

HEARING HEARD IN PRIVATE*

*The Committee has made a determination in this case that includes some private information.

That information has been omitted from this text.

HARDING-MALE, Garrick Ian

Registration No: 168653

PROFESSIONAL CONDUCT COMMITTEE

FEBRUARY 2018 – FEBRUARY 2020

Most recent outcome: Indefinite suspension**

** See page 12 for the latest determination

Garrick Ian HARDING-MALE, a dental technician, Verified experience in Dental Technology, was summoned to appear before the Professional Conduct Committee on 31 January 2018 for an inquiry into the following charge:

Charge

“That being registered as a dental care professional:

1. On 29 October 2016 you accepted a caution for using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence contrary to Section 4(1)a Public Order Act 1986.
2. On 15 November 2016 you were convicted of driving a motor vehicle after consuming so much alcohol that the proportion in your breath exceeded the prescribed limit contrary to Section 5(1)a of the Road Traffic Act 1988.
3. You failed to immediately inform the General Dental Council that:
 - a. You accepted a caution as set out in Charge 1; and/or,
 - b. You were convicted as set out at Charge 2.
4. Your conduct in relation to Charge 3a and/or 3b was:
 - a. Misleading; and/or,
 - b. Dishonest in that you knew that you were required to inform the Council of those matters and did not do so.
5. You suffer from an adverse mental or physical health condition as specified in Schedule A.
6. From 6 March 2017 until at least 16 October 2017 you failed to adequately cooperate with an investigation conducted by the General Dental Council.

And that by reason of the matters alleged above, your fitness to practise is impaired by reason of your:

- Caution; and/or,
- Conviction; and/or,

- Misconduct; and/or,
- Adverse Health.”

Mr Harding-Male was not present and was not represented. On 1 February 2018 the Chairman announced the findings of fact to the Counsel for the GDC:

“Mr Harding-Male is neither present nor represented at this hearing.

On behalf of the General Dental Council (GDC), Ms Headley, Counsel, made an application to proceed with the hearing in Mr Harding-Male’s absence, pursuant to Rule 54 of the ‘GDC (*Fitness to Practise*) Rules Order of Council 2006’ (‘the Rules’).

The Committee took into account Ms Headley’s submissions in respect of the application. It accepted the advice of the Legal Adviser.

Decision on service of the Notification of Hearing

The Committee first considered whether Mr Harding-Male had been sent notification of the hearing in accordance with Rules 13 and 65. It saw a copy of the Notification of Hearing letter, dated 12 December 2017, which was sent to Mr Harding-Male’s registered address by Special Delivery. The Committee had regard to the relevant Royal Mail ‘track and trace’ receipt confirming that this letter was collected and signed for by ‘customer’ on 16 December 2017. A copy of the letter was also sent successfully to Mr Harding-Male by email. The Committee was satisfied that the letter contained proper notification of today’s hearing, including its date, time and location, as well as notification that the Committee had the power to proceed with the hearing in Mr Harding-Male’s absence. The Committee was satisfied on the basis of the information provided that the GDC had made efforts above and beyond the requirement of the Rules to serve notification of the hearing upon Mr Harding-Male.

Decision on proceeding in the absence of Mr Harding-Male

The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Mr Harding-Male. It approached this issue with the utmost care and caution. The Committee took into account the need to be fair to both parties and it had regard to the public interest in dealing with the matters in this case expeditiously.

The Committee was satisfied from the evidence before it, that Mr Harding-Male is aware of this hearing today. It had regard to an internal email dated 21 November 2017 referring to a telephone conversation with Mr Harding-Male which stated that “*He does not wish to take part and that he will not attend any teleconferences or meetings or Hearings. He wants nothing to do with the process or the GDC*”. In the circumstances, the Committee concluded that Mr Harding-Male had voluntarily absented himself from the hearing. It received no information to suggest that an adjournment today would make Mr Harding-Male’s attendance on another occasion any more likely. The Committee had regard to the public interest and to the GDC’s interest and its duty to act in the expeditious disposal of the allegations against Mr Harding-Male. Taking all of this into account, the Committee determined that it was fair and reasonable to proceed with the hearing in the absence of Mr Harding-Male and without any representative present on his behalf.

The charges against Mr Harding-Male

The matters in Mr Harding-Male’s case cover three broad areas. The first area relates to Mr Harding-Male’s caution which he received on 29 October 2016 and his criminal conviction on

15 November 2016, and alleged misleading and dishonest conduct in respect of failing to notify the GDC of these. The second area concerns Mr Harding-Male's health. The third relates to Mr Harding-Male's alleged failure to cooperate with the GDC investigation.

Evidence

The Committee received documentary evidence, including a copy of the Memorandum of Conviction in respect of Mr Harding-Male's conviction and transcripts of telephone conversations with Mr Harding-Male. The Committee further received the witness statement of Rosie Batchelor, a Caseworker at the GDC, dated 14 July 2017 and the witness statement of Michael Perks, dated 19 December 2017. The Committee also noted the witness statement of Yashika Knight dated 16 October 2017. In addition, it received a letter dated 1 November 2016 from the DBS, (disclosure and barring unit) of Cambridge Constabulary.

The Committee's findings of fact

The Committee considered all of the evidence presented to it and accepted the advice of the Legal Adviser. The Committee considered each head 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 drew no adverse inferences from Mr Harding-Male's absence from this hearing.

I will now announce the Committee's findings in relation to each head of charge:

1.	<p>Proved.</p> <p>This head of charge is supported by a copy of the Police National Record printout, and also the letter from Cambridgeshire Constabulary dated 1 November 2016.</p>
2.	<p>Proved.</p> <p>This head of charge is supported by the relevant Memorandum of Conviction dated 15 November 2016.</p>
3. a.	<p>Proved.</p> <p>In reaching its decision, the Committee took into account the witness statement of Rosie Batchelor. It also took into account the GDC guidance 'Reporting criminal proceedings'. It noted the relevant GDC standards which state that registrants have a duty to inform their regulatory body of any convictions and cautions. The Committee was satisfied that Mr Harding-Male had a duty to advise the GDC of this caution. The Committee noted that Rosie Batchelor had contacted him by way of a letter dated 10 November 2016 having received the letter from Cambridge Constabulary on 3 November 2016. The Committee noted that Mr Harding-Male had the period from 29 October 2016 to 10 November 2016 to notify the GDC and he did not do so.</p> <p>The Committee was satisfied on the basis of this evidence that Mr Harding-Male had failed to inform the GDC about the caution.</p>
3. b.	<p>Proved.</p> <p>In reaching its decision, the Committee took into account that the GDC has</p>

	<p>received no notification from the registrant of his conviction.</p> <p>The Committee had sight of a record of a telephone conversation between Rosie Batchelor and Mr Harding-Male on 16 November 2016, the day after he had been convicted. The Committee noted that Rosie Batchelor did not record that Mr Harding-Male had mentioned his conviction during this conversation.</p> <p>The Committee was satisfied that Mr Harding-Male had a duty to advise the GDC of this conviction. The Committee was satisfied on the basis of the evidence that Mr Harding-Male had failed to inform the GDC about the conviction.</p>
4. a.	<p>Proved with regard to 3(a) and 3(b).</p> <p>The Committee took into account the legal advice when interpreting the definition of misleading. The Committee, having found heads of charge 3(a) and (b) proved, was satisfied that Mr Harding-Male's actions were misleading. The Committee was satisfied that Mr Harding-Male had misled the GDC by omission, that is by failing to inform it of the caution and conviction.</p>
4. b.	<p>Not proved with regard to 3(a) and 3(b).</p> <p>The Committee took into account the documentation before it. The Committee concluded that on a balance of probabilities an ordinary and honest member of the public would not consider his actions in relation to charges 3(a) and 3(b) to be dishonest.</p> <p>In addition, Mr Harding-Male had not been working for approximately one year at the time of the incident and the Committee concluded that it could properly draw the inference that Mr Harding-Male had a genuine belief he did not have to report the criminal proceedings to the GDC.</p>
5.	<p>Proved.</p>
6.	<p>Proved.</p> <p>The Committee was satisfied on the basis of the evidence that from 6 March 2017 until at least 16 October 2017 Mr Harding-Male failed to adequately cooperate with an investigation conducted by the GDC. The Committee took into account the witness statement of Rosie Batchelor, who confirmed that Mr Harding-Male had failed to respond to various requests by the GDC for information.</p> <p>The Committee was satisfied that Mr Harding-Male displayed a lack of cooperation particularly when asked to produce indemnity certificates, as well as failing to answer GDC letters (17 March 2017, 12 April 2017) in a timely manner.</p> <p>The Committee considered the current standards for dental professionals and in particular standard 9.4:</p> <p><i>You must co-operate with any relevant formal or informal inquiry and give full and truthful information.</i></p>

The Committee therefore finds that this charge is proved on the basis that there was an obligation on Mr Harding-Male's part to comply with the GDC investigation but that he failed to do so.
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We move to Stage Two.”

On 1 February 2018 the Chairman announced the determination as follows:

“At this hearing the Committee made a determination that includes some private information. That information shall be omitted from any public version of this determination and the document marked to show where private material is removed.

Having announced its findings of fact the Committee heard submissions on the issue of misconduct in relation to heads of charge 3(a) and (b), 4(a) and 6. It also heard submissions on impairment by reason of conviction and caution and by reason of adverse health, and sanction in relation to all these matters.

Submissions

In accordance with Rule 20 (1)(a) the Committee was informed by Ms Headley that Mr Harding-Male does not have any previous fitness to practise history. She also informed the Committee that Mr Harding-Male has been subject to an interim order of suspension since 6 January 2017.

Ms Headley submitted that a number of the standards had been breached. Ms Headley then moved on to the issue of current impairment. She referred the Committee to the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) and to the observations of Dame Janet Smith as approved in this case. She addressed the Committee on the factors that it should consider, including Mr Harding-Male's level of insight, any remediation and the risk of repetition. She also addressed the Committee on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the GDC as a regulatory body.

Ms Headley submitted that Mr Harding-Male's conduct could be considered remediable. However, with regard to his caution and conviction, it may be harder to remediate. She also submitted that although health matters could be remedied, there has been no engagement from Mr Harding-Male in this respect.

She further submitted that Mr Harding-Male has not taken any steps to remedy his health matters or failings in relation to the alleged misconduct. She submitted that Mr Harding-Male's fitness to practise is impaired by reason of misconduct and/or conviction/caution and/or his adverse health condition.

Ms Headley then addressed the Committee on the issue of sanction. She referred the Committee to the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016) ('the Guidance') and outlined the mitigating and aggravating factors that were present in this case. The mitigating factors included previous good character, no financial gain, a single isolated incident (with respect to the caution and conviction), and time elapsed. The aggravating features included risk of harm to another, wilful disregard of the regulatory body and lack of insight. She submitted that the appropriate and proportionate sanction in this case would be one of suspension for a minimum period of 6 months.

Committee's considerations

The Committee bore in mind the submissions from Ms Headley on behalf of the GDC. The Committee considered all of the information placed before it.

The Committee accepted the advice of the Legal Adviser.

In its deliberations, the Committee had regard to the GDC's guidance (the Guidance) and Scope of Practice for Dental Technicians.

Decision on misconduct

The Committee first considered whether the facts found proved at heads of charge 3 ,4(a) and 6 amount to misconduct. In considering the matter, the Committee exercised its own independent judgement. The Committee reminded itself of the extent and nature of the findings made against Mr Harding-Male. The Committee's reasons for its findings have been set out in full in its determination on the facts.

When determining whether the facts found proved amount to misconduct the Committee had regard to the terms of the relevant professional standards in force at the time.

The Committee concluded that Mr Harding-Male's conduct was in breach of each of the sections of the Standards for the Dental Team (2013) as set out below.

- 1.3.2 You must make sure you do not bring the profession into disrepute.
- 9.1 Ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.
- 9.3 Inform the GDC if you are subject to criminal proceedings or a regulatory finding is made against you anywhere in the world.
- 9.4 Co-operate with any relevant formal or informal inquiry and give full and truthful information.

The Committee accepted the above breaches do not automatically result in a finding of misconduct. However, it considered that they were serious, and fundamental to the integrity of the profession. It also considered that such breaches were capable of undermining public confidence in the profession.

It considered that Mr Harding-Male's conduct fell far below the standards reasonably expected of a registered Dental Technician, and that fellow professionals would consider his conduct to be deplorable.

The Committee was satisfied that Mr Harding-Male's conduct crossed the threshold of seriousness to warrant a finding of misconduct.

Decision on current impairment

The Committee then proceeded to consider whether Mr Harding-Male's fitness to practise is currently impaired by reason of his misconduct, and/or health and/or by his conviction and/or caution. In reaching its decision on impairment, the Committee exercised its own independent judgement. It bore in mind that its duty was 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.

In considering the matter of impairment the Committee first considered whether Mr Harding-Male's fitness to practise is currently impaired by reason of his conviction and caution. The Committee was not provided with any evidence of insight from Mr Harding-Male into his aggressive and threatening behaviour. The Committee also noted that he has failed to acknowledge the significance of his actions, including that he was three times over the legal limit when driving a motorised vehicle at 16.20. The Committee is satisfied that his reckless behaviour could undermine public confidence in the profession and place public safety at risk.

Taking all this into account, the Committee concluded that Mr Harding-Male's fitness to practise is currently impaired by reason of his caution and conviction.

The Committee next considered whether Mr Harding-Male's fitness to practise is currently impaired by reason of his misconduct. The Committee considered whether his failings were remediable and concluded that some of Mr Harding-Male's failings were remediable. The Committee saw no evidence that Mr Harding-Male had taken any steps to address his conduct. Mr Harding-Male has not acknowledged that he had a duty to inform his regulatory body of his caution and his conviction, nor has he acknowledged the requirement to co-operate with the GDC during its investigation.

Whilst the Committee bore in mind that its primary function is to protect patients, it also took into account the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator and upholding proper standards and behaviour. The Committee concluded that to make a finding of no current impairment in relation to Mr Harding-Male's misconduct would send a message to the public and the profession that his actions were acceptable. It concluded that trust and confidence in the profession and in the GDC as the regulator would be seriously undermined if a finding of impairment was not made. The Committee had regard to the serious nature of the issues identified in the circumstances of this case when reaching this decision.

The Committee concluded that in light of Mr Harding-Male's lack of remediation and insight there remained a risk of repetition in this case. Therefore, it finds that Mr Harding-Male's fitness to practice is impaired by reason of his misconduct.

The Committee next considered whether Mr Harding-Male's fitness to practise is currently impaired by reason of his adverse health. The Committee considered that his health condition could be remedied. However, it saw no evidence that Mr Harding-Male had not taken any steps to remediate. The Committee was satisfied that as Mr Harding-Male has not taken any steps to address his health condition, he therefore remains impaired by reason of his health.

Taking all this into account the Committee considered that without evidence of Mr Harding-Male taking the appropriate steps to address his health condition there remains a risk of a continuing adverse impact of Mr Harding-Male's fitness to practise. Whilst the Committee again bore in mind that its primary function is to protect patients, it also considered the wider public interest. It concluded that in light of the lack of sufficient steps taken by Mr Harding-Male to address his health condition, and the evidence of [name redacted], that trust and confidence in the profession and in the GDC as the regulator would be seriously undermined if a finding of impairment were not made. In light of these reasons, the Committee concluded that Mr Harding-Male's fitness to practise is currently impaired by reason of his adverse health.

The Committee therefore finds that Mr Harding-Male's fitness to practise is currently impaired by reason of Mr Harding-Male's misconduct, conviction and caution, and his adverse health.

Decision on sanction

The Committee then considered what sanction it should impose. The Committee bore in mind that the purpose of a sanction is not to be punitive, although it may have that effect, but is instead imposed in order to protect patients and safeguard the wider public interest mentioned above.

In reaching its decision the Committee took into account the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016) ('the Guidance'). The Committee applied the principle of proportionality, balancing the public interest with Mr Harding-Male's own interests. It also had regard to the submissions made by Ms Headley on behalf of the GDC.

The Committee considered the range of sanctions available to it, starting with the least serious. In light of its findings, the Committee determined that it would be wholly inappropriate to conclude this case without taking any action in respect of Mr Harding-Male's registration, given the serious departures from the standard expected of a registered Dental Technician. It considered that this would not provide the necessary level of public protection nor would it address the wider public interest. It reached the same conclusion in respect of a reprimand.

The Committee next considered whether a period of conditional registration would be appropriate. The Committee determined that, given the serious findings that it has made in respect of the allegations which are not clinical in nature, there are no conditions that could be formulated which would prove to be workable, measurable or enforceable, or which would adequately address the need to protect the public or satisfy the public interest by securing the necessary degree of protection for patients and confidence in the profession. In previous correspondence to the GDC, Mr Harding-Male has stated that he does not wish to engage with the process. It therefore considered that in light of his lack of engagement, conditions would not be the appropriate sanction.

The Committee then went on to consider whether to suspend Mr Harding-Male's registration. It concluded that in the circumstances of this case a period of suspension would provide the necessary level of public protection and would adequately address the public interest. The Committee took into account the lack of remediation, and lack of insight into his misconduct, and it considered that as there was a risk of repetition in this case, public protection and the wider public interest would not be adequately addressed by any lesser sanction.

The Committee gave consideration as to whether a higher sanction was appropriate. The Committee considered that the public interest would be addressed by the imposition of a period of suspension. It concluded that Mr Harding-Male's conduct was not fundamentally incompatible with his remaining on the register and, if he were able to begin to address his health problems, then it might be possible for him to be able to resume unrestricted practice at some point in the future.

The Committee was aware that the effect of this order is that Mr Harding-Male will be prevented from working as a registered Dental Technician and that this could result in financial hardship. However, in applying the principle of proportionality, the Committee

determined that Mr Harding-Male's interests in this regard were outweighed by that of the wider public interest.

The Committee determined that Mr Harding-Male's registration should be suspended for a period of twelve months. This period of time is necessary to mark the seriousness of his misconduct. It would allow Mr Harding-Male sufficient time to demonstrate that he has recognised his problem with alcohol and has begun to address it.

The Committee further directs that Mr Harding-Male's suspension should be reviewed before its expiry.

Although the Committee in no way wishes to bind any future reviewing Committee, it considered that such a Committee may be assisted in being provided with the following:

- any evidence to demonstrate the steps Mr Harding-Male has taken to address his health condition.
- reflective statement demonstrating insight into the matters that have brought him before this Committee today.

Accordingly, the Committee determined that Mr Harding-Male's registration should be suspended for a period of 12 months with a review prior to its expiry.

The Committee will now invite submissions on whether an immediate order should be imposed.

Having directed that Mr Harding-Male's name be suspended from the register, the Committee considered whether to impose an order for Mr Harding-Male's immediate suspension in accordance with section 36 (U) of the Dentists Act 1984 (as amended).

The Committee considered the submissions made by Ms Headley on behalf of the GDC, as to the necessity of an immediate order. The Committee accepted the advice of the Legal Adviser.

The Committee was satisfied that an immediate order for suspension was necessary for the protection of the public and was otherwise in the public interest and also in his own interest. The Committee concluded that given its findings and reasons for the substantive order of suspension to direct otherwise would be inconsistent. It also considered that it was in Mr Harding-Male's own interests given his ongoing health condition and the impact it may have on his fitness to practise.

If, at the end of the appeal period of 28 days, Mr Harding-Male has not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of suspension for a period of 12 months. If Mr Harding-Male does lodge an appeal, this immediate order will continue in effect until that appeal is determined.

The Committee hereby revokes the current interim order on Mr Harding-Male's registration.

That concludes this case for today."

At a review hearing on 27 February 2019 the Chairman announced the determination as follows:

"Mr Harding-Male is not present nor is he represented at this hearing. Ms Headley appears on behalf of the General Dental Council (GDC).

Purpose of hearing

The purpose of today's hearing is to review a substantive direction of suspension imposed on Mr Harding-Male's registration by the PCC for a period of 12 months on 1 February 2018.

Service

The Committee first considered whether service has been properly effected in accordance with the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules').

On behalf of the GDC Ms Headley submitted that Mr Harding-Male has been properly notified of today's hearing in accordance with Rule 28 of the Rules. The Committee noted that a notice of hearing was sent to Mr Harding-Male's registered address on 25 January 2019 using the Royal Mail's Special Delivery postal service. The notice set out the date, time and venue of the hearing, as well as confirming the nature of the hearing and the powers available to the Committee. The Royal Mail's Track and Trace service records that the notice was delivered on 26 January 2019 and was signed for by an individual by the name of "HARDING MALE". A copy of the notice was also sent to Mr Harding-Male's email address on 25 January 2019.

The Committee accepted the advice provided by the Legal Adviser. Having regard to the GDC's submissions and the evidence placed before it the Committee was satisfied that service has been properly effected in accordance with the Rules.

Proceeding in absence

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mr Harding-Male in accordance with Rule 54 of the Rules. It was mindful that the discretion to proceed in the absence of a registrant must be exercised with the utmost care and caution. Ms Headley invited the Committee to proceed in the absence of Mr Harding-Male.

The Committee accepted the advice of the Legal Adviser. It determined that it would be appropriate and fair to proceed with the hearing in Mr Harding-Male's absence. The Committee considers that there is a clear public interest in ensuring that the suspension order is reviewed before its expiry, and that the GDC has made all reasonable efforts to inform Mr Harding-Male of today's hearing. The Committee considers that an adjournment would serve no useful purpose and that Mr Harding-Male has waived his right to attend. Mr Harding-Male has not requested an adjournment of these proceedings. The order must be reviewed before its expiry. The Committee therefore determined to proceed in the absence of Mr Harding-Male.

Existing order

In February 2018 the PCC held a hearing to consider allegations about Mr Harding-Male's conduct. The allegations which Mr Harding-Male faced, and which the Committee subsequently found proved, related to using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence contrary to Section 4(1)a Public Order Act 1986, and being convicted of driving a motor vehicle after consuming so much alcohol that the proportion in his breath exceeded the prescribed limit contrary to Section 5(1)a of the Road Traffic Act 1988. The Committee also found that Mr Harding-Male suffers from an adverse health condition and that he failed to inform the GDC of his conviction and caution and did not cooperate with their investigations.

On 1 February 2018 the Committee determined that Mr Harding-Male's fitness to practise was impaired by reason of his misconduct, conviction and caution, and his adverse health condition. The Committee concluded that a period of suspension would provide the

necessary level of public protection and would adequately address the public interest. The Committee determined that Mr Harding-Male's registration should be suspended for a period of 12 months with a review prior to its expiry.

Today's review

At today's hearing this Committee has comprehensively reviewed the current order. In so doing, the Committee has had regard to the GDC prosecution bundle, which contains copies of letters from the GDC's Case Review Team to Mr Harding-Male, reminding him of the recommendations made by the PCC in February 2018. Mr Harding-Male has not replied to the GDC's repeated requests for information.

Ms Headley submitted that Mr Harding-Male's fitness to practise remains impaired. She referred to Mr Harding-Male's lack of engagement with the GDC and the absence of any evidence of remediation or insight, or of any response to the recommendations made by the PCC in February 2019. She invited the Committee to direct that Mr Harding-Male's registration be suspended for a period of 12 months.

The Committee has carefully considered all the information presented to it, including the written documentation and oral submissions provided by the GDC. Throughout its deliberations, it has borne in mind that its primary duty is to address the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and in the regulatory process, and the declaring and upholding of proper standards of conduct and behaviour. In its deliberations the Committee has had regard to the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016). The Committee has accepted the advice of the Legal Adviser.

The Committee noted that there is no evidence of non-compliance with the order of suspension. However, there is no evidence before this Committee that Mr Harding-Male has addressed any of the concerns identified by the PCC in February 2018, or even attempted to do so, despite being given the opportunity. In addition, Mr Harding-Male has not provided any evidence of remediation, as recommended to him by the PCC at the conclusion of its determination. In regard to Mr Harding-Male's health the Committee considered that his health condition could be remedied. However, it saw no evidence that Mr Harding-Male had taken any steps to remediate this either. Further, Mr Harding-Male has not engaged with the GDC throughout the period of his suspension. Given these factors, the Committee considers that Mr Harding-Male remains a risk to the public.

The Committee concluded that in light of Mr Harding-Male's lack of remediation and insight there remained a risk of repetition in this case. Therefore, it finds that Mr Harding-Male's fitness to practise is impaired by reason of his misconduct and his adverse health.

Sanction

The Committee next considered what direction to give, bearing in mind its powers in accordance with Section 36Q 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).

In the Committee's judgement, Mr Harding-Male has not demonstrated any commitment to remediate his deficiencies or engage with the GDC, despite being given the opportunity to do so. In these circumstances, the Committee concluded that terminating the current suspension order would not be appropriate or sufficient for the protection of the public.

The Committee considered whether to replace the current suspension order with one of conditions. In so doing, it had regard to the absence of any evidence of remediation from Mr

Harding-Male and his lack of engagement with his regulator over the last year. In previous correspondence to the GDC, Mr Harding-Male has stated that he does not wish to engage with the process. In these circumstances, the Committee is not satisfied that Mr Harding-Male would comply with conditions or that they would be sufficient for the protection of the public. It therefore considered that in light of his lack of engagement, conditions would not be the appropriate sanction.

The Committee noted that the sanction of indefinite suspension is not available to it at this stage. The Committee therefore directs that the current period of suspension on Mr Harding-Male's registration be extended for a period of 12 months. It concluded that in the circumstances of this case extending the order of suspension would provide the necessary level of public protection and would adequately address the public interest. The Committee took into account the lack of remediation, and lack of insight into his misconduct, and it considered that as there was a risk of repetition in this case, public protection and the wider public interest would not be adequately addressed by any lesser sanction.

The Committee considered that the public interest would be addressed by the imposition of a period of suspension. It concluded that Mr Harding-Male's conduct was not fundamentally incompatible with his remaining on the register and, if he were able to begin to address his health problems, then it might be possible for him to be able to resume unrestricted practice at some point in the future.

The Committee determined that 12 months would allow Mr Harding-Male an opportunity to remediate the concerns in this case. The order of suspension will be reviewed prior to the end of the 12-month period. The Committee endorses the recommendations of the previous PCC as to the evidence which would assist a reviewing committee. Those recommendations are set out below.

- any evidence to demonstrate the steps Mr Harding-Male has taken to address his health condition.
- reflective statement demonstrating insight into the matters that have brought him before this Committee today.

That concludes today's case."

At a review hearing on 14 February 2020, the Chair announced the determination as follows:

"Neither party was present at today's hearing. The GDC invited the Committee to perform a statutory review of the order of suspension of Mr Harding-Male's registration on the basis of the papers before it. The Committee was invited to proceed on the papers, in the absence of the parties, in accordance with Rule 29 of the General Dental Council (Fitness to Practise) Rules Order of Council 2006 ('the Rules').

Purpose of hearing

The purpose of today's hearing is to review a substantive direction of suspension imposed on Mr Harding-Male's registration by the PCC for a period of 12 months on 27 February 2019. The hearing is being held in accordance with section 36Q (1) of the Dentists Act 1984 (as amended) ('the Act').

Service

The Committee first considered whether service has been properly effected in accordance with the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules').

The GDC submitted that Mr Harding-Male has been properly notified of today's hearing in accordance with Rule 28 of the Rules. The Committee noted that a notice of hearing was sent to Mr Harding-Male's registered address on 2 January 2020 using the Royal Mail's Special Delivery service. That notice set out the date, time and venue of the hearing, as well as confirming the nature of the hearing and the powers available to the Committee. The Royal Mail's Track and Trace service informs that the Royal Mail was due to deliver the item on 3 January 2020. The Committee also noted that a copy of the notice of hearing was sent to Mr Harding-Male's known email address on 2 January 2020 but was not downloaded.

The Committee accepted the advice provided by the Legal Adviser. Having regard to the GDC's written submissions and the information placed before it the Committee was satisfied that service has been properly effected in accordance with the Rules.

Proceeding in absence and on the Papers

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mr Harding-Male in accordance with Rule 54 of the Rules. It was mindful that its discretion to proceed in the absence of a registrant must be exercised with the utmost care and caution. The GDC submits that the Council has made all reasonable efforts to inform Mr Harding-Male of this hearing and that it would be fair and appropriate to proceed in his absence.

The Committee accepted the advice of the Legal Adviser. It determined that it would be appropriate and in the interests of justice to proceed with the hearing in Mr Harding-Male's absence. The Committee considered that Mr Harding-Male has voluntarily absented himself from today's hearing. The Committee considered that an adjournment would serve no useful purpose, as there is no indication that to do so would secure Mr Harding-Male's attendance. The Committee also considered that there is a clear public interest in ensuring that the suspension order is reviewed before its expiry, namely on 6 March 2020.

In those circumstances, the Committee determined that it was fair and appropriate to proceed with the hearing in the absence of Mr Harding-Male and to conduct the hearing on the papers.

The GDC made an application that parts of this hearing should be held in private under provisions of Rule 53 where reference are made to Mr Harding-Males health. The Committee this application and decided that any parts of the hearing, where Mr Harding-Males health is referred to, should be held in private.

Existing order

In January/February 2018 the PCC held a hearing to consider allegations about Mr Harding-Male's conduct. The allegations which Mr Harding-Male faced, and which the Committee subsequently found proved, related to a caution for using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence contrary to Section 4(1)a Public Order Act 1986, and being convicted of driving a motor vehicle after consuming so much alcohol that the proportion in his breath exceeded the prescribed limit contrary to Section 5(1)a of the Road Traffic Act 1988. The Committee also found that Mr Harding-Male suffers from an adverse health condition and that he failed to inform the GDC of his conviction and caution and did not cooperate with their investigations.

On 1 February 2018 the Committee determined that Mr Harding-Male's fitness to practise was impaired by reason of his misconduct, conviction and caution, and his adverse health condition. The Committee concluded that a period of suspension would provide the necessary level of public protection and would adequately address the public interest. The

Committee determined that Mr Harding-Male's registration should be suspended for a period of 12 months with a review prior to its expiry.

The substantive suspension was reviewed by the PCC on 27 February 2019 and was extended for a further period of 12 months, with a further review hearing to take place before the end of that period. That period of extended suspension is due to end on 6 March 2020. It falls to this Committee today to conduct the statutory review.

Submissions

The Committee notes from the GDC written submissions that they state that Mr Harding-Male's fitness to practise remains impaired and that he continues to pose a risk to the public and to the wider public interest. The GDC invites the Committee to consider making Mr Harding-Male's suspension indefinite.

Committee's determination

The Committee has carefully considered all the information presented to it, including the written documentation and submissions provided by the GDC. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016). The Committee has accepted the advice of the Legal Adviser.

Impairment

The Committee has determined that Mr Harding-Male's fitness to practise remains impaired. It notes that Mr Harding Male has provided no information whatsoever about any steps taken to remedy the misconduct that was previously found, or to develop and demonstrate insight into his actions. He has provided no information as to his current state of health. Mr Harding-Male has not engaged with these proceedings since his registration was suspended by the PCC despite having had a considerable period of time in which to do so. The Committee has concluded that the same risks to the public persist, and that Mr Harding-Male's fitness to practise remains impaired. The Committee also considers that a further finding of impairment is required to maintain public trust and confidence in the profession and to declare and uphold proper professional standards of conduct and behaviour.

Sanction

The Committee next considered whether it would be appropriate to revoke the suspension, or to replace the suspension with a period of conditional registration. The Committee considered that revoking the suspension would place the public at considerable risk of harm given its findings of current impairment and would also undermine trust and confidence in the profession. The Committee next considered whether it could formulate conditions which would be workable, and which would address the persistent risks that have been identified. The Committee concluded that it could not formulate any conditions which would be practicable or workable, given that Mr Harding-Male has not engaged with today's hearing and has provided no indication of any willingness to engage with any conditions that might be capable of being formulated.

The Committee then went on to consider whether it would be appropriate to extend the current period of suspension. The Committee concluded that a further short period of suspension is unlikely to serve any meaningful purpose. Mr Harding-Male has not engaged in these proceedings. In particular the Committee notes that Mr Harding-Male has not provided any evidence to demonstrate that he has taken steps to develop insight into and remediation of his misconduct since his registration was suspended. He has not provided any information about his current state of health. In light of Mr Harding-Male's ongoing lack

of engagement, the absence of any evidence from him to demonstrate that he has acknowledged, addressed and remedied the matters giving rise to these proceedings, and the risks to the public and the wider public interest arising from his misconduct, the Committee considers that indefinite suspension is the appropriate and proportionate outcome.

The Committee was satisfied that on the date on which a direction for an indefinite suspension would take effect, Mr Harding-Male would have been suspended for a period in excess of 2 years. The Committee was also satisfied that if it were to make such a direction, that direction would not be made more than 2 months before the date on which his current period of suspension would expire.

The Committee hereby directs that Mr Harding-Male's registration be suspended indefinitely in accordance with section 36Q (1) (d) of the Dentists Act 1984 (as amended) ('the Act').

Right of appeal

In accordance with section 36S, section 36T (2) and section 36W (3) of the Act Mr Harding-Male will have 28 days from the date on which notice of this decision is deemed to have been served on him to appeal against this decision. Should he decide to appeal, the extant suspension will remain in force until the resolution of any such appeal. Should he decide not to appeal, the indefinite suspension will take effect at the end of the 28-day appeal period, and the current suspension will continue to be in place until the indefinite suspension takes effect.

Subsequent reviews

This direction may be reviewed in accordance with the provisions of section 36Q (4) of the Act. More particularly, Mr Harding-Male may, after two years have elapsed from the date on which this direction of indefinite suspension takes effect, ask for the indefinite suspension to be reviewed.

That concludes this case for today."