dentists Act 1984.

The order of suspension will be reviewed prior to the end of the period of 6 months. The Committee recommends that Ms Ogilvie may wish to present the following to assist the reviewing Committee:

- Evidence of remedial steps
- Relevant CPD she has achieved or intends to undertake
- Reflective account demonstrating insight into her misconduct.

That concludes the case."

On 5 August 2016 at a review hearing, the Chair announced the determination as follows:

"Service of Notice of Hearing

"The Committee was informed at the start of this hearing that Miss Ogilvie was not in attendance nor was she represented. In her absence, the Committee first considered whether the notice of this hearing had been served in accordance with rules 28 and 65 of *the General Dental Council (Fitness to Practise) Rules Order of Council 2006* (the rules).

The Committee received a copy of the Notification of Resumed Hearing which was dated as sent to Miss Ogilvie's registered address via Special Delivery and First Class Post on 6 July 2016. The notification was also sent to Miss Ogilvie at an alternative address on 6 July 2016.

The Committee had sight of an extract from the Royal Mail Track and Trace service which states the item sent to the alternative address was delivered and signed for in the name 'OGILIE' on 8 July 2016.

The Committee was aware that this review hearing was initially listed for consideration at another hearings venue, however it considered that this did not render the notice defective as the two venues were both GDC hearing's venues, there was a member of staff at the original venue who could redirect Miss Ogilvie should she have attended, and a telephone message was left for Miss Ogilvie, on 4 August 2016, confirming this change.

In all the circumstances, the Committee was satisfied that the notice had been served on Miss Ogilvie in accordance with the rules.

Proceeding in the absence of Miss Ogilvie:

The Committee then considered whether to exercise its discretion under rule 54 to proceed in the absence of Miss Ogilvie. The Committee heard the submissions made by Mr Patience on behalf of the General Dental Council (GDC). It accepted the advice of the Legal Adviser.

The Committee bore in mind that it must exercise its discretion to proceed with the utmost care and caution. It has also borne in mind the overall fairness of the proceedings to both parties, as well as the public interest in the timely review of this case.

Mr Patience drew the Committee's attention to correspondence between the GDC and Miss Ogilvie and between the GDC and Miss Ogilvie's representatives, who confirmed that they had not had contact with Miss Ogilvie since the last hearing and as such would not be in attendance to represent her at this hearing. Mr Patience drew the panel's attention to information regarding Miss Ogilvie's health. He submitted that notwithstanding this there is no evidence that her non-attendance at this hearing was connected to any health concerns and the panel should consider her non-engagement and previous non-attendance when considering whether to proceed in her absence.

Mr Patience submitted that it would be appropriate to proceed in the absence of Miss Ogilvie in all the circumstances.

The Committee had regard to the information before it and concluded that an adjournment of this hearing would serve no useful purpose and no adjournment has been sought by Miss Ogilvie. The Committee was aware that the current order is due to expire on 4 September 2016 and if not reviewed before that date the GDC would lose jurisdiction and Miss Ogilvie will be allowed to return to unrestricted practice.

Having weighed the interests of Miss Ogilvie with those of the GDC and the public interest, including a review taking place expeditiously, the Committee decided to proceed in Miss Ogilvie's absence.

Decision on Review:

This is the second review of a suspension order initially imposed on Miss Ogilvie's registration, following the decision by the Professional Conduct Committee (PCC) in December 2015. The order was extended at the first review in February 2016 for a period of six months with a review.

This hearing was convened pursuant to Section 27C (1) of the Act to review the current suspension order, which is due to expire on 4 September 2016.

At the initial substantive hearing in December 2015 the PCC considered allegations relating to whether Miss Ogilvie's fitness to practise was impaired by reason of misconduct. At that hearing the Committee found proved that between 2008 and 2013:

- *Ms Ogilvie failed to make and keep accurate patient records in that she did not transfer data contained in manuscript records (11M forms) to the Trust's computer based record system (R4) promptly or at all in some 227 cases;*
- *Ms Ogilvie stored patient records at her home, thereby failing to ensure that patients and/or colleagues had easy access to them, and this had the potential to put patients' safety at risk;*
- *Ms Ogilvie failed to ensure patient confidentiality in storing records in her home; and*
- *Ms Ogilvie failed to cooperate with her employers' investigation in that she did not respond appropriately to their requests to return patient records she was holding.*

The PCC in December 2015 found that Miss Ogilvie's fitness to practise was impaired by reason of misconduct and imposed a suspension order for 2 months with a review. In making that decision the Committee gave the following reasons:

> *… the Committee has concluded that a period of two months suspension would adequately meet the need to protect the public. It is sufficient to mark the disapproval of the public and the profession in the special circumstances of this case. It would accord with the public interest in this case and also provide Ms Ogilvie with an opportunity to initiate a return to unrestricted practice. Prior to the end of the suspension, the order will be reviewed by the Professional Conduct Committee. Ms Ogilvie may wish to present evidence of her remedial steps, any relevant continuing professional development she has achieved or intends to do, and provide some form of reflective account demonstrating her insight into her misconduct. In particular, Ms Ogilvie will need to provide sufficient evidence to satisfy the reviewing Committee that, given similar circumstances, her misconduct will not be repeated.*

At the first review in February 2016 the PCC found that Miss Ogilvie's fitness to practise remained impaired. In reaching that decision the PCC stated:

> *There is no evidence before the Committee upon which it could assess the extent of Ms Ogilvie's remediation and insight. There is no evidence of Ms Ogilvie's Continuing Professional Development (CPD). Ms French informed the Committee that Ms Ogilvie was yet to submit any evidence of CPD for her current CPD cycle. The Committee concluded that Ms Ogilvie's failings, though remediable, have not been remedied. Furthermore, it took the view that the failings found proved were likely to be repeated in the absence of any remedial action.*

The February 2016 PCC extended the suspension order on Miss Ogilvie's registration for a further period of 6 months and gave the following reasons:

The Committee next considered whether to suspend Ms Ogilvie's registration. It noted from the previous PCC determination that Ms Ogilvie was regarded as a highly skilled and empathetic clinician. It was further acknowledged that "Ms Ogilvie maintained clear and comprehensive clinical notes and worked assiduously to try to remedy wider problems within the Trust." The Committee noted "Ms Ogilvie tried to match the adverse circumstances in her personal and professional life in order to continue to deliver a high standard of care." This Committee understood that to mean that Ms Ogilvie was trying to manage the adverse circumstances whilst continuing to deliver a high standard of care. These findings by the previous PCC together with your submissions about Ms Ogilvie's current intentions have led the Committee to conclude that a further short period of suspension would be appropriate in the circumstances of this case. The Committee therefore determined to extend the suspension of Ms Ogilvie's registration…

The order of suspension will be reviewed prior to the end of the period of 6 months. The Committee recommends that Ms Ogilvie may wish to present the following to assist the reviewing Committee:

- *Evidence of remedial steps*
- *Relevant CPD she has achieved or intends to undertake*
- *Reflective account demonstrating insight into her misconduct.*

Today Mr Patience referred the Committee to the documentation before it and outlined the background of the case. He informed the panel that Miss Ogilvie has not submitted any CPD for the period 2012 – 2016 and has not paid her annual retention fee for the past three years. Mr Patience submitted that given the non-engagement of Miss Ogilvie and the lack of information as to her current intentions regarding her profession there remains a risk of repetition of the misconduct found in 2015. He submitted that Miss Ogilvie's fitness to practise remains impaired.

Mr Patience referred the Committee to the available sanctions and invited the Committee to consider all the circumstances of this case when reaching any decision. He submitted that in all the circumstances of this case the appropriate sanction is that of extending the suspension order for a further period of 12 months.

The Committee accepted the advice of the Legal Adviser.

The Committee was of the view that the misconduct identified was remediable, but there was no evidence that Miss Ogilvie had taken any steps to address the identified misconduct. Miss Ogilvie has not engaged with the GDC and has been uncontactable. The information before the Committee also shows that Miss Ogilvie has not engaged with her representatives since the last hearing.

The Committee was of the view that, given the lack of evidence regarding insight and remediation there remains a real risk of repetition of the misconduct in this case.

The Committee concluded, based on the information before it, that Miss Ogilvie's fitness to practise remains impaired by reason of misconduct.

The Committee then considered what, if any, sanction to impose in this case. The Committee was aware of the range of sanctions available to it and that it must consider the sanctions in order starting with the least serious.

The Committee was aware that it should have regard to the principle of proportionality, balancing the public interest against Miss Ogilvie's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.

The Committee noted its powers under section 27C(1) the Dentists Act 1984 (the Act). The Committee had the power to extend the current order for a maximum period of 12 months. Alternatively it could revoke the suspension order or replace the order with a conditions of practice order for up to 3 years.

The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to revoke it with immediate effect. The Committee considered that given all of the information before it, and for all the reasons outlined above, it would not be appropriate to revoke the current order or to allow it to lapse, as this would not protect the public nor would it be in the public interest.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee was mindful that any conditions imposed must be proportionate, measurable and workable. The Committee was aware that in order for conditions to be appropriate and workable there would need to be some measure of positive engagement from Miss Ogilvie, which is noticeably absent in this case.

Given the above, the Committee concluded that replacing the suspension order with a conditions of practice order would not be workable or appropriate at this stage.

The Committee concluded that in all the circumstances of this case a further period of suspension on Miss Ogilvie's registration would protect the public, uphold the public interest and give Miss Ogilvie a further opportunity to address the identified deficiencies and shortcomings in her practice and re-engage in the GDC process. The Committee concluded that for these reasons the appropriate order is that of 12 months suspension, with a review.

The Committee therefore directs that Miss Ogilvie's registration be suspended for a period of 12 months pursuant to Section 27C(1)(b) of the Act. Section 33(3) of the Act comes into operation to cover any period between the expiry of the current suspension and the date when the direction ordered by this Committee comes into force.

The reviewing Committee would be assisted by evidence from Miss Ogilvie of:

- Remedial steps
- Relevant CPD she has achieved or intends to undertake
- Reflective account demonstrating insight into her misconduct
- Any medical evidence she wishes to submit.

That concludes this hearing."

On 18 August 2017 at a review hearing, the Chairman announced the determination as follows:

"Service of Notice of Hearing

This is the resumed Professional Conduct Committee (PCC) hearing of Ms Ogilvie's case. The hearing is being convened pursuant to Section 27C of the Dentists Act 1984 to review the current suspension order. Neither Ms Ogilvie nor a representative on behalf of the General Dental Council (GDC) is present at this resumed hearing.

Following advice from the Legal Adviser, the Committee first considered whether the Notification of Hearing had been served on Ms Ogilvie in accordance with Rules 28 and 65 of the GDC's (Fitness to Practise) Rules Order of Council 2006 ('the Rules').

The Committee has received a bundle of documents which contains a copy of the Notification of Hearing letter dated 17 July 2017 which was sent by recorded delivery to Ms Ogilvie's registered address. The Committee accepts that the Notification of Hearing letter contains the information required by Rule 28. The Royal Mail track and

trace receipt shows that it attempted to deliver the item, which the Committee notes is sufficient for the purposes of compliance with Rule 28. The Committee also notes that the Notification of Hearing letter dated on 17 July was sent to Ms Ogilvie's last known address. The Royal Mail track and trace receipt shows that the letter was delivered to that address on 20 July 2017 and was signed for in the name of 'Ogilvie'. Having regard to all of these documents the Committee is satisfied that the GDC has taken all reasonable steps to ensure that the Notification of Hearing has been sent to Ms Ogilvie in accordance with the Rules and that due service has been effected.

Proceeding in the absence of Ms Ogilvie:

The Committee went on to consider whether to consider Ms Ogilvie's case in the absence of the parties and on the basis of the papers, in accordance with Rule 54. In so doing, it has had regard to the Legal Adviser's advice and has borne in mind that its discretion to proceed with a hearing in the absence of a respondent should be exercised with the utmost care and caution. The GDC, in its written submissions dated August 2017, submits that it would be appropriate, proportionate and in the public interest for this Committee to conduct this review on the basis of the papers. The GDC refers to Ms Ogilvie's failure to engage with the GDC in connection with these proceedings and that she is not contactable. Further, the GDC reminds this Committee that the current suspension order needs to be reviewed before its expiry on 4 September 2017.

The Committee has considered the written submissions made by the GDC. It has in mind the overall fairness of the proceedings to Ms Ogilvie and to the regulator, as well as the public interest in the timely review of this case. The Committee noted the absence of any response from Ms Ogilvie in connection with today's hearing, despite the various steps taken by the GDC to secure her engagement. She has not requested an adjournment of today's hearing and there is nothing before the Committee today to suggest that Ms Ogilvie might attend the hearing on a future occasion. In these circumstances, the Committee has concluded that Ms Ogilvie has voluntarily absented herself from today's hearing and has effectively withdrawn from these regulatory proceedings. In addition, the Committee considers that there is a clear public interest in reviewing the order today given that it is due to expire imminently. Accordingly, the Committee has determined that it is fair to proceed with today's review hearing in the absence of Ms Ogilvie.

Background to the case:

This is the third review of a suspension order that was first imposed on Ms Ogilvie's registration for a period of two months by the Professional Conduct Committee (PCC) in December 2015. Ms Ogilvie did not attend that hearing. At that hearing the PCC found proved that between 2008 and 2013 Ms Ogilvie:

- stored patient records at her home, thereby failing to ensure that patients and/or colleagues had easy access to them, and this had the potential to put patients' safety at risk;
- failed to ensure patient confidentiality in storing records in her home; and
- failed to cooperate with her employers' investigation in that she did not respond appropriately to their requests to return patient records she was holding.

The PCC concluded that the findings against Ms Ogilvie amounted to misconduct. In particular, the PCC was concerned that Ms Ogilvie's actions in storing records at her home posed a risk to patient confidentiality and patient safety. It also took a serious view of her failure to respond appropriately when asked to return the records promptly. The PCC found that Ms Ogilvie's fitness to practise was impaired by reason of

misconduct and imposed a suspension order for 2 months with a review. The PCC also recommended that Ms Ogilvie may wish to present evidence of her remedial steps, any relevant Continuing Professional Ddevelopment (CPD) she had achieved or intended to do, and provide some form of reflective account demonstrating her insight into her misconduct.

The PCC reviewed the order on 25 February 2016. Ms Ogilvie did not attend the hearing but she was legally represented. The PCC had no evidence before it upon which it could assess the extent of Ms Ogilvie's remediation and insight or any evidence of her CPD. It concluded that Ms Ogilvie's failings had not been remedied and were likely to be repeated in the absence of any remedial action. The PCC determined that Ms Ogilvie's fitness to practise remained impaired by reason of her misconduct. It noted the submissions made on behalf of Ms Ogilvie that she wished to return to dental practice but that she was not at that time in a position to do so. The PCC considered that a further short period of suspension would be appropriate and directed that Ms Ogilvie's registration be suspended for a further period of 6 months. That PCC also recommended that at the review hearing Ms Ogilvie may wish to present evidence of remedial steps, relevant CPD she has achieved or intends to undertake and reflective account demonstrating insight into her misconduct.

The PCC reviewed the order at a hearing that took place on 5 August 2016. Ms Ogilvie was not present or represented at that hearing. The PCC's attention was drawn to the information relating to Ms Ogilvie's health. It noted the correspondence between the GDC and Ms Ogilvie's legal representatives, who confirmed that they had not been in contact with her since the last hearing. The PCC also noted Ms Ogilvie had not submitted any CPD for the period 2012 – 2016 and had not paid her annual retention fee for the past three years. There was no information before the Committee regarding the previous PCC's recommendations as to remediable steps. The PCC concluded that given the lack of evidence regarding insight and remediation there remained a real risk of repetition of the misconduct in this case. It determined that Ms Ogilvie's fitness to practise remained impaired by reason of her misconduct. The PCC therefore directed that Ms Ogilvie's registration be suspended for a period of 12 months suspension, with a review.

Decision on review:

This Committee has comprehensively reviewed the current order. In so doing, it has had regard to the GDC bundle, which contains copies of letters dated 9 August 2016, 13 December 2016 and 6 April 2017 from the GDC's Case Review Team to Ms Ogilvie, reminding her of the recommendations made by PCC in August 2016. Ms Ogilvie has not replied to the GDC's repeated requests for information.

The Committee has also had regard to the GDC's written submissions dated August 2017. The GDC advised the Committee that a health referral was made and Ms Ogilvie's case was considered by the Health Committee on 19 April 2017. She did not attend this hearing. The charges relating to her health were found not proved by that Committee. However, it determined that Ms Ogilvie's fitness to practise was impaired by reason her misconduct due to her failure between March 2016 and January 2017 to co-operate adequately with the GDC in relation to its health investigations. The Health Committee directed that Ms Ogilvie's registration be suspended for 6 months, with a review of that order. The review is due to take place in November 2017.

The GDC submits that Ms Ogilvie's fitness to practise remains impaired. It invited the Committee to direct that Ms Ogilvie's registration be suspended for a period of 12 months, citing the lack of information, remediation and engagement by her as the reason for requesting that order.

The Committee has considered carefully the written submissions made. It has accepted the advice of the Legal Adviser. There is no evidence before this Committee that Ms Ogilvie has addressed her past impairment, or any information of the matters recommended to her by the PCC in August 2016 or at previous hearings before the PCC. The Committee considers that Ms Ogilvie could repeat the misconduct found proved by the PCC and thus she remains a risk to the public. Accordingly, the Committee has determined that Ms Ogilvie's fitness to practise is currently impaired.

The Committee next considered what direction to give, bearing in mind its powers in accordance with Section 27C of the Dentists Act 1984. In so doing, it has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (October 2016).

The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Ogilvie's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.

The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to revoke it with immediate effect. Given Ms Ogilvie's lack of engagement with the GDC and the absence of any remediation, the Committee has concluded that it would not be appropriate to revoke the current order or to allow it to lapse.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee is aware that in order for conditions to be appropriate and workable there would need to be some measure of positive engagement from Ms Ogilvie. To date, she has not engaged with the GDC or provided any evidence of remediation, despite being given the opportunity to do so. The Committee has also had regard to the Health Committee's find in April 2017 that Ms Ogilvie failed to adequately co-operate with the GDC in relation to its health investigations. In these circumstances, the Committee has concluded that replacing the suspension order with a conditions of practice order would not be workable or appropriate.

The Committee has concluded that in all the circumstances of this case a further period of suspension on Ms Ogilvie's registration would protect the public, uphold the public interest and give her a further opportunity to address the identified deficiencies and shortcomings in her practice and to re-engage in the GDC process. The Committee therefore directs that Ms Ogilvie's registration be suspended for a period of 12 months pursuant to Section 27C(1)(b) of the Act.

A Committee will review Ms Ogilvie's case at a resumed hearing to be held shortly before the end of the period of suspension. The reviewing Committee would be assisted by evidence from Ms Ogilvie of:

- Steps of remediation
- Relevant CPD she has achieved or intends to undertake
- Reflective account demonstrating insight into her misconduct
- Any medical evidence she wishes to submit.

That concludes this hearing."

On 22 August 2018 at a review hearing, the Chairman announced the determination as follows:

> "This is a resumed hearing of Ms Ogilvie's case, pursuant to section 27C of the Dentists Act 1984.
>
> Ms Ogilvie is neither present nor represented. The General Dental Council (GDC) is also not in attendance. It relies on written submissions, dated August 2018, in which it submits that: (i) service of the notification of hearing had been effected on Ms Ogilvie in accordance with the General Dental Council (Fitness to Practise) Rules 2006 (the Rules); (ii) the hearing should proceed in her absence; (iii) the hearing should proceed in private; (iv) her fitness to practise remains impaired by reason of misconduct and (v) that an order of indefinite suspension be directed.
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> **Service and proceeding in the absence of parties**
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> The Committee first considered whether the notification of today's review hearing had been served on Ms Ogilvie in accordance with Rules 28 and 65. The Committee has received a bundle of documents which contains a copy of notification of hearing dated 20 July 2018 which was sent by Special Delivery to Ms Ogilvie's last known address, in accordance with Section 50A(2) of the Dentists Act 1984. The Committee is satisfied that the notification contains the required information under Rule 28, including the time, date and venue of this hearing; and that the notification had been served on Ms Ogilvie in accordance with Rule 65. The Royal Mail 'Track and Trace' confirms that the notification sent to Ms Ogilvie's last known address was delivered on 23 July 2018 and was signed for in the name 'OGILVIE'. Taking all these factors into account, the Committee is satisfied that the GDC has complied with the requirements of service in accordance with Rules 28 and 65.
>
> The Committee then went on to consider whether to proceed in the absence of Ms Ogilvie in accordance with Rule 54. In so doing, it has borne in mind that its discretion to proceed in the absence of Ms Ogilvie must be exercised with the utmost care and caution. It is satisfied that the GDC has made all reasonable efforts to notify Ms Ogilvie of this hearing and its purpose. She is under an obligation to ensure that the GDC has her current address. The notification of hearing informed her that the Committee had the power to deal with the resumed hearing on the papers in the absence of parties and that the GDC was proposing to request that arrangements be made for the hearing to take place on the papers. The letter further stated that it was open to Ms Ogilvie to provide the Committee with written submissions and any documents that she felt were relevant to the review of the Order. The letter asked Ms Ogilvie to notify the GDC by 30 July 2018 if there was any reason why the hearing should not proceed on the papers. She was also asked to notify the GDC whether she would be attending the hearing and/or be represented by 30 July 2018. On the material before the Committee, she did not respond to that request and there has otherwise been no engagement from her. There has been no application for a postponement and there is nothing to suggest that an adjournment would make Ms Ogilvie's attendance any more likely on a future occasion, given that she has not attended previous hearings of her case. Having regard to all the circumstances, the Committee has determined that Ms Ogilvie has voluntarily absented herself from this hearing. It considers that there is a clear public interest in reviewing the order today, given that it is due to expire in September 2018. Accordingly, the Committee has determined to proceed with today's review hearing in the absence of Ms Ogilvie.
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> **Application to hear matters in private**
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> The Committee has considered an application made by the GDC under Rule 53(2) that the hearing take place in private since the matters under consideration relate to Ms

Ogilvie's health. However, it notes that matters relating to Ms Ogilvie's health are not relevant in relation to this review. In these circumstances the Committee does not consider it necessary to hear matters in private.

Background matters

This is the fourth review of a suspension order that was first imposed on Ms Ogilvie's registration for a period of two months by the Professional Conduct Committee (PCC) in December 2015. Ms Ogilvie did not attend that hearing and she was not represented. At that hearing the PCC found proved that between 2008 and 2013 Ms Ogilvie:

- stored patient records at her home, thereby failing to ensure that patients and/or colleagues had easy access to them, and this had the potential to put patients' safety at risk;
- failed to ensure patient confidentiality in storing records in her home; and
- failed to co-operate with her employers' investigation in that she did not respond appropriately to their requests to return patient records she was holding.

The PCC concluded that the findings against Ms Ogilvie amounted to misconduct. In particular, the PCC was concerned that Ms Ogilvie's actions in storing records at her home posed a risk to patient confidentiality and patient safety. It also took a serious view of her failure to respond appropriately when asked to return the records promptly. The PCC found that Ms Ogilvie's fitness to practise was impaired by reason of misconduct and imposed a suspension order for 2 months with a review. The PCC also recommended that Ms Ogilvie may wish to present evidence of her remedial steps, any relevant Continuing Professional Development (CPD) she had achieved or intended to do, and provide some form of reflective account demonstrating her insight into her misconduct.

The PCC reviewed the order on 25 February 2016. Ms Ogilvie did not attend the hearing but she was legally represented. The PCC had no evidence before it upon which it could assess the extent of Ms Ogilvie's remediation and insight or any evidence of her CPD. It concluded that Ms Ogilvie's failings had not been remedied and were likely to be repeated in the absence of any remedial action. The PCC determined that Ms Ogilvie's fitness to practise remained impaired by reason of her misconduct. It noted the submissions made on behalf of Ms Ogilvie that she wished to return to dental practice but that she was not at that time in a position to do so. The PCC considered that a further short period of suspension would be appropriate and directed that Ms Ogilvie's registration be suspended for a further period of 6 months. That PCC also recommended that at the review hearing Ms Ogilvie may wish to present evidence of remedial steps, relevant CPD she has achieved or intends to undertake and reflective account demonstrating insight into her misconduct.

The PCC reviewed the order at a hearing that took place on 5 August 2016. Ms Ogilvie was not present or represented at that hearing. The PCC's attention was drawn to the information relating to Ms Ogilvie's health. It noted the correspondence between the GDC and Ms Ogilvie's legal representatives, who confirmed that they had not been in contact with her since the last hearing. The PCC concluded that given the lack of evidence regarding insight and remediation there remained a real risk of repetition of the misconduct in this case. It determined that Ms Ogilvie's fitness to practise remained impaired by reason of her misconduct. The PCC directed that Ms Ogilvie's registration be suspended for a period of 12 months, with a review.

On 18 August 2017 the PCC carried out a review of the order in the absence of parties and on the papers. There was no evidence before that PCC that Ms Ogilvie has

addressed her past impairment, or any information of the matters recommended to her by the PCC in August 2016 or at previous hearings before the PCC. In these circumstances, the PCC considered that Ms Ogilvie remained a risk to the public and determined that Ms Ogilvie's fitness to practise remained impaired. It directed that her registration be suspended for a further period of 12 months.

Today's review hearing

This Committee has comprehensively reviewed the current order. In so doing, it has had regard to the GDC bundle, as well as the GDC's submissions. It notes the absence of any information from Ms Ogilvie or indeed any engagement by her with the GDC.

The Committee has also had regard to the GDC's written submissions dated August 2018 which sets out the background to other fitness to practise proceedings against Ms Ogilvie. It notes that a different matter was considered by the Health Committee (HC) on 19 April 2017. She did not attend this hearing. The charges relating to her health were found not proved by that Committee. However, it determined that Ms Ogilvie's fitness to practise was impaired by reason her misconduct due to her failure between March 2016 and January 2017 to co-operate adequately with the GDC in relation to its health investigation. The HC directed that Ms Ogilvie's registration be suspended for 6 months, with a review of that order, to be carried out by a PCC. The PCC reviewed that order on 7 November 2017. Ms Ogilvie did not attend that hearing and she was not represented. it determined that Ms Ogilvie's fitness to practise remained impaired by reason of that misconduct and extended the suspension order for a period of 10 months, with a review.

There is no evidence before this Committee that Ms Ogilvie has addressed her past impairment, or any information of the matters recommended to her by the PCC at the initial hearing which concluded in December 2015 or at the subsequent review hearings that took place in February 2016, August 2016 and August 2017. In these circumstances, the Committee considers that there remains a risk that Ms Ogilvie could repeat the misconduct and thus she remains a risk to the public. Indeed, it notes that Ms Ogilvie has not engaged with the GDC in relation to these proceedings over a protracted period of time, despite repeated attempts by the GDC to secure her involvement. Accordingly, the Committee has determined that Ms Ogilvie's fitness to practise is currently impaired.

The Committee next considered what direction to give, bearing in mind its powers in accordance with Section 27C of the Dentists Act 1984. In so doing, it has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (October 2016).

The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Ogilvie's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.

The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to revoke it with immediate effect. Given Ms Ogilvie's lack of engagement with the GDC and the absence of any remediation, the Committee has concluded that it would not be appropriate to revoke the current order or to allow it to lapse.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee is aware that in order for conditions to be appropriate and workable there would need to be some measure of positive engagement from Ms Ogilvie. To date, she has not engaged with the GDC or provided

any evidence of remediation, despite being given the opportunity to do so. In these circumstances, the Committee has concluded that replacing the suspension order with a conditions of practice order would not be workable or appropriate.

The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It has borne in mind Ms Ogilvie's lack of engagement with the GDC over a sustained period of time and the absence of any information as to her intentions to return to working as a registered dentist. Ms Ogilvie has not provided the GDC with an up to date registered address and she has chosen not to attend any of the hearings of her case. In these circumstances, the Committee has concluded that a further period of suspension of 12 months would serve no useful purpose and that an indefinite period of suspension is the appropriate and proportionate outcome. It therefore directs that Ms Ogilvie's registration be suspended indefinitely.

The effect of the foregoing direction is that, unless Ms Ogilvie exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect.

The Committee would also highlight to Ms Ogilvie that should she wish to engage with the GDC, she can apply for a review of the indefinite suspension order in two years after the direction for indefinite suspension takes effect. That concludes the case for today."