

HEARING HEARD IN PUBLIC

WESTON, Robert Stephen

Registration No: 263004

PROFESSIONAL CONDUCT COMMITTEE

JUNE 2022

Outcome: Erased with Immediate Suspension

Robert Stephen WESTON, a dental nurse, National Diploma in Dental Nursing NEBDN 2016, was summoned to appear before the Professional Conduct Committee on 8 June 2022 for an inquiry into the following charge:

Charge (as amended and read on 8 June 2022 and as further amended on 10 June 2022)

“That, being a registered dental care professional:

Scale and polish

1. You carried out a scale and polish procedure on:
 - a. Witness 3 in or around 2019;
 - b. Witness 7 in or around November or December 2019; and/or
 - c. Person 1 in or around June 2019.

Teeth whitening

2. In relation to the whitening treatment carried out on Witness 7 in or around November or December 2019, you:
 - a. supervised Witness 8 taking impressions of Witness 7 for whitening trays without the prescription of a dentist;
 - b. submitted an order to the Laboratory for whitening trays in the name of a dentist who had not provided you with a prescription, on or around 18 December 2019;
 - c. fitted whitening trays in Witness 7's mouth;
 - d. provided Witness 7 with whitening gel;
 - e. provided Witness 7 with advice as to how to use the whitening trays and whitening gel;
 - f. failed to put any money for Witness 7's whitening procedure through the Company accounts; and/or
 - g. having received Witness 7's cash payment and/or bank transfer of £50 for her whitening procedure, you kept this payment for yourself.
3. In relation to whitening treatment carried out on one or more person(s) on dates between on or around 10 April 2019 and 14 January 2020 you:
 - a. took impressions for whitening trays without the prescription of a dentist;

- b. submitted orders to the Laboratory for whitening trays in the names of dentists who had not provided you with a prescription;
- c. fitted whitening trays for one or more persons;
- d. provided whitening gel to one or more persons; and/or
- e. failed to put any money for the whitening procedures undertaken through the Company accounts.

Impressions and retainers

- 4. You took impressions of Person 2's teeth without the prescription of a dentist on or around 30 August 2019.
- 5. You took impressions for orthodontic retainers for more than one patient without the prescription of a dentist between April 2019 and March 2020.
- 6. You fitted orthodontic retainers on Person 3 on or around 13 June 2019 and/or 11 July 2019.
- 7. You fitted orthodontic retainers on more than one patient between April 2019 and March 2020.

Topical anaesthetic

- 8. In or around February 2020, you provided Witness 7 with a topical anaesthetic without the prescription of a dentist.

Out of scope

- 9. You have worked outside your scope of practice in relation to allegations 1(a) to 1(c); 2(a) to 2(e); 3(a) to 3(d); 4; 5; 6; 7 and/or 8.

Statements to employer

- 10. In your meeting with Witness 10 and Witness 13 on 13 March 2020, you said words to the effect of:
 - a. that you provided teeth whitening to only Witness 7 and Person 4;
 - b. that you had not used Witness 14's laboratory docket; and/or
 - c. that you had not carried out a scale and polish on Witness 7.
- 11. In your email to Person 5 dated 13 April 2020, you said:
 - a. "I have made 6 sets of whitening trays for friends all of which I gained consent from the orthodontist who's [sic] lab sheet that was used";
 - b. that you were aware that Witness 7 had spoken with Witness 2 "a number of times regarding whitening"; and/or
 - c. "for the whitening trays I made I never charged I spoke to the orthodontist and asked her how much I should charged [sic] to which she replied "No no you have done enough for this is the least I can do" I offered on a number of occasions to pay for the trays each time I was told not to worry".

Statements to GDC

- 12. At the Interim Orders Committee hearing on 30 June 2020, you said:

- a. “when I used the word “fitting” there was no physical input from me in regards to that. I was not in the mouth for that ... I would hand the retainer to the patient ... and the patient themselves would fit the retainer”;
- b. that you “did gain consent” from an orthodontist for the whitening trays ordered using their laboratory dockets;
- c. that an orthodontist and Witness 7 “had had a conversation about the whitening” which you had “witnessed” with your “own eyes”;
- d. [withdrawn];
- e. that Witness 7 “took her [whitening] trays... not from [you]”.

Dishonesty

13. Your conduct in relation to Allegations 2 (b); 2 (f); 2 (g); 3 (b); 3 (e); 9; 10 (a) to 10 (c); 11 (a) to 11 (c); 12 (a) to 12 (c) and/or 12 (e) was:
- a. misleading;
 - b. lacking in integrity; and/or
 - c. dishonest.

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

As Mr Weston did not attend and was not represented at the hearing, the Chair made the following statement regarding proof of service and responded to an application to amend the charges on 8 June 2022.

“This is a hearing of the Professional Conduct Committee (PCC). Mr Weston is not present and is not represented in his absence. Ms Natalie Bird of Counsel, instructed by the GDC’s In-House Legal Presentation Service, appears for the GDC.

The hearing is being held remotely using Microsoft Teams in line with the GDC’s current practice.

Preliminary matters

SERVICE OF NOTICE OF HEARING

On behalf of the GDC Ms Bird submitted that service of notice of this hearing has been properly effected in accordance with Rules 13 and 65 of the General Dental Council (Fitness to Practise) Rules 2006 (‘the Rules’). On 6 May 2022 a notice of hearing was sent to the address that Mr Weston has registered with the GDC, setting out the date and time of this hearing, as well as its remote nature. The notice was sent using the Royal Mail’s Special Delivery postal service. The Royal Mail’s Track and Trace service records that the notice was delivered on the afternoon of 7 May 2022. A copy of the notice was also sent to Mr Weston’s known email address.

The Committee accepted the advice of the Legal Adviser. The Committee was satisfied that service had been properly effected in accordance with the Rules.

PROCEEDING IN THE ABSENCE OF THE REGISTRANT

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mr Weston in accordance with Rule 54 of the Rules. Ms Bird invited the Committee to proceed in Mr Weston's absence on the basis that all reasonable efforts have been made to inform him of this hearing and that he has voluntarily absented himself.

The Committee accepted the advice provided by the Legal Adviser. The Committee was mindful that its discretion to conduct a hearing in the absence of a registrant should be exercised with the utmost care and caution. After careful consideration the Committee determined that it was fair and appropriate to proceed with the hearing in the absence of Mr Weston. The Committee noted that in telephone conversations with the GDC on 18 May and 6 June 2022 Mr Weston stated that he would not be in attendance at the hearing. The Committee finds that Mr Weston is clearly aware of this hearing and has voluntarily and expressly absented himself. The Committee considered that there is nothing to suggest that an adjournment, which has not been sought, would secure Mr Weston's attendance at a future date. The Committee was also mindful of the public interest in the expeditious consideration of this case. The Committee therefore determined to proceed in the absence of Mr Weston.

APPLICATION TO AMEND THE CHARGE

Following the Committee's announcement of its decision to proceed in the absence of Mr Weston, Ms Bird applied to amend the charge by way of adding further heads of charge to those that Mr Weston faces. Ms Bird made the application pursuant to Rule 25 (2) of the Rules.

The Committee accepted the advice of the Legal Adviser.

The Committee noted that Mr Weston was informed of the GDC's intention to make this Rule 25 application by way of a letter dated 6 May 2022. The letter set out the reasons for the application and the details of the further allegations that the GDC seeks to add.

The Committee determined that it would be appropriate and in the interests of justice for the further heads of charge to be added to those that Mr Weston already faces. The Committee noted that, in relation to Rule 25 (2), the allegations have been referred to this Committee, the allegations have yet to be heard, and the new allegations are of a similar kind and/or are founded on the same facts as the existing allegations.

The Committee therefore accedes to the application and has determined to exercise its discretion to add to the charge pursuant to Rule 25. The schedule of charge was duly amended."

The Chair made the following statement on 10 June 2022 in response to further request to amend the charges.

"On 10 June 2022, during the course of the GDC's factual case, the Committee heard an application from Ms Bird to further amend the charge pursuant to Rule 18 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). Ms Bird applied to withdraw head of charge 12 (d) and to amend head of charge 13.

The Committee accepted the advice of the Legal Adviser. The Committee determined that the amendments could be made without injustice to Mr Weston, notwithstanding the late stage of the application. The Committee determined that it was fair in all the circumstances to accede to the application. The Committee noted that Mr Weston has been put on notice of the GDC's intention to amend head of charge 13 and that he has not responded. The Committee also considers the effect of the proposed amendments is not to add new allegations to those that Mr Weston already faces, and that the purpose is to more accurately reflect the GDC's case.

The Committee therefore decided to accede to the application. The schedule of charge was amended once more.”

The Chair announced the following determination on issue relating to heads of charge on 10, 11 and 12 – 14 June 2022.

“Before embarking upon its deliberations on the facts the Committee considered the advice of the Legal Adviser as to whether heads of charge 10 to 12 inclusive are unnecessary and/or oppressive and, if so, whether they should be deleted. The Legal Adviser cited the cases of *Misra v GMC [2003] UKPC 7* and *Sawati v GMC [2022] EWHC 283*. The Committee considered whether heads of charge 10 to 12 inclusive are unnecessary and/or oppressive, relating as they do to statements that Mr Weston is alleged to have made in connection with investigations undertaken by his employer and proceedings before the Interim Orders Committee (IOC). The GDC alleges that the matters that were dealt with by his employer and the IOC, namely acting outside of his scope of practice and financial irregularities, also amount to conduct that was dishonest. The Committee heard the submissions of Ms Bird on the point, and accepted the advice of the Legal Adviser. In determining this matter the Committee has borne in mind the need to balance the protection of the public with fairness to Mr Weston.

The Committee paid particular regard to factors that were considered to be relevant in the case of *Sawati*, namely whether the primary allegation involves dishonesty, whether the alleged dishonesty involves primary facts, and the nature and quality of the alleged dishonesty. The Committee finds that in this case there are primary allegations involving dishonesty. The alleged dishonesty at heads of charge 10 to 12 involve a mixture of ‘primary’ and ‘secondary’ facts as defined in the case of *Sawati*. The Committee has also had regard to the nature and quality of the alleged dishonesty. The Committee considers that, if the underlying facts at heads of charge 10 to 12 are found proved, the dishonesty that is alleged to flow from those facts is of a nature and quality that means that such an allegation of dishonesty falls to be considered, bearing in mind the Committee’s overarching objective to protect the public including by ensuring the honesty and integrity of registrants.

Therefore, after careful consideration, the Committee has determined that heads of charge at 10 to 12 inclusive are not unnecessary or oppressive in the particular circumstances of this case. The heads of charge at 10 to 12 therefore fall to be determined alongside the other heads of charge.

The Committee will now retire *in camera* to commence its factual deliberations.”

On 16 June 2022 the Chairman made the following statement regarding the finding of facts:

“This is a hearing of the Professional Conduct Committee (PCC). Mr Weston is not present and is not represented in his absence. Ms Natalie Bird of Counsel, instructed by the GDC’s In-House Legal Presentation Service, appears for the GDC.

The hearing is being held remotely using Microsoft Teams in line with the GDC’s current practice.

Preliminary matters

The Committee’s decisions on the preliminary matters in this case, namely service of the notice of hearing, proceeding in the absence of Mr Weston and amending the schedule of charge, are set out in separate determinations dated 8 and 10 June 2022.

Background to the case and summary of allegations

The allegations giving rise to this hearing relate to Mr Weston's conduct whilst working as a dental nurse and practice manager. A number of areas of concern have given rise to the heads of charge that Mr Weston faces. These may be summarised as follows.

SCALE AND POLISH

It is alleged that Mr Weston carried out a scale and polish procedure on three individuals, namely a student dental nurse at the practice at which Mr Weston worked, who is referred to for the purposes of these proceedings as Witness 3; a receptionist and a student dental nurse at that practice, who is referred to as Witness 7; and a third individual, who is referred to as Person 1.

TEETH WHITENING

A series of allegations have been raised against Mr Weston in respect of his provision of teeth whitening treatment to Witness 7 in or around November or December 2019. It is alleged that Mr Weston supervised another dental nurse at the practice, who is referred to as Witness 8, with the taking of impressions for Witness 7 for whitening trays in the absence of a prescription from a dentist. It is also alleged that on or around 18 December 2019 Mr Weston submitted a laboratory order for whitening trays in the name of a dentist who had not issued a prescription. It is further contended that Mr Weston fitted whitening trays in Witness 7's mouth, provided that same individual with whitening gel, and provided the individual with advice about how to use the whitening trays and whitening gel. The GDC also alleges that Mr Weston failed to put any money from the teeth whitening procedure through his employer's accounts, and kept the £50.00 that Witness 7 paid for the procedure.

It is also alleged that Mr Weston carried out teeth whitening treatment on a number of individuals in the approximate period of 10 April 2019 to 14 January 2020. It is alleged in that regard that Mr Weston took impressions for whitening trays without a dentist's prescription, that he submitted laboratory orders for whitening trays in the names of dentists who had not provided prescriptions, fitted whitening trays, provided whitening gel, and failed to put any monies received for these whitening procedures in his employer's accounts.

IMPRESSIONS AND RETAINERS

The GDC contends that on or around 30 August 2019 Mr Weston took impressions of Person 2's teeth without the prescription of a dentist. It is also alleged that between April 2019 and March 2020 Mr Weston took impressions for orthodontic retainers for multiple patients without a dentist's prescription.

Mr Weston also faces a head of charge that on or around 13 June 2019 and/or 11 July 2019 Mr Weston fitted orthodontic retainers to Person 3. It is also alleged that between April 2019 and March 2020 he fitted orthodontic retainers for multiple patients.

TOPICAL ANAESTHETIC

The GDC alleges that in or around February 2020 Mr Weston provided Witness 7 with a topical anaesthetic without the prescription of a dentist.

SCOPE OF PRACTICE

The GDC contends that, by reason of the allegations summarised above, Mr Weston worked outside of his scope of practice as a dental nurse.

STATEMENTS TO EMPLOYER

Mr Weston is alleged to have made a number of statements to his employer, and these alleged comments have given rise to specific heads of charge.

It is alleged that, at a meeting that Mr Weston had on 13 March 2020 with a HR Business Partner, who is referred to as Witness 10, and an orthodontic development manager who also worked for Mr Weston's employer, who is referred to as Witness 13, Mr Weston stated that he had provided teeth whitening treatment only to Witness 7 and Person 4, that he had not used the laboratory dockets of a dentist referred to as Witness 14, and had not carried out a scale and polish on Witness 7.

It is also alleged that in an email to Person 5, who is a HR adviser with Mr Weston's employer, Mr Weston made a number of false statements about his alleged teeth whitening practices.

STATEMENTS TO GDC

Mr Weston attended a hearing before the Interim Orders Committee (IOC) on 30 June 2020. It is alleged that at that hearing Mr Weston made a number of false statements about his alleged teeth whitening practices.

PROBITY

The GDC alleges that specific aspects of Mr Weston's alleged conduct were misleading, lacking in integrity and dishonest. These alleged aspects are, namely, acting outside of his scope of practice; submitting laboratory orders in the name of dentists who had not provided prescriptions; retaining Witness 7's payment for tooth whitening treatment; not putting patient payments for tooth whitening treatment through his employer's accounts; and statements made to his employer and the GDC.

Evidence

The Committee has been provided with documentary material in relation to the heads of charge that Mr Weston faces, including the witness statements and documentary exhibits of: a dental nurse at the practice at which Mr Weston worked, and who also received treatment from Mr Weston, who is referred to for the purposes of these proceedings as Witness 3; a receptionist and a student dental nurse at that practice, and who also received treatment from Mr Weston, who is referred to as Witness 7; a dental nurse at the practice, who is referred to as Witness 8; the mother of a patient who received orthodontic treatment, who is referred to as Witness 5 and whose daughter is referred to as Person 2; dentists and orthodontists at the practice, who are referred to as Witness 14, Witness 1, Witness 9, Witness 15, Witness 2 and Witness 11; a HR Business Partner at Mr Weston's employer which owned the practice, who is referred to as Witness 10; an orthodontic development manager at Mr Weston's employer, who is referred to as Witness 13; a patient liaison manager with Mr Weston's employer, who is referred to as Witness 6; the director of a dental laboratory which did business with Mr Weston's practice, who is referred to as Witness 12; and a paralegal with knowledge of the GDC's investigation, who is referred to as Witness 16. The Committee has also been provided with the report and documentary exhibits of the GDC's expert witness, namely Mr Nikolai Stankiewicz.

The Committee heard oral evidence from Witness 14, Witness 11, Witness 2; and from the GDC's expert witness, namely Mr Stankiewicz.

Committee's findings of fact

The Committee has taken into account all the evidence presented to it. It has considered the submissions made by Ms Bird on behalf of the GDC.

The Committee has accepted the advice of the Legal Adviser. The Committee is mindful that the burden of proof lies with the GDC, and has considered the heads of charge against the civil standard of proof, that is to say, the balance of probabilities. The Committee has considered each head of charge separately, although some of its findings will be announced together.

As set out in its determination of 14 June 2022, before embarking upon its consideration of the facts the Committee determined that heads of charge at 10 to 12 inclusive are not unnecessary or oppressive in the particular circumstances of this case, and fall to be determined alongside the other heads of charge.

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

	<u>Scale and polish</u>
1.	<i>You carried out a scale and polish procedure on:</i>
1. (a)	<i>Witness 3 in or around 2019;</i> Proved
	The Committee finds the facts alleged at head of charge 1 (a) proved. The Committee has had regard to the documentary evidence presented to it, more particularly the witness statement of Witness 3. In his witness statement Witness 3 states that Mr Weston performed a scale and polish on him in 2019. The Committee accepts this unchallenged evidence as credible, and accordingly it finds the facts alleged at head of charge 1 (a) proved.
1. (b)	<i>Witness 7 in or around November or December 2019; and/or</i> Proved
	The Committee finds the facts alleged at head of charge 1 (b) proved. The Committee has had regard to the witness statements of Witness 7 and Witness 3. Witness 3 stated that he saw Mr Weston performing a scale and polish on Witness 7. Witness 7 herself stated in her witness statement that Mr Weston performed a scale and polish on her in November or December 2019. The Committee has also had regard to the witness statement of Witness 14 who stated that she confronted Mr Weston and he admitted to having performed a scale and polish on Witness 7. The Committee accepts the unchallenged evidence presented to it as credible, and accordingly it finds the facts alleged at head of charge 1 (b) proved.
1. (c)	<i>Person 1 in or around June 2019.</i> Proved
	The Committee finds the facts alleged at head of charge 1 (c) proved. The Committee has had regard to the witness statements of Witness 3, in which he stated that he saw Mr Weston perform a scale and polish procedure on Person 1 in or around June 2019. The Committee again accepts this unchallenged evidence as credible, and accordingly it finds the facts alleged at head of charge 1 (c) proved.

	<u>Teeth whitening</u>
2.	<i>In relation to the whitening treatment carried out on Witness 7 in or around November or December 2019, you:</i>
2. (a)	<p><i>supervised Witness 8 taking impressions of Witness 7 for whitening trays without the prescription of a dentist;</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 2 (a) proved.</p> <p>The Committee notes that in her witness statement Witness 7 stated that Witness 8 took her impressions in the presence of Mr Weston, and that Witness 8 later brought those same impressions to Witness 14. In her formal interview with her employer on 4 May 2020 Witness 8 stated that she took the impressions of Witness 7 in the presence of Mr Weston. In his email to Person 5 Mr Weston stated that Witness 8 had taken the impressions in question, although he does not state that he was present.</p> <p>In relation to the absence of a prescription, Witness 2's evidence is that she gave permission to Mr Weston to use her laboratory slip for a bleaching tray for Witness 7. The Committee accepts the expert evidence of Mr Stankiewicz that this does not amount to a prescription for Witness 8 to take impressions for whitening trays. The Committee has also had regard to the witness evidence of other dentists at the practice, namely Witness 14 and Witness 9. Mr Stankiewicz was critical in his oral and written evidence of Mr Weston, in that Mr Weston appears to have delegated the taking of impressions to Witness 8 when she was not trained or indemnified to carry out such treatment.</p> <p>In light of this evidence the Committee finds the facts alleged at head of charge 2 (a) proved.</p>
2. (b)	<p><i>submitted an order to the Laboratory for whitening trays in the name of a dentist who had not provided you with a prescription, on or around 18 December 2019;</i></p> <p>Not proved</p>
	<p>The Committee finds the facts alleged at head of charge 2 (b) not proved. The Committee has had regard to the expert report of Mr Stankiewicz that the laboratory invoice for Witness 7 records that the name of Witness 9, rather than the name of Witness 2. The Committee noted from Mr Stankiewicz's report that Mr Stankiewicz stated that this may be an error on the part of the laboratory, or that the entry was made by the practice.</p> <p>The Committee considers that the GDC has not demonstrated to the standard required that Mr Weston submitted the order to the laboratory. The Committee therefore finds the facts alleged at head of charge 2 (b) not proved.</p>
2. (c)	<p><i>fitted whitening trays in Witness 7's mouth;</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 2 (c) proved.</p> <p>The Committee notes that Witness 7's evidence in her interview with her employer</p>

	on 4 May 2020 is that Mr Weston fitted whitening trays in her mouth. The Committee finds that this unchallenged evidence is credible, and accordingly the Committee finds the facts alleged at head of charge 2 (c) proved.
2. (d)	<i>provided Witness 7 with whitening gel;</i> Proved
	The Committee finds the facts alleged at head of charge 2 (d) proved. The Committee notes that Witness 7's evidence, both in her witness statement and in her interview with her employer on 4 May 2020, is that Mr Weston provided her with whitening gel. Mr Weston's account as set out in his interview with Witness 10 and Witness 13 on 13 March 2020 is not clear, but appears to imply that he did provide whitening gel to Witness 7 at her request, and that the cost was £100.00. The Committee accepts the evidence of Witness 7 as being credible and reliable on this point, and accordingly the Committee finds the facts alleged at head of charge 2 (d) proved.
2. (e)	<i>provided Witness 7 with advice as to how to use the whitening trays and whitening gel;</i> Proved
	The Committee finds the facts alleged at head of charge 2 (e) proved. The Committee notes that in her witness statement Witness 7 stated that Mr Weston provided her with advice about how to use the whitening trays and whitening gel. The Committee accepts the evidence of Witness 7 as being credible and reliable on this point, and accordingly the Committee finds the facts alleged at head of charge 2 (e) proved.
2. (f)	<i>failed to put any money for Witness 7's whitening procedure through the Company accounts; and/or</i> Proved
	The Committee finds the facts alleged at head of charge 2 (f) proved. Mr Weston's account as set out in his email of 13 April 2020 to Person 5 is that a payment in the amount of £100.00 was made by Witness 7, which he considered was still sitting in an envelope on the practice manager's desk, marked with the initials of Witness 7. Witness 7's evidence is that she gave Mr Weston the sum of £80.00 for the whitening treatment a few weeks after Christmas 2019. Witness 3 also states that he saw Witness 7 give money to Mr Weston. In his interview with Witness 10 and Witness 13 on 13 March 2020 Mr Weston stated that Witness 7 paid £100.00 in cash to him for the whitening treatment. Witness 13 stated that the money had not been processed, and Mr Weston stated that he had forgotten to put the money through the company accounts. The Committee considers that the evidence presented to it demonstrates that Mr Weston failed to put any money for the procedure through the company's accounts, and it therefore finds the facts alleged at head of charge 2 (f) proved.
2. (g)	<i>having received Witness 7's cash payment and/or bank transfer of £50 for her whitening procedure, you kept this payment for yourself.</i> Proved

	<p>The Committee finds the facts alleged at head of charge 2 (g) proved. The Committee notes that Witness 7's evidence is that, a few weeks after she had paid Mr Weston monies as referred to at head of charge 2 (f) above, she paid a further £50.00 to Mr Weston at his request, and that she did so by means of direct bank transfer to Mr Weston's personal bank account. Mr Weston does not appear to have provided an account of this alleged further payment. The Committee accepts Witness 7's unchallenged evidence as credible, and it is satisfied that the sum in question was paid. The Committee also had sight of a screenshot of a bank transaction confirming that this sum was paid by her.</p> <p>Although there is no compelling evidence that the sum in question was retained by Mr Weston, the Committee infers from the unusual method of payment, namely the payment being sent to his personal bank account, that the money was intended for his own purposes and was more likely than not to have been retained by him. The Committee therefore finds the facts alleged at head of charge 2 (g) proved.</p>
3.	<i>In relation to whitening treatment carried out on one or more person(s) on dates between on or around 10 April 2019 and 14 January 2020 you:</i>
3. (a)	<p><i>took impressions for whitening trays without the prescription of a dentist;</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 3 (a) proved.</p> <p>The Committee has had regard to the evidence presented to it. The only dentist witness who has given evidence of giving a prescription for tooth whitening during at least the relevant period is Witness 2. Witness 2 is the only dentist at the practice who gave permission for Mr Weston to take impressions. Witness 2 only did so in the case of Witness 7 on one occasion, although as found above Mr Weston supervised the taking of those impressions only. The other dentists at the practice, in particular Witness 1, Witness 15, Witness 11 and Witness 14, each state that they have never prescribed teeth whitening at the practice.</p> <p>The Committee notes from his interview with Witness 10 and Witness 13 on 13 March 2020 that Mr Weston stated that he provided teeth whitening trays for six individuals. The Committee has had sight of six invoices which bear the names of Mr Weston and three individuals. These were submitted in the name of Witness 2. In his email to Person 5 dated 13 April 2020 Mr Weston stated that he made six sets of whitening trays for friends with consent from Witness 2. Witness 3's evidence is that he had been informed that two practice receptionists, namely Person 1 and another individual believed to be Person 4, had had impressions taken of them by Mr Weston.</p> <p>Therefore, the Committee finds the facts alleged at head of charge 3 (a) proved.</p>
3. (b)	<p><i>submitted orders to the Laboratory for whitening trays in the names of dentists who had not provided you with a prescription;</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 3 (b) proved.</p> <p>The Committee has been provided with evidence in the form of laboratory invoices</p>

	<p>for tooth whitening trays. As set out at head of charge 3 (a), the Committee notes from his interview with Witness 10 and Witness 13 on 13 March 2020 that Mr Weston stated that he provided teeth whitening trays for six individuals. The Committee has had sight of six invoices which bear the names of Mr Weston and three individuals. These were submitted in the name of Witness 2. In his email to Person 5 dated 13 April 2020 Mr Weston stated that he made six sets of whitening trays for friends with consent from Witness 2.</p> <p>The Committee finds that Mr Weston submitted the above teeth whitening orders, and also infers from the evidence that he submitted further such others. In his witness statement Witness 3 stated that he found a record of around 15 individuals for whom Mr Weston had ordered teeth whitening trays. The Committee has seen from the invoices presented to it that the names of Witness 1 and Witness 9 were used, and their respective evidence is that they did not submit those prescriptions. Furthermore, the Committee also notes the evidence that invoices gave the name of Witness 14, but Witness 14's evidence was that no dentists at the practice were performing teeth whitening. Therefore, Witness 14 would not have been providing such treatment. The Committee is therefore content to infer from the evidence that Mr Weston submitted orders for teeth whitening trays in the absence of a prescription for more than six individuals.</p> <p>Accordingly, the Committee finds the facts alleged at head of charge 3 (b) proved.</p>
3. (c)	<p><i>fitted whitening trays for one or more persons;</i></p> <p>Not proved</p>
	<p>The Committee finds the facts alleged at head of charge 3 (c) not proved. As set out at heads of charge 3 (a) and 3 (b) above, the Committee has found that Mr Weston was responsible for the taking of impressions and submitting of orders for teeth whitening trays. However, the Committee is not satisfied that the GDC has demonstrated that Mr Weston fitted teeth whitening trays to individuals other than Witness 7, which is the subject of its finding at head of charge 2 (c) above. Accordingly, the Committee finds the facts alleged at head of charge 3 (c) not proved.</p>
3. (d)	<p><i>provided whitening gel to one or more persons; and/or</i></p> <p>Not proved</p>
	<p>The Committee finds the facts alleged at head of charge 3 (d) not proved. As set out at heads of charge 3 (a) and 3 (b) above, the Committee has found that Mr Weston was responsible for the taking of impressions and submitting of orders for teeth whitening trays. However, the Committee is not satisfied that the GDC has demonstrated that Mr Weston provided teeth whitening gel to individuals other than Witness 7, which is the subject of its finding at head of charge 2 (d) above. Accordingly, the Committee finds the facts alleged at head of charge 3 (d) not proved.</p>
3. (e)	<p><i>failed to put any money for the whitening procedures undertaken through the Company accounts.</i></p> <p>Proved</p>

	<p>The Committee finds the facts alleged at head of charge 3 (e) proved. The Committee has had regard to the evidence of Witness 6 that the company suffered a financial loss as 'six appliances were made and no money taken to cover the cost of materials or lab bills'. Witness 6 also states that it is 'more likely than not that no money was received by the business in relation to the bleaching trays ordered [...] in the names of 12 individuals, including Mr Weston using his own name.</p> <p>In view of this evidence, the Committee finds the facts alleged at head of charge 3 (e) proved.</p>
	<p><u>Impressions and retainers</u></p>
4.	<p><i>You took impressions of Person 2's teeth without the prescription of a dentist on or around 30 August 2019.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 4 proved.</p> <p>The Committee notes the witness statement of Witness 5, who is the mother of Person 2. In her witness statement Witness 5 stated that a person whom she did not know, but whom she subsequently identified as Mr Weston, took impressions of Person 2's teeth. Mr Weston telephoned her after the appointment to apologise for what had happened in response to her complaint to Witness 8. In her witness statement Witness 14, who was the patient's routine orthodontist, stated that she did not give permission for Mr Weston to take impressions of Person 2's teeth. The Committee notes from the patient's records that there is no written prescription for impressions.</p> <p>The only dentists at the practice who gave Mr Weston permission to take impressions were Witness 2 and Witness 15, who stated that such permission was granted for Mr Weston to take impressions under their supervision. The other dentists at the practice, for instance Witness 9 and Witness 11, state that they did not provide Mr Weston with permission to take impressions. The Committee draws on the evidence of Witness 14 as well as making an inference from the evidence of other dentists at the practice in determining that the impressions that Mr Weston took of Person 2's teeth on the date in question were taken in the absence of a prescription of a dentist.</p> <p>Accordingly, the Committee finds the facts alleged at head of charge 4 proved.</p>
5.	<p><i>You took impressions for orthodontic retainers for more than one patient without the prescription of a dentist between April 2019 and March 2020.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 5 proved.</p> <p>In his interview with Witness 10 and Witness 13 on 13 March 2020 Mr Weston stated that he took impressions for broken orthodontic retainers with the knowledge and permission of dentists at the practice, with the exception of Witness 14. Mr Weston's evidence, then is that his taking of impressions was done with the prescription of a dentist.</p> <p>As set out at head of charge 4 above, the Committee has found that the only</p>

	<p>dentists at the practice who gave Mr Weston permission to take impressions were Witness 2 and Witness 15, who stated that such permission was granted for Mr Weston to take impressions under their supervision. The other dentists at the practice, for instance Witness 9 and Witness 11, state that they did not provide Mr Weston with permission to take impressions.</p> <p>The Committee therefore finds the facts alleged at head of charge 5 proved.</p>
6.	<p><i>You fitted orthodontic retainers on Person 3 on or around 13 June 2019 and/or 11 July 2019.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 6 proved.</p> <p>The Committee has had regard to the clinical records for Person 3 which record that fitting appointments were due to take place on both 20 June 2019 and 11 July 2019 with Mr Weston. The clinical records show that the patient attended the appointment on 20 June 2019 and 11 July 2019. The Committee infers from this evidence that Mr Weston did indeed fit the orthodontic retainers at the two appointments, more particularly the lower retainers being fitted on 20 June 2019 and the upper retainers being fitted on 11 July 2019.</p> <p>The Committee considers that the specific nature of these two appointments are more likely than not to have amounted to Mr Weston fitting retainers. The Committee has had regard to the expert evidence of Mr Stankiewicz as to what fitting retainers involves, namely looking inside the mouth with or without a mouth mirror, touching the retainer when inside the mouth or touching teeth. The Committee has in relation to this matter had regard to the evidence of Witness 8, who states that she was aware of Mr Weston fitting retainers when Mr Weston asked her to nurse for him. Witness 8 provided a detailed description of the method that Mr Weston used to fit the retainers. Witness 3 stated that he witnessed Mr Weston doing so on around 100 occasions. Witness 3 also gives evidence as to Mr Weston's method of fitting retainers, and of how he witnessed Mr Weston doing so on multiple occasions. The witnesses' descriptions of the method that Mr Weston used conforms with Mr Stankiewicz's evidence of what fitting means.</p> <p>Accordingly, the Committee finds the facts alleged at head of charge 6 proved.</p>
7.	<p><i>You fitted orthodontic retainers on more than one patient between April 2019 and March 2020.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 7 proved.</p> <p>As set out at head of charge 6 above, the Committee has had regard to the evidence of Witness 8, who states that she was aware of Mr Weston fitting retainers when Mr Weston asked her to nurse for him. Witness 8 provided a detailed description of the method that Mr Weston used to fit the retainers. Witness 3 stated that he witnessed Mr Weston doing so on around 100 occasions. Witness 3 also gives evidence as to Mr Weston's method of fitting retainers, and of how he witnessed Mr Weston doing so on multiple occasions. The Committee has found that the witness' descriptions of the method that Mr Weston used</p>

	<p>conforms with Mr Stankiewicz's evidence of what fitting means.</p> <p>The Committee has also had regard to the evidence of Witness 7, who states that Mr Weston informed her and others that patients who needed retainers fitted, or who had broken their retainers and needed impressions should be booked in with him. Witness 14's evidence is that although she did not see Mr Weston fitting retainers, she saw Mr Weston's day lists on the computer for his retainer fitting clinics.</p> <p>The Committee has also had regard to Mr Weston's statement in interview with Witness 10 and Witness 13 on 13 March 2020 in which he stated that he fitted retainers, which on occasion involved the use of a mirror.</p> <p>In light of this evidence the Committee finds that Mr Weston fitted orthodontic retainers to more than one patient between April 2019 and March 2020. Accordingly, the Committee finds the facts alleged at head of charge 7 proved.</p>
	<u>Topical anaesthetic</u>
8.	<p><i>In or around February 2020, you provided Witness 7 with a topical anaesthetic without the prescription of a dentist.</i></p> <p>Not proved</p>
	<p>The Committee finds the facts alleged at head of charge 8 not proved.</p> <p>The Committee has had regard to the evidence of Witness 7. In her witness statement Witness 7 states that in February 2020 Mr Weston gave her anaesthetic to help with the pain of her lip fillers in the form of an anaesthetic spray to numb the pain.</p> <p>The Committee accepts the expert evidence of Mr Stankiewicz that the topical spray that Mr Weston is alleged to have used would amount to a topical anaesthetic.</p> <p>The Committee has also had regard to Mr Weston's statement in interview with Witness 10 and Witness 13 on 13 March 2020 in which he stated that he provided a topical spray to Witness 7 in relation to sore lips resulting from a procedure on her lips.</p> <p>However, the Committee has not been provided with evidence from the dentists at the practice as to whether they gave permission for Mr Weston to provide topical anaesthetic in this or in any other instance. The Committee therefore considers that the GDC has not adduced sufficient evidence to demonstrate that the topical anaesthetic was provided in the absence of a prescription of a dentist.</p> <p>Accordingly, the Committee finds the facts alleged at head of charge 8 not proved.</p>
	<u>Out of scope</u>
9.	<p><i>You have worked outside your scope of practice in relation to allegations 1(a) to 1(c); 2(a) to 2(e); 3(a) to 3(d); 4; 5; 6; 7 and/or 8.</i></p> <p>Proved in respect of heads of charge 1 (a), 1 (b), 1 (c), 2 (a), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 4, 5, 6 and 7</p>

	<p>The Committee finds the facts alleged at head of charge 9 proved in respect of its proven findings at heads of charge 1 (a), 1 (b), 1 (c), 2 (a), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 4, 5, 6 and 7.</p> <p>In respect of its findings at heads of charge 1 (a), 1 (b) and 1 (c) relating to scaling and polishing, the Committee accepts the expert evidence of Mr Stankiewicz that providing a scale and polish was outside of Mr Weston's scope of practice as a dental nurse, and that there are no circumstances under which it would be permissible, for instance by means of a prescription.</p> <p>In relation to its findings at heads of charge 2 (a), 2 (c), 2 (d) and 2 (e), the Committee again accepts the expert evidence of Mr Stankiewicz that Mr Weston's conduct in the proven regards, namely supervising another dental care professional (DCP) in the taking of impressions, the fitting of whitening trays in a patient's mouth, the provision of teeth whitening gel to a patient and the provision of advice as to how to use that gel and the whitening trays, represents conduct that was outside of his scope of practice.</p> <p>In respect of its findings at heads of charge 3 (a) and 3 (b) which concern the taking of impressions for teeth whitening trays without the prescription of a dentist, and the ordering of such trays, the Committee once more accepts the expert evidence of Mr Stankiewicz that Mr Weston acted outside of his scope of practice.</p> <p>The remaining facts that fall to be considered at head of charge 9, namely those found proved at heads of charge 4, 5, 6 and 7, relate to the taking of impressions without prescription for, and fitting of, retainers. The Committee again accepts the expert evidence of Mr Stankiewicz that Mr Weston acted outside of his scope of practice in these respects.</p> <p>For these reasons, the Committee finds the facts alleged at head of charge 9 proved in respect of heads of charge 1 (a), 1 (b), 1 (c), 2 (a), 2 (c), 2 (d), 2 (e), 3 (a), 3 (b), 4, 5, 6 and 7.</p>
	<u>Statements to employer</u>
10.	<i>In your meeting with Witness 10 and Witness 13 on 13 March 2020, you said words to the effect of:</i>
10. (a)	<p><i>that you provided teeth whitening to only Witness 7 and Person 4;</i></p> <p>Proved in respect of Witness 7 only</p>
	<p>The Committee finds the facts alleged at head of charge 10 (a) proved in respect of Witness 7 only. The Committee notes that in interview with Witness 10 and Witness 13 on 13 March 2020 Mr Weston stated that he had given teeth whitening gel to Witness 7, but not to Person 4. The Committee has taken the phrase 'teeth whitening' as set out at the head of charge to include the provision of teeth whitening trays and teeth whitening gel. The Committee considers that the notes from the interview demonstrate that Mr Weston stated that he gave teeth whitening trays and teeth whitening gel to Witness 7. The Committee is however not satisfied that the notes of the interview demonstrate that Mr Weston also said that he provided teeth whitening to Person 4, as it appears that Mr Weston stated that he did not supply teeth whitening gel to Person 4.</p> <p>Accordingly, the Committee finds the facts alleged at this head of charge proved in</p>

	respect of Witness 7.
10. (b)	<i>that you had not used Witness 14's laboratory dockets; and/or</i> Proved
	The Committee finds the facts alleged at head of charge of charge 10 (b) proved. The Committee notes that in interview with Witness 10 and Witness 13 on 13 March 2020 Mr Weston stated that he had not used Witness 14's laboratory dockets. Accordingly, the Committee finds the facts alleged at this head of charge proved.
10. (c)	<i>that you had not carried out a scale and polish on Witness 7.</i> Proved
	The Committee finds the facts alleged at heads of charge 10 (c) proved. The Committee has again had regard to the notes of interview between Mr Weston and Witness 10 and Witness 13 on 13 March 2020. In that interview Mr Weston stated that he did not believe that he carried out a scale and polish on Witness 7. Accordingly, the Committee finds the facts alleged at this head of charge proved.
11.	<i>In your email to Person 5 dated 13 April 2020, you said:</i>
11. (a)	<i>"I have made 6 sets of whitening trays for friends all of which I gained consent from the orthodontist who's [sic] lab sheet that was used";</i> Proved
11. (b)	<i>that you were aware that Witness 7 had spoken with Witness 2 "a number of times regarding whitening"; and/or</i> Proved
11. (c)	<i>"for the whitening trays I made I never charged I spoke to the orthodontist and asked her how much I should charged [sic] to which she replied "No no you have done enough for this is the least I can do" I offered on a number of occasions to pay for the trays each time I was told not to worry".</i> Proved
	The Committee finds the facts alleged at heads of charge 11 (a), 11 (b) and 11 (c) proved. The Committee has had regard to the copy of the email in question that was presented to it in evidence and notes that each of the alleged statements were indeed made by Mr Weston in his email. Accordingly the Committee finds the facts alleged at each of these heads of charge proved.
	<u>Statements to GDC</u>
12.	<i>At the Interim Orders Committee hearing on 30 June 2020, you said:</i>
12. (a)	<i>"when I used the word "fitting" there was no physical input from me in regards to that. I was not in the mouth for that ... I would hand the retainer to the patient ... and the patient themselves would fit the retainer";</i> Proved
12. (b)	<i>that you "did gain consent" from an orthodontist for the whitening trays ordered</i>

	<i>using their laboratory dockets;</i> Proved
12. (c)	<i>that an orthodontist and Witness 7 “had had a conversation about the whitening” which you had “witnessed” with your “own eyes”;</i> Proved
12. (d)	<i>[withdrawn]</i>
12. (e)	<i>that Witness 7 “took her [whitening] trays... not from [you]”.</i> Proved
	The Committee finds the facts alleged at heads of charge 12 (a), 12 (b), 12 (c) and 12 (e) proved. The Committee has been provided with a transcript of the proceedings at a hearing before the Interim Orders Committee on 30 June 2020 at which Mr Weston was in attendance. The Committee is satisfied from reference to that transcript that Mr Weston made the statements attributed to him at the heads of charge in question. Accordingly the Committee finds the facts alleged at these four heads of charge proved.
	<u>Dishonesty</u>
13.	Your conduct in relation to Allegations 2 (b); 2 (f); 2 (g); 3 (b); 3 (e); 9; 10 (a) to 10 (c); 11 (a) to 11 (c); 12 (a) to 12 (c) and/or 12 (e) was:
13. (a)	<i>misleading;</i> Proved in respect of heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e)
	<p>The Committee first of all reminded itself that its findings at proven heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (a) in respect of Witness 7, 10 (b), 10 (c), 11 (a), 11 (b), 11 (c), 12 (a), 12 (b) 12 (c) and 12 (e) fall to be considered at heads of charge 13 (a), 13 (b) and 13 (c). These findings are, in summary, that Mr Weston failed to put monies relating to the whitening procedures for Witness 7 and others through the company's accounts; that he kept an amount of £50.00 paid by Witness 7 in connection with her procedure; that he submitted laboratory orders for whitening trays in the names of dentists who had not provided him with prescriptions; that he acted outside of his scope of practice by providing scaling and polishing, supervising another DCP in the taking of impressions for teeth whitening, taking impressions without a prescription for, and then ordering and fitting, whitening trays, providing teeth whitening gel and information about the use of the gel and trays, and taking impressions without prescription for, and then fitting, retainers; and that he made statements to his employers and the IOC about his practices.</p> <p>These factual findings may be separated into the following categories.</p> <p><u>Financial conduct (2 (f), 2 (g) and 3 (e))</u></p> <p>The Committee has found that Mr Weston failed to put monies relating to the whitening procedures for Witness 7 and others through the company's accounts, and that he kept an amount of £50.00 paid by Witness 7 in connection with her</p>

	<p>procedure.</p> <p>The Committee finds that Mr Weston's conduct in these respects was misleading. The Committee considers that Mr Weston misled Witness 7 into believing that he was entitled to receive the money that she paid. The Committee also finds that Mr Weston's employers were misled, as they were entitled to believe that all payments would be properly put through their accounts when that was not in fact the case in these instances. Indeed, the evidence presented to the Committee is that Mr Weston's employers lost money as a result of Mr Weston's conduct.</p> <p><u>Laboratory orders (3 (b))</u></p> <p>The Committee has found that Mr Weston submitted laboratory orders for whitening trays in the names of dentists who had not provided him with prescriptions.</p> <p>The Committee considers that this conduct was misleading. By using the names of his fellow dental colleagues for the purposes of ordering whitening trays, Mr Weston misled his colleagues and his employers into believing that he was following the proper procedures for the ordering of whitening trays when that was not in fact the case. This misleading conduct resulted in dentists and Mr Weston's employers being charged for teeth whitening trays which had been ordered according to prescriptions that they had not in fact made, resulting in at least one such dentist, namely Witness 14, subsequently seeking a refund. Mr Weston's actions in this regard also misled fellow dental professionals at the dental laboratory into reasonably believing that the orders that he sent to them were <i>bona fide</i> when that was not in fact the case.</p> <p><u>Scope of practice (9)</u></p> <p>The Committee has found that Mr Weston acted outside of his scope of practice by providing scaling and polishing; supervising another DCP in the taking of impressions for teeth whitening; taking impressions without a prescription for, and then ordering and fitting, whitening trays; providing teeth whitening gel and information about the use of the gel and trays; and taking impressions without prescription for, and then fitting, retainers.</p> <p>The Committee finds that this conduct was misleading. The Committee considers that patients and colleagues were misled into believing that Mr Weston was entitled to perform these procedures when that was not in fact the case. The Committee also considers that Mr Weston's employer was misled into believing that Mr Weston stayed within the scope of his practice. The fact that investigation and disciplinary proceedings were brought by his employer itself demonstrates that his employer was surprised and concerned by Mr Weston's behaviour.</p> <p><u>Statements to employers and IOC (10, 11 and 12)</u></p> <p>The Committee has found that Mr Weston made statements to his employers and the IOC about his practices.</p> <p>The Committee finds that heads of charge 10 (a), 11 (b) and 12 (c) were not misleading, as the GDC has not demonstrated to the standard required that these statements were false. In respect of head of charge 10 (a), the Committee has reminded itself that it found heads of charge 3 (c) and 3 (d) not proved, that is to</p>
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	<p>say that Mr Weston did not fit whitening trays or provide whitening gels to persons other than Witness 7. It follows that his statement to the effect that his teeth whitening practices did not extend beyond Witness 7 and Person 4 was not misleading. In respect of head of charge 11 (b), the Committee considers that, although Mr Weston did indeed state in interview with his employer that he was aware that Witness 7 had spoken with Witness 2 on a number of occasions about teeth whitening, the GDC has not adduced sufficient evidence to demonstrate that such a conversation did not take place. In respect of head of charge 12 (c) the Committee again finds that, whilst Mr Weston did indeed make the statement attributed to him at the IOC hearing, the GDC has not demonstrated to the standard required that his comments were false, as it may have been that such a conversation did take place.</p> <p>As the facts alleged at heads of charge 10 (a), 11 (b) and 12 (c) have not been found to be misleading, it follows that they do not amount to conduct that was lacking in integrity. The Committee specifically considers that the statements have not been demonstrated to be, for instance, false, and the statements at these three heads of charge have not been shown to be a departure from professional standards. It also follows that, as these statements were not misleading, they could not amount to dishonest conduct.</p> <p>The Committee finds that the remaining heads of charge which fall to be considered at head of charge 13 (a), namely heads of charge 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e), amount to conduct that was misleading. The Committee finds that Mr Weston's employers were misled as alleged at head of charge 10 (b) by reason of its factual finding at head of charge 3 (b), at head of charge 10 (c) by reason of its finding at head of charge 1 (b), at head of charge 11 (a) by reason of its finding at head of charge 3 (b), and at head of charge 11 (c) by reason of Witness 2's evidence that she only subsequently became aware of Mr Weston's use of her name for the purposes of submitting laboratory orders. The Committee finds that the IOC was misled as alleged at head of charge 12 (a) by reason of its factual findings at heads of charge 6 and 7, at head of charge 12 (b) by reason of its findings at head of charge 3 (b) as well as by reason of Witness 2's evidence that she only subsequently became aware of Mr Weston's use of her name for the purposes of submitting laboratory orders, and at head of charge 12 (e) by reason of its findings at head of charge 2 (c).</p> <p>Therefore, the Committee finds the facts alleged at head of charge 13 (a) proved in respect of heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e).</p>
13. (b)	<p><i>lacking in integrity; and/or</i></p> <p>Proved in respect of heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e)</p>
	<p>The Committee finds the facts alleged at head of charge 13 (b) proved in respect of heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e).</p> <p><u>Financial conduct (2 (f), 2 (g) and 3 (e))</u></p> <p>As set out above the Committee has found that Mr Weston failed to put monies</p>

relating to the whitening procedures for Witness 7 and others through the company's accounts, and that he kept an amount of £50.00 paid by Witness 7 in connection with her procedure. The Committee has found that such conduct was misleading.

The Committee finds that Mr Weston's conduct was lacking in integrity. The Committee considers that Mr Weston's retention of patient monies and his failure to put monies through his employer's accounts amounts to conduct that fell below the standards reasonably to be expected of a registered dental professional, and particularly those concerning the need to ensure that one's personal behaviour maintains patients' confidence in practitioners. The Committee again notes that Mr Weston's employers were disadvantaged financially as a result of Mr Weston's actions.

Laboratory orders (3 (b))

As set out above the Committee has found that Mr Weston submitted laboratory orders for whitening trays in the names of dentists who had not provided him with prescriptions. The Committee has found above that this conduct was misleading.

The Committee also considers that this misleading conduct was lacking in integrity. Mr Weston used the names of his fellow dental colleagues for the purposes of ordering whitening trays. The Committee considers that such behaviour is likely to have seriously undermined the trust that his colleagues were entitled to have in him. As set out above Mr Weston's actions in this regard also misled fellow dental professionals at the dental laboratory into reasonably believing that the orders that he sent to them were *bona fide* when that was not in fact the case. The Committee considers that this was a departure from the standards reasonably to be expected of a dental professional.

Scope of practice (9)

As set out above the Committee has found that Mr Weston acted outside of his scope of practice by providing scaling and polishing; supervising another DCP in the taking of impressions for teeth whitening; taking impressions without a prescription for, and then ordering and fitting, whitening trays; providing teeth whitening gel and information about the use of the gel and trays; and taking impressions without prescription for, and then fitting, retainers. The Committee has found above that this conduct was misleading.

The Committee also finds that Mr Weston's conduct was lacking in integrity. It finds that his working beyond the scope of practice was a departure from the standards reasonably to be expected of a registered dental professional, and particularly those concerning the requirement to ensure that registrants work within their knowledge, skills, professional competence and abilities.

Statements to employers and IOC (10, 11 and 12)

As set out above the Committee has found that Mr Weston made statements to his employers and the IOC about his practices. The Committee has found that his statements at heads of charge 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e) were misleading. The Committee also considers that these statements were lacking in integrity, and that by not providing a truthful account of his conduct to his employers and the IOC Mr Weston departed from the standards to which Mr

	<p>Weston's registration is subject, with particular regard to the need to act with honesty, candour and integrity.</p> <p>Accordingly, the Committee finds the facts alleged at head of charge 13 (b) proved in respect of heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e).</p>
13. (c)	<p><i>dishonest.</i></p> <p>Proved in respect of heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e)</p>
	<p>The Committee finds the facts alleged at head of charge 13 (c) proved in respect of heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e).</p> <p>In approaching this head of charge, the Committee applied the test set out in <i>Ivey v Genting Casinos (UK) Ltd. t/a Crockfords</i> [2017] UKSC 67, and as amended in light of the case of <i>PSA v GDC and Amir</i> [2021] EWHC 3230. The test as amended is that the Committee must decide subjectively the actual state of the registrant's state of mind at the time, and, having taken account his state of mind, whether the registrant's conduct was dishonest by reference to the standards of an ordinary decent person. Significant departures from the GDC's <i>Standards for the Dental Team</i> should be taken into account at that second stage, and the registrant's own standards of honesty are not relevant.</p> <p><u>Financial conduct (2 (f), 2 (g) and 3 (e))</u></p> <p>As set out above the Committee has found that Mr Weston failed to put monies relating to the whitening procedures for Witness 7 and others through the company's accounts, and that he kept an amount of £50.00 paid by Witness 7 in connection with her procedure. The Committee has found that such conduct was misleading and was also lacking in integrity.</p> <p>The Committee considers that, as the practice manager, Mr Weston's state of mind was that he knew that he needed to account for monies being paid. The Committee considers that it is clear that Mr Weston recognised that he was behaving in a dishonest manner. This state of mind is demonstrated by him asking Witness 7 for the money for teeth whitening treatment to be paid to him in cash and latterly into his personal bank account. The Committee has again borne in mind Mr Weston's subsequent account when challenged in interview with his employers that he left the cash sum in an envelope on the practice manager's desk, which to his understanding had been left untouched. Mr Weston attributed this to him forgetting. The Committee considers that this is not a credible explanation because of his subsequent request for a further sum of £50.00 from Witness 7, together with the long delay of some weeks during which he took no action.</p> <p>The Committee again notes the evidence presented to it, particularly that of Witness 6, that his employers suffered a financial loss as a result of these teeth whitening activities in the approximate sum of £1,194.00. As set out above Witness 6 stated that it was 'more likely than not that no money was received by the business in relation to the bleaching trays ordered [...]'. This further points to Mr Weston having acted in a furtive manner to conceal what he was doing. Mr</p>

Weston's state of mind is further demonstrated by his statement in his email of 13 April 2020 that he was aware that costs were incurred to his employers as a result of him providing teeth whitening trays.

The Committee further considers that Mr Weston's conduct was dishonest by reference to the standards of an ordinary decent person, as Mr Weston intentionally misled Witness 7 and his employers into believing that, as practice manager, he would dutifully collect monies that were owing to his employers when in fact he did not do so.

Laboratory orders (3 (b))

As set out above the Committee has found that Mr Weston submitted laboratory orders for whitening trays in the names of dentists who had not provided him with prescriptions. The Committee has found above that this conduct was misleading and lacking in integrity.

The Committee considers that Mr Weston's actual state of mind at the time of the incidents giving rise to these specific factual findings was that he knew that the dentists in whose names the orders were placed had not given their permission for him to place such orders. As set out above the Committee has found that the orders were placed without the prescription of a dentist, and the Committee finds that Mr Weston was well aware that they had not provided prescriptions for the orders and could not possibly have believed that the dentists whose names he used had given him permission for their names to be used in this way. The fact that laboratory orders were placed on multiple occasions further rules out the possibility of the conduct having arisen as a result of, for instance, an oversight or carelessness.

The Committee further considers that Mr Weston's conduct was dishonest by reference to the standards of an ordinary decent person, as Mr Weston submitted orders in the names of dentists who had not provided prescriptions for the same. The Committee finds that such conduct was dishonest by reference to the standards of an ordinary decent person, and that it would plainly appear that Mr Weston was acting in a deceitful and furtive manner in order to place orders when, by reason of lacking a prescription, he was not entitled to do so.

Scope of practice (9)

As set out above the Committee has found that Mr Weston acted outside of his scope of practice by providing scaling and polishing; supervising another DCP in the taking of impressions for teeth whitening; taking impressions without prescription for, and then ordering and fitting, whitening trays; providing teeth whitening gel and information about the use of the gel and trays; and taking impressions without prescription for, and then fitting, retainers. The Committee has found above that this conduct was misleading and lacking in integrity.

The Committee considered Mr Weston's state of mind at the time of these incidents. Although Mr Weston sought to suggest to his employers in interview on 13 March 2020 with Witness 10 and Witness 13 and to the IOC at his hearing that he had by then recognised that his provision of teeth whitening kits was out of scope, the Committee considers that his state of mind at the time of the incidents was that he knew that he was acting outside of his scope of practice. The

evidence of Mr Weston that he telephoned the GDC to enquire as to whether his activities might be considered to be outside the scope of his practice strongly suggests that he was at least alive to the possibility.

The Committee has paid particular regard to the evidence of Witness 14 in relation to Mr Weston's actual state of mind. In her witness statement Witness 7 stated that, in relation to the scaling and polishing procedure relating to Witness 7 which was the subject of the Committee's consideration at head of charge 1 (b), when confronted Mr Weston stated that he should not have carried out the scaling and polishing. In relation to his provision of retainers Mr Weston informed the IOC that he did not realise at the time that his actions were outside of his scope of practice. However, the Committee again considers that his true state of mind was that he knew at the time that he was acting outside of his scope of practice in this regard, as this is demonstrated by him making, and importantly subsequently deleting at the point of investigation, a daybook of retainer patients. The Committee again draws on the laboratory orders that it has seen which were submitted in the names of dentists who had not provided prescriptions, and which related to individuals who were either not registered with the practice or whose notes suggested that they had not had treatment. The evidence presented to the Committee is that such activities took place on evenings and at the weekends, that is to say outside of routine working hours when attention was more likely to be drawn to his activities. The Committee considers that this further demonstrates the furtive nature of Mr Weston's actions, and it finds that these attempts to conceal his actions connote that he was aware that what he was doing was wrong.

The Committee also considers that, having taken account of Mr Weston's state of mind, Mr Weston's conduct was dishonest by reference to the standards of an ordinary decent person, as such a reasonable individual would conclude that Mr Weston was aware of the limits of his scope of practice but knowingly and repeatedly went beyond those limits in the ways found proved.

Statements to employers and IOC (10, 11 and 12)

As set out above the Committee has found that Mr Weston made statements to his employers and the IOC about his practices. The Committee has found that his statements at heads of charge 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e) were misleading and were lacking in integrity.

The Committee first considered Mr Weston's actual state of mind at the times at which he made these statements. The Committee considers that it is highly improbable that Mr Weston genuinely believed that he was making accurate and truthful statements. Instead, the Committee considers that Mr Weston would not have been in any doubt about the events that he was verbally relaying. The Committee considers that it is more likely than not that Mr Weston knew that he had, for instance, used the laboratory dockets for Witness 14 and had undertaken a scale and polish on Witness 7. The Committee considers that Mr Weston made statements to the contrary in order to deflect the attention of his employers and the IOC and to attempt to continue to conceal his conduct. The Committee also considers that Mr Weston's conduct was dishonest by reference to the standards of an ordinary decent person, and that such an individual would conclude that Mr Weston had attempted to mislead and divert his employers and the IOC by making

statements which he knew to be false.

For these reasons, the Committee finds the facts alleged at head of charge 13 (c) proved in respect of heads of charge 2 (f), 2 (g), 3 (b), 3 (e), 9, 10 (b), 10 (c), 11 (a), 11 (c), 12 (a), 12 (b) and 12 (e).

The Committee directs that the GDC's In-House Legal Presentation Service sends a copy of this determination to Mr Weston by email forthwith, with the direction that, assuming that he does not intend to appear before the PCC as he is perfectly welcome to do, if he should wish to send any documentary information or written submissions relevant to the next stage of the hearing he should do so by no later than 0900 hours on 17 June 2022.

We will move to stage two at 0930 hours on 17 June 2022."

*The determination was amended in terms of punctuation on 17 June 2022. The amendments related to the summary of facts in the first paragraph of head of charge 13 (a) which went towards consideration of that head of charge. The amended determination was handed down in session.

On 17 June 2022 the Chairman announced the determination as follows:

"Proceedings at stage two

The Committee has considered all the evidence presented to it, both written and oral. It has taken into account the submissions made by Ms Bird on behalf of 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, updated December 2020). The Committee has accepted the advice of the Legal Adviser.

Evidence

The Committee has not been provided with any additional oral or documentary evidence following its announcement of its findings of fact.

Fitness to practise history

Ms Bird addressed the Committee in accordance with Rule 20 (1) (a) of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). She confirmed that Mr Weston has no other fitness to practise history with the GDC.

Misconduct

The Committee first considered whether the facts that it has found proved constitute misconduct. Ms Bird submitted that those facts amount to misconduct. In considering this matter, the Committee has exercised its own independent judgment.

In its deliberations the Committee has had regard to the following paragraphs of the GDC's *Standards for the Dental Team* (September 2013) in place at the time of the facts that it has found proved. These paragraphs state that as a dental care professional:

1.3 [You must] be honest and act with integrity.

1.3.1 You must justify the trust that patients, the public and your colleagues place in you by always acting honestly and fairly in your dealings with them. This applies to any business or education activities in which you are involved as well as to your professional dealings.

- 1.3.2 You must make sure you do not bring the profession into disrepute.
- 1.7.1 You must always put patients' interests before any financial, personal or other gain.
- 1.9 You must find out about laws and regulations that affect your work and follow them.
- 6.3.1 You can delegate the responsibility for a task but not the accountability. This means that, although you can ask someone to carry out a task for you, you could still be held accountable if something goes wrong. You should only delegate or refer to another member of the team if you are confident that they have been trained and are both competent and indemnified to do what you are asking. For more information, see the 'Scope of Practice' document.
- 7.2 You must work within your knowledge, skills, professional competence and abilities.
- 7.2.1 You must only carry out a task or a type of treatment if you are appropriately trained, competent, confident and indemnified. Training can take many different forms. You must be sure that you have undertaken training which is appropriate for you and equips you with the appropriate knowledge and skills to perform a task safely.
- 9.1 [You must] 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.
- 9.1.1 You must treat all team members, other colleagues and members of the public fairly, with dignity and in line with the law.

The Committee found as part of its factual inquiry that Mr Weston failed to put monies relating to the whitening procedures for Witness 7 and others through the company's accounts, and that he kept an amount of £50.00 paid by Witness 7 in connection with her procedure. The Committee also found that Mr Weston submitted laboratory orders for whitening trays in the names of dentists who had not provided him with prescriptions.

The Committee found that Mr Weston acted outside of his scope of practice in a number of respects, namely by providing scaling and polishing; supervising another DCP in the taking of impressions for teeth whitening; taking impressions without a prescription for, and then ordering and fitting, whitening trays; providing teeth whitening gel and information about the use of the gel and trays; and taking impressions without prescription for, and then fitting, retainers.

The Committee further found that Mr Weston made false statements to his employers and the IOC about the above matters.

The Committee found that all of these matters, with the exception of some, but not all, of the statements that Mr Weston made to his employers and the IOC, amounted to conduct that was misleading, lacking in integrity and dishonest.

The Committee considers that Mr Weston's conduct fell far short of the standards reasonably expected of a dentist. Although the Committee has exercised its own independent judgment, the Committee notes the view of the GDC's expert witness, namely Mr Stankiewicz, that Mr Weston's conduct fell far below acceptable standards. In the Committee's judgement Mr Weston's actions have brought the standing and reputation of the profession into disrepute, and have undermined public trust and confidence in the profession. Mr Weston has breached a fundamental tenet of the profession, namely the need to be honest and to act with integrity. The Committee finds that Mr Weston's misconduct was deliberate, serious, persistent and widespread, and amounts to an abuse of his position of trust as a dental nurse and as the practice manager at the practice at

which he worked. The Committee finds that Mr Weston's conduct would be considered by his fellow practitioners to be deplorable.

The Committee therefore finds that the facts that it has found proved amount to misconduct.

Impairment

The Committee then went on to consider whether Mr Weston's fitness to practise is currently impaired by reason of the misconduct that it has found. In doing so, the Committee has again exercised its independent judgement. The Committee has heard from Ms Bird that the GDC submits that Mr Weston's fitness to practise is impaired. Throughout its deliberations, the Committee 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.

The Committee finds that Mr Weston's fitness to practise is currently impaired by reason of the misconduct that it has found. The Committee's findings relate to serious, repeated and sustained acts of Mr Weston acting outside of his scope of practice, and acting in a manner that was misleading, lacking in integrity and dishonest in that and in other respects. Mr Weston has placed members of the public and the public interest at considerable risk of harm as a result of his actions.

Although the Committee recognises that dishonesty might prove harder to remedy than, for instance, clinical shortcomings, the Committee has been presented with no evidence to suggest that Mr Weston has taken any steps to remedy the misconduct that the Committee has found, or that he has any intention of doing so in the future. This lack of remediation is compounded by Mr Weston's lack of insight into the matters that have culminated in this hearing. Mr Weston does not appear to recognise the damage that his misconduct has caused to his own fitness to practise, to the standing and reputation of the profession or to the public's trust and confidence in the profession. Indeed, Mr Weston's attitude to working outside of his scope of practice has been characterised by his attempts to continue to conceal and divert attention from such misconduct. As the Committee finds that Mr Weston has not demonstrated evidence of any insight into, and remediation of, his misconduct, the Committee considers that such misconduct, including dishonest conduct, is liable to be repeated. Mr Weston therefore continues to pose a risk to the public.

The Committee has determined that a finding of impairment is further, and undoubtedly, required in order to declare and uphold proper standards of conduct and behaviour and to maintain trust and confidence in the profession. Mr Weston's dishonest conduct has breached a fundamental tenet of the profession, namely the need to act with honesty and integrity, and has brought the reputation of the profession into considerable disrepute. Mr Weston's dishonesty was directly related to his work as a dental nurse and amounts to a breach of trust between him and his colleagues, patients, employers and the GDC. The Committee considers that members of the public are entitled to expect that dental professionals are appropriately trained and qualified to undertake the work that they provide. With this and Mr Weston's dishonest conduct in mind, in the Committee's judgment public trust and confidence in the profession would be significantly undermined if a finding of impairment were not made in the particular circumstances of this case.

Sanction

The Committee then determined what sanction, if any, would be appropriate in light of the findings of facts, misconduct and impairment that it has made. The Committee recognises that the purpose

of a sanction is not punitive, although it may have that effect, but is instead imposed in order to protect patients and safeguard the wider public interests referred to above. The Committee has heard that Ms Bird on behalf of the GDC has invited the Committee to erase Mr Weston's name from the register.

In reaching its decision on sanction the Committee has again taken into account the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020). The Committee has applied the principle of proportionality, balancing the public interest with Mr Weston's own interests.

The Committee has considered the aggravating and mitigating factors present in this case. In terms of mitigating factors, the Committee notes that Mr Weston is of previous good character with no prior fitness to practise history. In relation to aggravating factors, the Committee has found that Mr Weston's conduct appears to have resulted in financial gain for him, and a financial loss for his employers; that him working outside of his scope of practice entailed a real risk of significant harm to numerous patients; that Mr Weston has acted dishonestly; that his misconduct conduct was premeditated; that his conduct represents a serious and sustained breach of trust between him and his colleagues, patients, employer and the GDC; that Mr Weston has made repeated and sustained attempts to cover up his wrongdoing, both to his colleagues, employers and to the GDC; that Mr Weston lacks insight; that a vulnerable patient, more particularly a child, was involved; and that Mr Weston's conduct represents a blatant and wilful disregard of the regulatory processes of the GDC which are designed to protect the public.

The Committee has considered the range of sanctions available to it, starting with the least restrictive. In light of its findings, the Committee has determined that it would be wholly inappropriate and insufficient to conclude this case with no action or with a reprimand. The Committee's findings of Mr Weston's repeated and serious dishonest conduct, including but not limited to working outside of his scope of practice, mean that taking no action, or issuing a reprimand, would be insufficient to protect the public or to maintain public confidence and trust in the profession and in the regulatory process. Such outcomes would also not adequately declare and uphold proper standards of conduct and behaviour.

The Committee next considered whether a period of conditional registration would be appropriate. The Committee is mindful that Mr Weston has not participated in this hearing, and this would make it difficult for the Committee to be satisfied that conditions, if indeed deemed appropriate and capable of being formulated, would meet with Mr Weston's compliance. Mr Weston's dishonest conduct cannot in the Committee's view be properly addressed with conditions and accordingly the public would be at significant risk of ongoing harm were conditions to be imposed. Further, the majority of the Committee's findings relate to Mr Weston acting outside of his scope of practice, and the Committee considers that it would not be appropriate for it to impose conditions relating to a fundamental requirement of registration. In any event, the Committee considers that a period of conditional registration would not be sufficient to declare and uphold proper professional standards of conduct and behaviour or maintain trust and confidence in the profession.

The Committee therefore went on to consider whether to suspend Mr Weston's registration. After careful consideration the Committee concluded that a period of suspension would not be sufficient to meet the public protection and public interest factors that are engaged in this case. Mr Weston's dishonest conduct is of a serious kind, relating as it does to significant, multifaceted and sustained departures from the standards reasonably to be expected of a registered dental care professional. Mr Weston's misconduct is deeply damaging not only to his own fitness to practise, but also to the standing and reputation of the profession and to the public's trust and confidence in the profession.

In the Committee's judgement there is a significant risk of Mr Weston repeating his misconduct, including his dishonest conduct, because of his lack of insight and remediation. By acting outside of his scope of practice in a dishonest manner on multiple occasions over a considerable period of time and in a number of different ways, Mr Weston has placed the public at significant risk of harm. Mr Weston's repeated dishonesty in acting outside of his scope of practice, and his associated dishonesty in attempting to conceal his actions and divert attention from his wrongdoing, represents a grave abuse of his position of trust. Mr Weston has breached a fundamental tenet of the profession, namely the requirement to act with honesty and integrity. In the Committee's judgement such significant departures from the standards reasonably to be expected of a registered dental care professional are fundamentally incompatible with registration. A sanction short of erasure would be insufficient to protect the public, declare and uphold proper standards of conduct and behaviour and maintain public trust and confidence in the dental care profession. The Committee therefore directs that Mr Weston's name be erased from the register.

The Committee is mindful of the effect that such a direction may have on Mr Weston, but it considers that such considerations are outweighed by the public protection and public interest factors identified in this particularly serious case.

Existing interim order

In accordance with Rule 21 (3) of the General Dental Council (Fitness to Practise) Rules 2006 and section 36P (10) of the Dentists Act 1984 (as amended) the extant interim order of suspension in place on Mr Weston's registration is hereby revoked.

Immediate order

Having directed that Mr Weston's name be erased from the register, the Committee now invites submissions as to whether it should impose an order for Mr Weston's immediate suspension in accordance with section 36U (1) of the Dentists Act 1984 (as amended)."

Decision on immediate order

"Having directed that Mr Weston's name be erased from the register, the Committee invited submissions as to whether it should impose an order for Mr Weston's immediate suspension in accordance with section 36U (1) of the Dentists Act 1984 (as amended).

The Committee has heard the submissions of Ms Bird on behalf of the GDC that an order is necessary to protect the public and is also in the public interest. The Committee has accepted the advice of the Legal Adviser.

In all the circumstances, the Committee considers that an immediate order of suspension is necessary to protect the public and is otherwise in the public interest. The Committee has decided that, given the risks that it has identified, it would not be appropriate to permit Mr Weston to practise before the substantive direction of erasure takes effect. The Committee considers that an immediate order for suspension is proportionate, and is consistent with the findings that it has set out in its determination.

The effect of the foregoing determination and this immediate order is that Mr Weston's registration will be suspended from the date on which notice of this decision is deemed served upon him. Unless Mr Weston exercises his right of appeal, the substantive direction of erasure will be recorded in the register 28 days from the date of deemed service. Should Mr Weston decide to

exercise his right of appeal, this immediate order of suspension will remain in place until the resolution of any such appeal.

That concludes this case.”