

**PUBLIC HEARING****Professional Conduct Committee  
Initial Hearing****18 to 22 August 2025**

**Name:** SHAH, Keval Amritlal

**Registration number:** 85736

**Case number:** CAS-203805-G8G7C2

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**General Dental Council:** Daniel Mansell, Counsel  
Instructed by Saba Khan, IHLPS

**Registrant:** Present  
Represented by Andrew Hockton, Counsel  
Instructed by Stephen Hooper, Clyde and Co.

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**Outcome:** Facts not proved, case concluded

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**Committee members:** Anthony Mole (Chair, Lay Member)  
Clare McIlwaine (Dental Care Professional Member)  
Gillian Jones (Dentist Member)

**Legal Adviser:** Peter Jennings

**Committee Secretary:** Lola Bird

**The charge**

SHAH, Keval Amritlal, a dentist, BDS University of Bristol 2005, is summoned to appear before the Professional Conduct Committee on 18 August 2025 for an inquiry into the following charge:

“That being a registered dentist,

1. On 14 April 2023, during an appointment with Patient A, you:
  - a) Failed to adequately discuss the cost of treatment with the patient prior to commencing treatment; **(No case to answer)**
  - b) Repeatedly patted and rubbed the patient’s shoulders and arms;
  - c) Ran your finger from the patient’s shoulder to his wrist;
  - d) Asked the patient if he received a lot of attention from girls or words to that effect;
  - e) Said to the patient, “You’re quite a big guy, your shoulders and arms are muscular” or words to that effect;
  - f) Asked the patient whether he had a girlfriend;
  - g) Caressed the patient’s bicep;
  - h) Placed your hand onto the patient’s groin and grasped his penis and testicles through his trousers;
  - i) Stroked the length of the patient’s arm with your finger.
2. Your actions at 1b to 1i above were:
  - a) Unprofessional;
  - b) Sexually motivated.

AND, that by reasons of the matters alleged above, your fitness to practise is impaired by reason of misconduct”.

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Mr Shah,

1. This is a Professional Conduct Committee (PCC) hearing in respect of a case brought against you by the General Dental Council (GDC). The charge relates to your alleged unprofessional and sexually motivated conduct towards Patient A.
2. The hearing commenced on Monday, 18 August 2025, with the first three days (18, 19 and 20 August) having taken place in person at the Dental Professionals Hearings Service. The remainder of the hearing is being conducted remotely with all parties attending by Microsoft Teams video-link.
3. You are represented at these proceedings by Mr Andrew Hockton, Counsel. The Case Presenter for the GDC is Mr Daniel Mansell, Counsel.

**Preliminary Matters**

4. On 18 August 2025, prior to the GDC formally opening its case, the Committee dealt with the following preliminary matters:

**Decision on a potential character witness observing the hearing – 18 August 2025**

5. Mr Hockton informed the Committee that your wife (Witness 5), who was, at the time, a potential character witness in your defence case, was present in the hearing room. He told the Committee that the GDC was content for your wife to be present from the outset to observe the hearing.

6. Mr Mansell confirmed that no objection was raised by the GDC to your wife being in the hearing room from the start of the proceedings.

7. The Committee noted the agreed position of both parties. However, it requested advice from the Legal Adviser on the proposal, so that it could consider whether there were any issues in law that it should take into account before reaching its decision.

8. The Legal Adviser drew the Committee's attention to Rule 55(5) of the *GDC (Fitness to Practise) Rules Order of Council 2006*, which states that:

*"No witness as to fact may observe the proceedings until the witness has given evidence or been formally released by a Committee".*

9. The Legal Adviser advised that Rule 55(5) was open to the Committee's discretion. He noted that your wife was to be called as a character witness, and not as a witness of fact. However, he invited the Committee to take into account the possibility that factual matters may arise during the GDC's evidence about which your wife could be asked, for example, in relation to aspects of your private life which may be considered relevant in this case.

10. The Committee accepted the advice of the Legal Adviser. In reaching its decision, it took into account that, if called to give oral evidence, your wife would, in the main, be a witness as to your character. Whilst the Committee acknowledged the possibility that some factual matters could be raised with your wife during any evidence she gave, it took into account that she was not present at Patient A's appointment. The Committee therefore considered that any factual matters raised with your wife were unlikely to impact on its findings of fact. The Committee also bore in mind that the GDC was aware that your wife was a potential character witness, and that no objection was raised by the Council to her being present in the hearing room from the start of the proceedings.

11. In all the circumstances, the Committee determined that your wife could remain in the hearing room.

**Decision on receiving oral evidence from witnesses who are abroad – 18 August 2025**

12. The Committee was made aware that two of the witnesses to be called by the GDC were on holiday abroad. The witnesses in question were scheduled to give their oral evidence to the Committee remotely via Microsoft Teams video-link.

13. The case of *Secretary of State for the Home Department v Agbabiaka [2021] UKUT 286 (IAC)* ('*Agbabiaka*'), referred to the need to obtain permission from another state (whether on an individual or general basis) before oral evidence can be taken from within that state by a court or tribunal in the United Kingdom. The decision in *Agbabiaka* confirmed that this requirement applied to immigration tribunals and other "*administrative tribunals*" as well as courts falling within the jurisdiction of His Majesty's Court and Tribunal Service. In light of that decision, the Committee invited submissions from both parties, as to their position on receiving witness evidence from abroad.

14. In accordance with a Practice Note issued by the GDC in November 2023, Mr Mansell submitted that it was not necessary for the Committee to seek permission from the states where the two witnesses were on holiday. He submitted that this type of hearing, that is a regulatory hearing of the GDC, is not the level of hearing to which *Agbabiaka* applies. The Committee's attention was also drawn to other information and guidance from the Medical Practitioners Tribunal Service (MPTS) of the General Medical Council and the Health and Care Professions Tribunal Service (HCPTS) of the Health and Care Professions Council. That information and guidance indicates that the Foreign and Commonwealth Development Office (FCDO) has advised that no separate permission process applies for witnesses located outside the UK who wish to give oral evidence remotely at MPTS and HCPTS proceedings.

15. Mr Hockton made no submissions on the matter.

16. The Committee accepted the advice of the Legal Adviser, who advised that there is no definitive authority on the issue, and that whether evidence should be received from the two witnesses in question was for the Committee to decide, taking account of the guidance commended to it and the underlying legal principles.

17. The Committee had regard to the submissions made by the GDC and the relevant guidance drawn to its attention. In reaching its decision, the Committee took into account that, although it carries out statutory functions, it is not appointed by the state but by the Dental Professionals Hearings Service for the purpose of GDC hearings. Furthermore, whilst the Committee noted the absence of any definitive authority on the issue, it bore in mind the FCDO's advice to the MPTS and the HCPTS, and that with those regulators no issues have arisen out of their receiving evidence from witnesses who are abroad.

18. Taking all the information provided into account, the Committee determined that it could receive oral evidence from the two GDC witnesses who were abroad.

**Summary of the GDC's opening submissions**

19. Your case was referred to the PCC following a complaint made by Patient A to the GDC.

20. It was set out in the written opening note provided by the GDC that this case concerns allegations that you, a dentist, behaved in an unprofessional and sexually motivated manner towards Patient A, during an appointment. It is alleged that this conduct included you placing your hand onto Patient A's groin and grasping the patient's penis and testicles through his trousers.

21. The conduct was alleged to have taken place at Patient A's appointment for root canal treatment on 14 April 2023 at the dental practice where you work ('the Practice'). This was the first time Patient A had met you.

22. You denied the charge in its entirety.

### **The GDC's evidence**

23. The GDC presented both documentary and oral evidence. The documentary evidence comprised the following witness statements along with associated exhibits:

- A witness statement dated 10 March 2025 from Patient A.
- A witness statement dated 10 March 2025 from Witness 1, the dental nurse who was present at Patient A's appointment on 14 April 2023.
- A witness statement dated 7 March 2025 from Witness 2, the Practice Manager at the Practice.
- A witness statement dated 27 February 2025 from Witness 3, another dental nurse at the Practice, who was on reception on the occasion in question.

24. The Committee heard oral evidence from Patient A, Witness 1 and Witness 2, all of whom attended remotely by Microsoft Teams video-link. Patient A and Witness 1 gave evidence of their recollections of the appointment in question. Witness 2 spoke about his involvement in Patient A's complaint to the Practice regarding the alleged incidents.

25. The witness statement of Witness 3 was agreed by both parties, and the Committee was content for her written account to be accepted into evidence without the need for her to attend to give oral evidence. In her witness statement, Witness 3 provides evidence of the tasks she was involved in undertaking at the Practice at the time of Patient A's appointment, including her interactions with Witness 1 and you.

26. At the conclusion of the GDC's evidence, the Committee heard and determined a submission of no case to answer made on your behalf, which was handed down on 20 August 2025 as follows:

### **Decision on submission of no case to answer – 20 August 2025**

27. Mr Mansell formally closed the case for the GDC. In accordance with Rule 19(3) of the *GDC (Fitness to Practise) Rules Order of Council 2006*, Mr Hockton made a submission of no case to answer in relation to the charge.

28. Mr Hockton referred the Committee to the case of *R v Galbraith* [1981] 1 WLR 1039 (*Galbraith*), which sets out the following test for approaching a submission of no case to answer:

- (1) *If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case.*
- (2) *The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence, (a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case. (b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.*

29. It was Mr Hockton's submission that the second limb of the Galbraith test is engaged in this case.

30. In relation to the alleged matters at heads of charge 1(b) to 1(i), namely the allegations of inappropriate comments and touching, Mr Hockton submitted that there is a formidable hurdle which the GDC has not overcome. He submitted that this was the clear inconsistency between the evidence of Patient A and Witness 1, the dental nurse who was present at the appointment with Patient A on 14 April 2023. Both are GDC witnesses.

31. Mr Hockton submitted that Patient A is a witness on whom it is difficult to rely. In making this submission, he referred the Committee to the observations made by Patient A in relation to the signed witness statements he provided to the police and to the GDC. Mr Hockton submitted that Patient A had sought to distance himself from those witness statements, specifically in relation to the length of time of some of the alleged events. Mr Hockton submitted that Patient A's oral evidence regarding the timing of certain matters was inconsistent with his written evidence. Further, that Patient A's explanation for those inconsistencies was unsatisfactory, in that he appeared to blame those who had taken the statements from him. It was Mr Hockton's submission that Patient A cannot be relied upon as a witness of truth.

32. Mr Hockton submitted that key aspects of Patient A's evidence relating to whether, when and why Witness 1 left the room, were wholly inconsistent with the account given by Witness 1 herself. Mr Hockton asked the Committee to take into account Patient A's evidence that a number of the alleged incidents took place when Witness 1 was absent. Patient A stated in his witness statement that, at one stage, Witness 1 had left the room for more than five minutes. Mr Hockton drew the Committee's attention to Witness 1's witness statement, which she orally confirmed to be accurate. He highlighted that her account is that she only left the room for three seconds to hand another colleague an x-ray. Mr Hockton submitted that Witness 1's account was not challenged by the GDC.

33. Mr Hockton further invited the Committee to take into account Patient A's evidence that some of the alleged conduct took place in the presence of Witness 1. However, she stated that nothing inappropriate was said or done at the appointment.

34. It was Mr Hockton's submission that the manner and extent to which Patient A sought to resile from his initial accounts, specifically in relation to the issue of the length of time, must give rise to significant concern. He submitted that this was a matter that the Committee was entitled to take into account at the half-time stage. He submitted that Patient A portrayed a degree of vagueness that cannot be accepted in a case of this nature. Mr Hockton submitted that another aspect of Patient A's evidence that was potentially relevant was his concession that he could not see where your hands were at the time. Mr Hockton stated that Patient A conceded that he was looking upwards and not downwards where he said the physical contact took place. Mr Hockton also referred to the evidence of Witness 1 that the dental equipment being used or an attachment to that equipment could have made contact with Patient A.

35. Mr Hockton submitted that the Committee was also entitled to take into account your good character, although it was his submission that the allegations at 1(b) to 1(i) were inherently implausible in any event. Mr Hockton submitted that it would be unusual for someone acting in the role of a chaperone, namely Witness 1, the dental nurse, a separate professional person who was present throughout, not to have seen anything untoward.

36. Finally, Mr Hockton addressed head of charge 1(a), which is different in nature from all the other allegations. It is alleged at 1(a) that you failed to adequately discuss the cost of treatment with Patient A prior to commencing treatment. Mr Hockton submitted that there has been no expert evidence regarding any departure from what would be appropriate in the circumstances. He stated that evidence was heard from Patient A that he was provided with a consent form and that he was aware that the root canal treatment would cost about £750. Mr Hockton submitted that there is also evidence that Patient A appeared to take umbrage after being informed that he may be required to pay a further £200 if a core build-up was needed. It was Mr Hockton's submission, taking all these matters into account, that there was no basis on which to take head of charge 1(a) forward. Mr Hockton also submitted that, even if there were sufficient evidence to support head of charge 1(a) as a fact, it could not amount to serious misconduct.

37. It was Mr Mansell's submission that the GDC has presented evidence on which the allegations could be found proved, namely the evidence of Patient A. Mr Mansell asked the Committee to take into account the following submissions made on behalf of the GDC when considering Patient A's evidence:

- (1) That Patient A came across as a fair and reasonable witness. Mr Mansell submitted that when Patient A could not recall something or where there was an inaccuracy in his witness statement, he said so. Mr Mansell submitted that Patient A also made reasonable concessions during cross-examination.
- (2) That Patient A accepted there were minor inaccuracies in his written evidence regarding the length of time of some of the alleged events. However, he remained adamant that the key allegations of inappropriate comments and touching occurred, even under rigorous cross-examination.
- (3) That Patient A's account of the inappropriate touching has remained consistent from the first time he orally complained about the issue to Witness 1, in the witness statements he provided to the police and the GDC, and in his oral evidence given at this hearing.



Mr Mansell submitted that this consistency over a period of almost two and a half years was compelling.

- (4) That the Committee should consider what Patient A would have to gain by lying about the allegations. Mr Mansell referred to the patient's oral evidence about finding this process "*deeply unpleasant*" and wishing that it would come to an end.
- (5) The explanation proffered that Patient A may have mistaken the wires attached to the dental tray for someone groping him. Mr Mansell highlighted that Patient A described this explanation as "*ludicrous*". Mr Mansell submitted that the Committee may consider implausible the explanation that you may have inadvertently made physical contact with Patient A whilst you were reaching across for tissues. Mr Mansell referred to Witness 1's evidence that such reaching would not have involved touching the patient, given where the tissues were situated. In relation to the suggestion that Patient A was making matters up so that he might avoid paying the extra £200 for a core build-up, Mr Mansell invited the Committee to take into account that Patient A eventually went on to have private dental treatment at another practice at a greater cost in order to resolve his dental problem.
- (6) Mr Mansell asked the Committee to exercise caution regarding the question posed to Patient A in cross-examination about why he did not say something at the time of the alleged touching. Mr Mansell referred to Patient A's evidence that he fell silent and began to panic. Mr Mansell submitted that the Committee may think this is a perfectly reasonable explanation, and that it should be noted that Patient A did report the alleged groping to Witness 1 within the appointment.

38. Mr Mansell submitted that this is not a case where Patient A's evidence is inherently unreliable. He acknowledged that Patient A's account of what occurred at the appointment is inconsistent with that of Witness 1. However, Mr Mansell submitted that the Committee has heard from both witnesses that there was a period of time that Witness 1 was not in the room. Therefore, Mr Mansell submitted, it would be open to the Committee to find that some of the alleged conduct could have occurred. Mr Mansell also highlighted Patient A's evidence that some of the alleged conduct was carried out in a furtive and discreet way, and as such, it would be open to the Committee to find that Witness 1 may not have seen it. Mr Mansell submitted that a dental nurse is not a chaperone but a member of staff who is present to assist the dentist.

39. It was Mr Mansell's position that the submission of no case to answer should not succeed.

40. In response to the fourth factor advanced by Mr Mansell in relation to Patient A's evidence, Mr Hockton reminded the Committee that the burden of proof rests with the GDC in these proceedings, and he asked the Committee not to speculate as to why the complaint may have been made.

### **The Committee's decisions**

41. In reaching its decisions, the Committee considered the evidence adduced by the GDC. It bore in mind that your defence case has not yet begun and therefore, when considering the



submission of no case to answer, it could not take into account your witness statement or any other evidence provided on your behalf.

42. The Committee took account of the submissions made by Mr Hockton on your behalf and those made by Mr Mansell on behalf of the GDC. The Committee accepted the advice of the Legal Adviser as to the legal principles which apply to considering submissions of no case to answer.

**Heads of charge 1(b) to 1(i) – no case to answer submission rejected**

43. The Committee was satisfied that the GDC has presented some evidence on which these alleged matters could be found proved, namely the evidence of Patient A. Whilst the Committee took into account that Patient A made some changes to his written account, specifically in relation to the length of time of some of the alleged events, the Committee did not regard his evidence, in and of itself, to be of a tenuous character. The Committee did recognise the clear inconsistency between Patient A's account of the appointment on 14 April 2023 and that of Witness 1. However, it was not its task, at this half-time stage, to assess the evidence of the witnesses called by the GDC.

44. The Committee had regard to part (b) of the second limb of the *Galbraith* test, which it considered to be relevant in the circumstances. In the Committee's view, this is a case where the evidence of the GDC is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the Committee in relation to its decisions on the facts, and where on one possible view of the facts there is evidence upon which the Committee could properly find some or all of the allegations at 1(b) to 1(i) proved. The Committee therefore concluded that the GDC's case in respect of these allegations should proceed.

45. Accordingly, the Committee rejected the no case to answer submission in respect of heads of charge 1(b) to 1(i).

**Head of charge 1(a) – no case to answer submission accepted**

46. The allegation at head of charge 1(a) is of a different nature from the other allegations within the charge. The Committee was satisfied that the GDC has adduced evidence on which it could find the matter at 1(a) proved. It noted, however, that, before treatment began, Patient A was aware of the cost of the root canal treatment; the substance of the criticism is that it was only later that he was told that there could be an additional cost if further treatment were needed. The Committee therefore concluded that, even if it were to be found proved that you failed to discuss the cost of treatment with Patient A adequately before beginning treatment, that failure would not in itself be sufficiently serious to amount to misconduct. Because the remaining heads of charge are of a very different kind, this is not a case where it would be appropriate to take the view that head of charge 1(a) might amount to misconduct if considered cumulatively with other heads of charge.

47. In the circumstances, the Committee determined that there is no case to answer in relation to head of charge 1(a). Therefore, this head of charge will not proceed as part of the GDC's case.

**The evidence in your defence**

48. The documentary evidence presented on your behalf included your witness statement dated 20 June 2025 along with associated exhibits.

49. Witness statements were also received from two character witnesses:

- Witness 4, the Principal of the Practice, whose witness statement is dated 23 June 2025; and
- Witness 5, your wife and a qualified medical practitioner, whose witness statement is dated 28 June 2025.

50. The Committee also heard oral evidence from you during which you gave your account of the appointment with Patient A on 14 April 2025 and confirmed your denial of all the outstanding alleged matters.

51. Witness 4 gave oral evidence regarding your time working at the Practice, your character and her view of you as a professional colleague. Witness 5 also gave oral evidence regarding your character and your private and family life.

**The Committee's findings of fact – 22 August 2025**

52. The Committee considered all the evidence presented to it, both oral and documentary. It bore in mind that you are of good character both personally and professionally. It took account of the closing submissions made by Mr Mansell and Mr Hockton in relation to the alleged facts. The Committee accepted the advice of the Legal Adviser, who advised the Committee on legal matters relevant to its fact-finding task, including the burden and standard of proof.

53. Before turning to the individual heads of charge, the Committee had regard to what it considered to be relevant background information arising from the evidence. Firstly, that the alleged matters relate to a single appointment. Secondly, the Committee had regard to the evidence it received about the dental surgery in which the appointment took place. It heard that the room is very small, with very limited space for patients and staff to move around. This was supported by photographic evidence, which showed the dental chair, and the design and position of the dental equipment used within the room. Thirdly, the Committee took into account the evidence of Witness 1, who was the assisting dental nurse during the appointment with Patient A, in which she outlined the various tasks that she was required to undertake in her supporting role, where she and you were located at various times during the appointment, and that she was able to observe and hear the interactions during the appointment.

54. Having taken account of these contextual elements, the Committee went on to consider each of the outstanding heads of charge separately, bearing in mind that the burden of proof rests with the GDC, and that the standard of proof is the civil standard, that is, whether the alleged matters are proved on the balance of probabilities. The Committee has had to decide whether it is more likely than not that the alleged conduct occurred.

55. The Committee made the following findings:

1(b)	<p><i>On 14 April 2023, during an appointment with Patient A, you:</i></p> <p><i>Repeatedly patted and rubbed the patient's shoulders and arms;</i></p> <p><b>Found not proved.</b></p> <p>In reaching its decision, the Committee took account of the evidence of Patient A. It noted that his oral evidence in relation to the key allegations of inappropriate touching and comments remained largely consistent with the accounts he gave in his witness statements provided to the police and the GDC. However, Patient A acknowledged that there were inaccuracies in his written evidence in relation to the length of time that he said some of the alleged incidents had occurred. He told the Committee that he had been repeatedly asked about timings during the taking of his witness statements and in response he had given rough approximations. Patient A conceded that he could not recall the precise length of time of some of the alleged events. He stated that his focus had not been on timing matters, but on the conduct that he said had occurred. The Committee noted, in relation to the physical touching allegations, that Patient A did not observe any of the touching alleged and reported what he had felt. This was because for the majority of the appointment Patient A was lying flat on the dental chair facing upwards looking at the ceiling whilst he was examined by you.</p> <p>The Committee did not consider that the change in Patient A's evidence regarding the length of time of some of the alleged events necessarily undermined his account in relation to the core issues. In considering the issue of credibility, the Committee balanced the evidence it received from Patient A with the other evidence before it.</p> <p>In relation to this alleged matter at 1(b), Patient A stated in his oral evidence that he had found you to be <i>"over-friendly"</i> and <i>"familiar"</i> at the appointment on 14 April 2023. In his witness statement, Patient A described you as becoming <i>"very handsy"</i> after you had invited him to sit in the dental chair. He went on to state that, <i>"He began touching my shoulders and arms, patting them for approximately 3-4 seconds. He stood up and down several times and each time he would pat or rub my shoulders or arms"</i>. Patient A indicated that Witness 1, the dental nurse, was in the room at this stage, and he stated that he had been reassured by her presence as it showed that <i>"what the Registrant was doing and touching and friendliness, was normal"</i></p> <p>In her witness statement, Witness 1 stated that she recalled you placing a hand on Patient A's shoulder <i>"for one second"</i> whilst asking if the patient was okay after his injection for local anaesthesia. Witness 1 described this reassurance as normal practice. There were two injections, buccal and palatal, and the palatal injection is often considered painful. She told the Committee in her oral evidence that you did not do or say anything inappropriate to Patient A.</p> <p>The Committee found Witness 1's oral evidence regarding her recollection of what occurred at the appointment on 14 April 2023 to be clear and consistent with the witness statement she provided. The Committee recognised the significant inconsistency between Witness 1's account and that of Patient A in relation to all the alleged matters. It also bore in mind your own evidence denying each of these</p>
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	<p>matters, which it regarded as consistent both with your own note made at the time and with the evidence of Witness 1 and Witness 3.</p> <p>Witness 1 told the Committee that you were sitting on a dental stool by the patient's head, and that she was sitting on the other side of the patient, with the materials which she might need readily to hand, and she was looking in your direction. The Committee was taken through the photographs of the room which illustrated and supported Witness 1's account.</p> <p>In making its finding in respect of this alleged matter at 1(b), the Committee considered Witness 1's evidence together with the evidence it received in relation to the size of the treatment room. The Committee considered that it would have been obvious to Witness 1 in such a small and confined space, if you had stood up and down several times and each time patted and rubbed Patient A's shoulders or arm as he described. Witness 1's evidence was that nothing untoward occurred.</p> <p>Having considered the evidence, the Committee determined that the GDC had not discharged the burden of proof, and the Committee was not satisfied that 1(b) is proved on the balance of probabilities.</p>
1(c)	<p><i>On 14 April 2023, during an appointment with Patient A, you:</i></p> <p><i>Ran your finger from the patient's shoulder to his wrist;</i></p> <p><b>Found not proved.</b></p> <p>Patient A described in his witness statement that you began touching each tooth with a metal instrument and carried out other tests on his teeth, which he said he assumed were tests for sensitivity. Patient A goes on to state that <i>"He stood up again and ran a finger downwards from my right shoulder to my wrist"</i>.</p> <p>The Committee took into account that in his oral evidence, Patient A stated that some of the alleged conduct was undertaken in a discreet and furtive manner. The Committee repeats the considerations which it set out under 1(b), in relation to the layout of the room and its view of the witnesses. It was the view of the Committee, taking into account the confines of the treatment room, that if you had stood up again and touched Patient A in the way suggested, this was likely to have come to the attention of Witness 1, as she had a clear view of you and Patient A, even if there may have been brief moments when she was paying attention to other tasks. Her evidence was that you did not do or say anything inappropriate to Patient A at the appointment.</p> <p>Having considered all of the evidence, the Committee accepted your evidence and that of Witness 1. It determined that the GDC had not discharged the burden of proof, and the Committee was not satisfied that 1(c) is proved on the balance of probabilities.</p>
1(d)	<p><i>On 14 April 2023, during an appointment with Patient A, you:</i></p> <p><i>Asked the patient if he received a lot of attention from girls or words to that effect;</i></p> <p><b>Found not proved.</b></p>

1(e)	<p><i>On 14 April 2023, during an appointment with Patient A, you:</i></p> <p><i>Said to the patient, "You're quite a big guy, your shoulders and arms are muscular" or words to that effect;</i></p> <p><b>Found not proved.</b></p>
1(f)	<p><i>On 14 April 2023, during an appointment with Patient A, you:</i></p> <p><i>Asked the patient whether he had a girlfriend;</i></p> <p><b>Found not proved.</b></p> <p>The Committee considered heads of charge 1(d), 1(e) and 1(f) separately, but made the same finding in respect of each head of charge.</p> <p>The Committee heard from Patient A, whose evidence was that you did ask him the questions set out at 1 (d), 1(e) and 1(f) above.</p> <p>The Committee noted Patient A's evidence that the alleged matters at heads of charge 1(d), 1(e) and 1(f) were questions that you asked him when Witness 1 had left the room. Patient A stated that after the anaesthesia had been administered, you had asked Witness 1 to leave the room to get something. Patient A stated in his witness statement that Witness 1 was out of room for more than 5 minutes. However, he conceded in his oral evidence that he could not recall the specific length of time, stating that it could have been seconds or minutes. Nevertheless, Patient A told the Committee that there had been enough time for the alleged comments at 1(d), 1(e) and 1(f) to be made, as well as for further inappropriate touching to occur.</p> <p>The evidence of Witness 1 was that she was not asked by you to leave the room to get anything. Her evidence was that she only left the room on two occasions. She stated that the first occasion was when you both left the room together to avoid exposure to radiation whilst Patient A was having an x-ray taken. Regarding the second occasion, Witness 1 stated that this was when <i>"I stepped out of the door, where [Witness 3] was waiting, and passed the x-ray film to her. It probably took me only 3 seconds to pass the x-ray film to [Witness 3]"</i>.</p> <p>The Committee noted that Witness 3, another dental nurse, stated in her witness statement that Witness 1 approached her to ask if she would process the x-ray film upstairs. In addition, the Committee had before it your near contemporaneous handwritten note dated 16 April 2023, in relation to the appointment with Patient A. You told the Committee that Witness 2, the Practice Manager, had requested that you put matters in writing to him, following the patient's oral complaint to the Practice. The Committee noted that you stated in your handwritten note that Witness 1 had given the x-ray film to Witness 3, and that Witness 1 <i>"was back in the room within seconds"</i>.</p> <p>While the Committee bore in mind that neither Patient A nor Witness 1 can be expected to provide an exact timing for how long Witness 1 was out of the room, it noted that Patient A's original account – that it was more than 5 minutes – is of a different order from Witness 1's estimate of a few seconds. In his oral evidence Patient A resiled from the time stated in his original account and in his witness statement, whereas Witness 1's evidence has been consistent with her earlier</p>

	<p>statement. It is also consistent with your own evidence, with the evidence of Witness 3 and with the time one would expect for the simple task of handing over the x-ray film.</p> <p>Having considered the evidence, the Committee preferred the account of Witness 1 that you did not ask her to leave the room and that Patient A was only alone in the room with you for a matter of seconds. The Committee also noted Witness 1's oral evidence that the door to the room remained open whilst she stepped out to hand the x-ray film to Witness 3. You were clear in your evidence that you only asked Patient A about his occupation and did not question him about his private and personal circumstances. In the light of that evidence, the Committee considered that it would have been highly unlikely for you to have asked Patient A a number of questions about his life, as he alleged, including those set out at 1(d), 1(e) and 1(f) above, without Witness 1 having heard some of what was said. Witness 1's evidence was that you did not do or say anything inappropriate to Patient A at the appointment.</p> <p>In those circumstances, the Committee accepted your evidence and that of Witness 1 and Witness 3. It determined that the GDC had not discharged the burden of proof, and the Committee was not satisfied that 1(d), 1(e) and 1(f) are proved on the balance of probabilities.</p>
1(g)	<p><i>On 14 April 2023, during an appointment with Patient A, you:</i></p> <p><i>Caressed the patient's bicep;</i></p> <p><b>Found not proved.</b></p> <p>The Committee found this head of charge 1(g) not proved for similar reasons given in relation to heads of charge 1(d), 1(e) and 1(f) above. It noted from Patient A's evidence that this alleged instance of inappropriate touching was said to have occurred when Witness 1 was absent from the room. As the Committee has already set out, it preferred Witness 1's evidence and was not persuaded of the accuracy of what Patient A said took place when Witness 1 was out of the room.</p> <p>The Committee was not satisfied that Witness 1 was away from the room for the extended period implied by Patient A. The evidence accepted by the Committee is that Witness 1 stepped out of the door for a matter of seconds. The Committee was not persuaded that what Patient A said happened could have occurred within that very short time, and without Witness 1 hearing or seeing anything, including this instance of alleged inappropriate touching at 1(g). Accordingly, this head of charge is not proved.</p>
1(h)	<p><i>On 14 April 2023, during an appointment with Patient A, you:</i></p> <p><i>Placed your hand onto the patient's groin and grasped his penis and testicles through his trousers;</i></p> <p><b>Found not proved.</b></p> <p>It was the view of the Committee that Patient A evidently believed that you had placed your hand onto his groin and grasped his penis and testicles through his trousers. He reported to Witness 1 that you had touched his penis, and the nature of the patient's complaint was clearly recorded by you in the dental records.</p>



However, the Committee took into account Patient A's concession under cross-examination that he could not see where your hands were at the time, as he was positioned in the dental chair looking upwards and not downwards to where he said this alleged physical touching occurred.

The Committee also took into account that Witness 1 said that she did not see you do anything inappropriate to Patient A at the appointment. Whilst the Committee noted that Patient A stated that the alleged grasping of his genitals took place while Witness 1 was not in the room, it was not satisfied that she was absent for the extended period implied by the patient. Witness 1's evidence, which is corroborated by other evidence, was that she stepped out of the door for a matter of seconds to hand the x-ray film to Witness 3. The evidence of Patient A was that the grasping of his penis and testicles took place as part of the course of conduct during which you were asking him a number of personal questions and moving around the dental chair. The Committee considered it implausible that Witness 1 would not have been aware of at least part of this alleged conduct.

The Committee further took into account the alternative explanation that part of the dental tray (the bracket table) covering Patient A may have made contact with him, giving him the impression of being touched. The Committee had regard to Witness 1's witness statement that this explanation was given to Patient A at the time. She stated that *"When [Patient A] jumped out of the treatment chair, he said that he was not comfortable with the treatment because he had been touched inappropriately a couple of times on some parts of his body. He said this in front of me and the Registrant. He said that the Registrant touched his cock. When he said this, the Registrant apologised. The Registrant said that he was sorry if [Patient A] felt this way, but the Registrant refuted [Patient A's] claim. The Registrant said that what [Patient A] said was untrue. The Registrant and I explained how the room was set-up, and I showed Patient A that we had to push to table, which was located in front of a patient, if we need to move inside the treatment room"*.

Both you and Witness 1 explained to the Committee how the bracket table and other equipment were arranged and the way in which it had to be moved to enable you or Witness 1 to leave the room. This included an explanation of how the arm of the bracket table and the cables might come into contact with the patient. You also explained that at one point you reached over the patient to take a tissue so that you could wipe away saliva, and that this may have caused the bracket table to move.

You told the Committee in your oral evidence that you could not say whether part of the dental equipment made contact with Patient A, but that it was a possibility.

The Committee noted from the photographic evidence provided, that there were wires trailing from the bracket table, and it did not consider it implausible that these wires or another movable part of the bracket table could have made contact with Patient A.

Having considered the evidence, the Committee concluded that whilst it was possible that Patient A did feel something around his groin area, it was not satisfied on the balance of probabilities that you acted in the manner alleged. Therefore, head of charge 1(h) is not proved.



1(i)	<p><i>On 14 April 2023, during an appointment with Patient A, you:</i></p> <p><i>Stroked the length of the patient's arm with your finger.</i></p> <p><b>Found not proved.</b></p> <p>It was Patient A's account that when Witness 1 returned to the room after being away for a period of time, your conduct continued. He stated that "<i>the Registrant very subtly stroked the length of my arm with his finger</i>"</p> <p>The Committee considered all the evidence, including the clear and consistent evidence of Witness 1, who said that she did not see you do or say anything inappropriate to Patient A in the confines of a very small room. In the light of the considerations that it has already discussed earlier in this determination, the Committee was not satisfied on the balance of probabilities that this alleged matter is proved.</p>
2 (a).	<p><i>Your actions at 1b to 1i above were:</i></p> <p><i>Unprofessional;</i></p> <p><b>As none of the alleged facts at 1(b) to 1(i) has been found proved, this head of charge 2(a) falls away.</b></p>
2(b).	<p><i>Your actions at 1b to 1i above were:</i></p> <p><i>Sexually motivated.</i></p> <p><b>As none of the alleged facts at 1(b) to 1(i) has been found proved, this head of charge 2(b) falls away.</b></p>

56. In accordance with Rule 19(13), having found none of the facts alleged in the notification of hearing proved, the Committee's determination is that your fitness to practise as a dentist is not impaired.

57. The interim order currently in place on your registration is revoked immediately.

58. That concludes this determination.