

PUBLIC HEARING**Professional Conduct Committee
Initial Hearing****24 – 30 October 2023****Name:** HARVIE-AUSTIN, David**Registration number:** 41141**Case number:** CAS-202500-G7L1H7

General Dental Council: Guy Micklewright, Counsel.
Instructed by Terry Symon, IHLPS**Registrant:** Not Present
Unrepresented

Fitness to practise: Impaired by reason of misconduct**Outcome:** Erased**Immediate order:** Immediate Suspension order

Committee members:	Helen Goulding	(Lay member) (Chair)
	Gezala Umar	(Dentist member)
	Miranda Carruthers-Watt	(Lay member)

Legal adviser: Neil Mercer**Committee Secretary:** Andrew Keeling

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1. This is a Professional Conduct Committee (PCC) hearing. The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Microsoft Teams. Mr Harvie-Austin was neither present nor represented in this hearing. Mr Guy Micklewright (Counsel) is the Case Presenter for the General Dental Council (GDC).

Preliminary Matters

2. At the outset of the hearing, the Committee firstly considered whether notice of the hearing had been served on Mr Harvie-Austin in accordance with the GDC (Fitness to Practise) Rules 2006 (the Rules) and whether to proceed with the hearing in Mr Harvie-Austin's absence. The Committee heard submissions from Mr Micklewright and accepted the advice of the Legal Adviser.

Decision on Service of the Notice of Hearing (24 October 2023)

3. The Committee received from the GDC an indexed hearing bundle, of 674 pages, which contained a copy of the Notice of Hearing ('the notice'), dated 21 September 2023, thereby complying with the 28-day notice period. The notice was sent to Mr Harvie-Austin's registered address by Special Delivery, and it was also sent by first class post and secure email.
4. The Committee was satisfied that the notice sent to Mr Harvie-Austin contained proper notification of today's hearing. This included the hearing's time, date and that it will be taking place remotely on Microsoft Teams, and the other prescribed information including notification that the Committee had the power to proceed with the hearing in Mr Harvie-Austin's absence.
5. On the basis of the information provided, the Committee was satisfied that the notice had been served on Mr Harvie-Austin in accordance with Rules 13 and 65.

Decision on Proceeding in the Registrant's Absence (24 October 2023)

6. The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Mr Harvie-Austin. The Committee approached the issue of proceeding in absence with the utmost care and caution. It took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones (Anthony)* [2002] UKHL 5 and *GMC v Adeogba & Visvardis* [2016] EWCA Civ 162. It remained mindful of the need to be fair to both Mr Harvie-Austin and the GDC, taking into account the public interest and Mr Harvie-Austin's own interests.
7. The Committee noted that there has been no correspondence from Mr Harvie-Austin to indicate whether he will be attending the hearing. The Committee was satisfied that all possible steps had been taken to notify him of the hearing. The Committee concluded, therefore, that it was clear that Mr Harvie-Austin had waived his right to attend the hearing. Given that Mr Harvie-Austin had voluntarily absented himself, the Committee determined that it should proceed in his absence having regard to the public interest in the expeditious disposal of cases and the serious allegations against Mr Harvie-Austin. It concluded that no useful purpose would be

served by an adjournment of this hearing as there was no realistic prospect of Mr Harvie-Austin attending any future hearing. The Committee was also mindful about the effect of a postponement on witnesses' memories of events.

8. In those circumstances, the Committee determined that it was fair and appropriate to proceed with the hearing in the absence of Mr Harvie-Austin.

Rule 18 Application to Amend the Charge (24 October 2023)

9. Mr Micklewright then made an application, on behalf of the GDC, under Rule 18 of the Rules to amend head of charge 15, which currently reads:

"You practised without any, or any adequate, indemnity or insurance cover from at least July 2021 to November 2021."

10. He submitted that the head of charge should now read as follows:

"Between in or around August 2021 and November 2021 you practised without any, or any adequate, indemnity or insurance cover."

11. Mr Micklewright submitted that the amendment can be made without injustice to Mr Harvie-Austin as it reduces the timeframe mentioned in the charge by one month.

The Committee's decision on the Rule 18 application

12. The Committee accepted the advice of the Legal Adviser on the Rule 18 application. The Committee was satisfied that the amendment can be made without any injustice to Mr Harvie-Austin as it narrows the timeframe in the charge. The Committee also bore in mind that Mr Harvie-Austin has waived his right to attend the hearing, including his right to object to the application.
13. The Committee, therefore, acceded to Mr Micklewright's application to amend the charge.

Rule 57 Application to adduce hearsay evidence (24 October 2023)

14. Mr Micklewright subsequently made an application under Rule 57(1) and (2) of the Rules to admit the witness statement of Patient A as hearsay evidence.
15. Mr Micklewright firstly took the Committee through the reasons for Patient A not attending the hearing. He informed the Committee that the GDC had made all reasonable attempts to arrange for Patient A to attend. However, he submitted that Patient A was frustrated by the GDC's investigation and its attempts to obtain her witness statement. He submitted that Patient A was also suffering from health problems that prevented her attendance. He submitted that nothing about her

reasons for not attending suggested that she wished to avoid scrutiny of her evidence.

16. Mr Micklewright then took the Committee through the heads of charge relevant to Patient A. He submitted that Patient A's witness statement was not the sole and decisive evidence in respect of these heads of charge. He referred the Committee to Patient A's dental records, the evidence of Dr Mohammed Azher Ashraf (the sedationist involved in Patient A's care on 26 August 2021 and 2 September 2021) and Mr Harvie-Austin's written comments to the GDC's case examiners. He submitted that the admission of Patient A's witness statement was entirely appropriate and invited the Committee to accept the application.

The Committee's decision on the Rule 57 application

17. The Committee took into account the submissions made by Mr Micklewright and the relevant case law. It also accepted the advice of the Legal Adviser. The Committee had regard to the interests of justice and remained mindful of the principle of fairness. It balanced the interests of the GDC with Mr Harvie-Austin's interests.

18. The Committee noted its powers under Rules 57(1) and 57(2), which are as follows:

(1) A Practice Committee may in the course of the proceedings receive oral, documentary or other evidence that is admissible in civil proceedings in the appropriate court in that part of the United Kingdom in which the hearing takes place.

(2) A Practice Committee may also, at their discretion, treat other evidence as admissible if, after consultation with the legal adviser, they consider that it would be helpful to the Practice Committee, and in the interests of justice, for that evidence to be heard.

19. The Committee noted the reasons for Patient A not attending the hearing, in particular in respect of her health. It was satisfied that these were legitimate reasons for her non-attendance. The Committee also noted that Patient A's witness statement was not the sole and decisive evidence regarding the relevant heads of charge. It noted that there was other evidence, in particular Patient A's clinical records and Dr Ashraf's witness statement, to support the evidence contained in the witness statement. The Committee was also of the view that Patient A's witness statement was relevant and would assist it in making its decision on the charges in respect of her care and treatment.

20. Taking all of these matters into account, the Committee determined that it would be helpful and in the interests of justice to admit Patient A's witness statement as evidence at this hearing.

Summary of Allegations

21. The allegations at this hearing concern Mr Harvie-Austin's treatment of two patients, Patient A and Patient B. In respect of Patient A's treatment, it is alleged that between on or around 9 July 2021 and on or around 19 October 2021, Mr Harvie-Austin failed to provide an adequate standard of care to Patient A, failed to report on radiographs (adequately or at all), failed to make adequate dental records, failed to provide Patient A with a written treatment plan and failed to obtain valid consent for Patient A's treatment.
22. Further allegations raised in respect of Mr Harvie-Austin's treatment of Patient A concern three specific incidents. Firstly, during an appointment on or around 26 August 2021 with Patient A, it is alleged Mr Harvie-Austin failed to provide an adequate standard of care whilst using an extraction screw, which resulted in it being ingested by Patient A during treatment. Secondly, on or around 4 September 2021, having prescribed a prescription-only medication, it is alleged that Mr Harvie-Austin asked Patient A to print out a prescription, which he had emailed to her, pretend to be the registrant and copy his signature onto the said prescription. It is alleged that this conduct was inappropriate, misleading and dishonest in that Mr Harvie-Austin intended the dispensing pharmacist to believe that the registrant had signed the prescription. Thirdly, it is alleged that Mr Harvie-Austin failed to have chairside support while treating and/or treatment planning for Patient A at an appointment on or around 9 September 2021.
23. Lastly, it is alleged that Mr Harvie-Austin failed to notify the GDC within seven days of receiving a complaint from Patient A, which was in breach of the conditions of practice imposed on him at a previous substantive hearing by a PCC in July 2021. It is alleged that this conduct was misleading and dishonest, in that Mr Harvie-Austin intended that the GDC would not be made aware of Patient A's complaint.
24. In respect of Patient B's treatment, it is alleged that Mr Harvie-Austin failed to provide an adequate standard of care from on or around 15 July 2021 to on or around 9 November 2021. It is further alleged that Mr Harvie-Austin failed to make adequate dental records and failed to obtain valid consent for a dressing placed to the LL7 at an appointment on 14 September 2021. Lastly it is alleged that Mr Harvie-Austin practised without any, or adequate, indemnity or insurance cover from at least August 2021 to November 2021.

Evidence

25. By way of factual evidence from the GDC, the Committee was provided with the signed witness statements from Patient A, dated 13 August 2023, and Patient B,

dated 10 August 2023, and from Dr Mohammed Azher Ashraf, dated 27 July 2023. It also received witness statements from two GDC employees, Chris Clark, a Casework Manager, dated 22 May 2023, and from Jovi Gomes, a paralegal, dated 4 August 2023.

26. The Committee also heard oral evidence from Dr Ashraf and Mr Gomes.
27. Furthermore, the Committee received an expert report from Professor Ian Brook, dated 22 July 2023. Professor Brook also gave oral evidence.
28. The Committee was provided with further evidence, which included records for Patients A and B, and the relevant hospital records for Patient A. It also included Mr Harvie-Austin's written observations to the GDC's case examiners concerning Patients A and B.

Rule 18 Application to Amend the Charge (25 October 2023)

29. After the evidence had been presented and before the GDC's case had been concluded, Mr Micklewright made a further application to amend the heads of charge. This followed an enquiry by the Chair of the Committee regarding typographical errors in respect of charges 3(e), 12(a) and 12(g), and whether charge 13(b) was a duplication of charge 13(a).
30. The Chair enquired whether the word "*to*" should be deleted from the beginning of charge 3(e) as it currently reads "*Did not to record, or retain a copy of...*". She further enquired whether charges 12(a) and 12(g) should be amended, as they mention Patient A when they should mention Patient B. Lastly, she enquired whether the allegations contained in charge 13(b) ("*you had failed to record a medical history*") had already been covered in charge 13(a) ("*you made no, or no adequate, records of the matters particularised at paragraphs 12. a) to 12. g) above*") as charge 12(c) related to taking a medical history.
31. Mr Micklewright submitted that he agreed that the typographical errors in charges 3(e), 12(a) and 12(g) should be amended. He also agreed that charge 13(b) was a duplication of charge 13(a) and should be deleted. He submitted that these amendments would cause no prejudice or injustice to Mr Harvie-Austin as it would only tidy up the wording of the charges and does not change the allegations he faces.

The Committee's decision on the Rule 18 application

32. The Committee accepted the advice of the Legal Adviser on the Rule 18 application. In light of Mr Micklewright's agreement to the amendments, the

Committee was satisfied that the amendments should be made and would cause no injustice to Mr Harvie-Austin. Accordingly, it accepted Mr Micklewright's application.

The Committee's Findings of Fact

33. The Committee has considered all the documentary evidence presented to it. It took account of the submissions made by Mr Micklewright, on behalf of the GDC. The Committee heard and accepted the advice of the Legal Adviser. In accordance with that advice, it has 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 found proved on the balance of probabilities.

34. The Committee's findings in relation to each head of charge are as follows:

<u>Patient A</u>	
1.	From on or around 9 July 2021 to on or around 19 October 2021 you failed to provide an adequate standard of care to Patient A, in that you:
	<p>a) Did not take any, or any adequate, history of Patient A's current condition, needs and aspirations;</p> <p>Found Not Proved</p> <p>When considering this charge, the Committee noted that there was no evidence in Patient A's records. In the absence of the records, the Committee considered Patient A's witness statement.</p> <p>It noted from that statement, that Patient A had been provided with a questionnaire to complete by Mr Harvie-Austin prior to her first appointment with him on 9 July 2021. The Committee had sight of a blank copy of the questionnaire and noted that it covered the three areas in this charge, namely Patient A's current condition, her needs and aspirations. The Committee further noted from her witness statement that Patient A stated that she had completed the questionnaire and provided it to Dr Harvie-Austin during the first appointment:</p> <p><i>"I filled in a lengthy questionnaire, and remember thinking how thorough it felt, if not slightly amusing, seeing the Registrant balancing a wobbling clipboard on his knee trying to write, but it was a refreshing and welcome change after my past experiences of biological dentists."</i></p>

This questionnaire included questions such as:

“What prompted you to seek dental care at this time?”

“Are you happy with the appearance of your smile?”

The Committee further noted the following from Patient A’s witness statement:

“The Registrant agreed to remove 4 root canal teeth, replace all the upper jaw amalgams, amalgam specks and amalgam tattoo from my upper left jaw.”

...

“The Registrant was aware I had serious concerns about the possible nerve damage on the left side of my face from the upper left jaw.”

The Committee was satisfied therefore that, despite the lack of evidence from the records, it was more likely than not, based on the evidence from Patient A, that Mr Harvie-Austin had taken an adequate history of Patient A’s current condition, needs and aspirations.

Accordingly, the Committee found this charge not proved.

b) Did not take any, or any adequate, dental history;

Found Not Proved

As in its reasoning above, the Committee considered the questionnaire completed by Patient A before her first appointment with Mr Harvie-Austin on 9 July 2021. The Committee noted that there was a long section titled, ‘Dental History’, on the form.

As above, the Committee noted that Patient A stated that she completed the questionnaire and gave it to Mr Harvie-Austin at the first appointment. The Committee also noted the following from Patient A’s statement about the first appointment:

“When I went, I took my notes and suggested a treatment plan from another biological dentist I had seen 5 months previous”.

The Committee concluded, therefore, that it was more likely than not that Mr Harvie-Austin took an adequate dental history from Patient A.

Accordingly, the Committee found this charge not proved.

- c) Did not conduct any enquiry into factors that may have resulted in decay, gum disease and/or loss of teeth;

Found Not Proved

The Committee noted that several questions on the 'Dental History' section of the questionnaire concerned factors relating to decay, gum disease and/or loss of teeth. These included, but were not limited to, the following:

- "7. When and how often do you brush your teeth?
8. How often do you use dental floss?
9. Do your gums bleed easily, feel tender or irritated?
13. Do you snack between meals?
Do these snacks contain sugar or carbohydrates?
15. Would you like to retain your health natural teeth as long as possible?"*

The Committee noted from Patient A's witness statement that she provided this form to Mr Harvie-Austin. Therefore, the Committee considered it was more likely than not that he had conducted an enquiry into these factors.

Accordingly, the Committee found this charge not proved.

- d) Did not take any, or any adequate, medical history;

Found Not Proved

The Committee noted that the questionnaire mentioned above included a section titled 'Medical History' and that all but one of the 13 questions in that section related to a patient's medical history. A further section on the questionnaire related to specific questions about 'Silver (Amalgam) Restorations'.

The Committee has previously concluded that Patient A had completed this questionnaire and provided it to Mr Harvie-Austin. Therefore, the Committee concluded that it was more likely than not that Mr Harvie-Austin had taken any adequate medical history from Patient A.

Accordingly, the Committee found this charge not proved.

- e) Did not take any, or any adequate, social history;

Found Not Proved

The Committee noted that question 5 of the 'Medical History' section of the questionnaire covered social history:

*"Do you smoke? If so, how many [per] week?
Do you drink alcohol? If so, how many units per week?"*

The Committee has previously concluded that Patient A had completed this questionnaire and provided it to Mr Harvie-Austin. Therefore, the Committee concluded that it was more likely than not that Mr Harvie-Austin had taken an adequate social history from Patient A.

Accordingly, the Committee found this charge not proved.

- f) Did not undertake an adequate examination of the hard and soft tissues the face and jaws;

Found Proved

In the absence of adequate records, the Committee considered Patient A's witness statement and noted that it did not mention whether Mr Harvie-Austin had physically examined her. The Committee considered that an examination may have taken place. It seemed that a treatment plan had been formulated as Mr Harvie-Austin had discussed with Patient A the treatment he was intending to provide and it was unlikely that this could have been done without an examination taking place.

However, the Committee could see no clear evidence of whether any examination undertaken was of soft and hard tissues or whether it was adequate.

Accordingly, the Committee found this charge proved.

- g) Did not undertake any, or any adequate cancer screening;

Found Proved

The Committee noted that question 5 of the 'Medical History' section of the questionnaire covered social history, which would form part of the cancer screening. However, it also noted from Professor Brook's report that cancer screening should also involve an examination of hard and soft tissues, which was not evidenced.

	<p>The Committee determined, therefore, that Mr Harvie-Austin did not undertake adequate cancer screening.</p> <p>Accordingly, the Committee found this charge proved.</p>
	<p>h) Did not undertake any, or any adequate, assessment of Patient A's periodontal status.</p> <p>Found Proved</p> <p>The Committee noted that questions 7 to 11 on the 'Dental History' section of the questionnaire were relevant to periodontal gum disease. However, the Committee could see no evidence that he also undertook a Basic Periodontal Examination, which would be required to undertake an adequate assessment of Patient A's periodontal status.</p> <p>Accordingly, the Committee found this charge proved.</p>
2.	<p>You failed to report on radiographs, adequately or at all.</p> <p>Found Proved</p> <p>The Committee noted that there was no evidence before it that Mr Harvie-Austin had taken any radiographs with regard to his treatment of Patient A. It noted the radiographs that had been taken by Patient A's previous dentists and that, according to Professor Brook, Mr Harvie-Austin should have reported on these. However, it could see no evidence that this reporting had been done.</p> <p>Accordingly, the Committee found this charge proved.</p>
3.	<p>You failed to make adequate dental records, in that you:</p> <p>a) Made no, or no adequate, records of the matters particularised at paragraphs 1. a) to 1. h) above;</p> <p>Found Proved</p> <p>The Committee noted that it had been provided with no evidence that the matters particularised in 1a) to 1h) had been recorded in Patient A's records. It noted that neither the correspondence (messages and emails) between the registrant and Patient A, nor the completed questionnaire, appeared in the records it has been provided with.</p> <p>Accordingly, the Committee found this charge proved in its entirety.</p>

b) Made no, or no adequate, records of treatment undertaken under sedation on:

- i) 26 August 2021;
- ii) 2 September 2021.

Found Proved

The Committee has seen no evidence of these treatments being recorded in the records it has been provided with.

Accordingly, the Committee found charges 3(b) (i) and (ii) proved.

c) Did not retain written consent for treatment under sedation, in respect of:

- i) 26 August 2021;
- ii) 2 September 2021.

Found Proved

The Committee has seen no evidence of written consent being retained in respect of these treatments in the records it has been provided with.

Accordingly, the Committee found charges 3(c) (i) and (ii) proved.

d) Made no, or no adequate, records of the rationale for care;

Found Proved

The Committee has seen no evidence of the rationale for care in the records it has been provided with.

Accordingly, the Committee found this charge proved.

e) Did not record, or retain a copy of, the removal of amalgam information sheet provided to Patient A;

Found Proved

The Committee noted that it has not seen a copy of the removal of amalgam information sheet in Patient A's records, although it noted from Patient A that she had completed the form and provided it to Mr Harvie-Austin.

However, there was no evidence that this form was retained in the records.

	<p>Accordingly, the Committee found this charge proved.</p>
	<p>f) Did not record any discussions with Patient A about treatment options;</p> <p>Found Proved</p> <p>The Committee has seen no evidence that any discussions with Patient A about treatment options were recorded in the records.</p> <p>Accordingly, the Committee found this charge proved.</p>
	<p>g) Did not record any discussions with Patient A about the risks and benefits of treatment.</p> <p>Found Proved</p> <p>The Committee has seen no evidence that any discussions with Patient A about the risks and benefits of treatment were recorded in the records.</p> <p>Accordingly, the Committee found this charge proved.</p>
4.	<p>You failed to provide Patient A with a written treatment plan.</p> <p>Found Proved</p> <p>The Committee noted from Patient A's evidence that a treatment plan was discussed with Mr Harvie-Austin at her first appointment on 9 July 2021. The Committee has also seen a copy of a treatment plan, dated 28 October 2021. However, it noted that this was dated outside the period in question and the treatment included on this letter did not correspond to the treatment provided to Patient A during this period. The Committee was therefore satisfied that it had seen no evidence from either Patient A or Mr Harvie-Austin that a written treatment plan had been provided to Patient A.</p> <p>Accordingly, the Committee found this charge proved.</p>
5.	<p>You failed to obtain valid consent for treatment for Patient A, in that you:</p> <p>a) Did not discuss the risks and benefits of treatment with Patient A, adequately or at all;</p> <p>b) Did not discuss treatment options with Patient A, adequately or at all;</p> <p>Found Proved</p>

	<p>The Committee noted from Patient A's witness statement that it appears that some discussions had taken place about treatment options at the first appointment. The Committee also noted Dr Ashraf's oral evidence that these discussions took place at the appointments he attended. However, it was also clear from Patient A's statement that she had problems with her dentures and seemed confused about the treatment that took place:</p> <p><i>"I raised concerns about these lower jaw composites at my initial consultation with the Registrant, and at almost every appointment following, asking them to be replaced, as per the previous dentist recommendation earlier that year, but the Registrant repeatedly refused, saying it was unnecessary, insisting on a lower right partial restoration, which left me with more problems which remain ongoing 2 years on, have had several replacement fillings since, and it is not over yet."</i></p> <p>Therefore, the Committee determined that Mr Harvie-Austin did not adequately discuss the risks and benefits of treatment or treatment options with Patient A.</p> <p>Accordingly, the Committee found these charges proved.</p>
	<p>c) Did not obtain written consent for treatment under sedation.</p> <p>Found Not Proved</p> <p>The Committee noted that it had seen no evidence of Patient A's written consent. However, it considered Dr Ashraf's oral evidence and noted that when questioned about this, Dr Ashraf referred to his contemporaneous clinical notes. The notes showed that written consent had been received from Patient A by both the registrant and himself. Dr Ashraf was also clear in his oral evidence that he would not sedate a patient unless written consent had been obtained.</p> <p>The Committee found Dr Ashraf to be a reliable and credible witness, and it accepted his evidence. Therefore, it determined that Mr Harvie-Austin had obtained written consent from Patient A for treatment under sedation.</p> <p>Accordingly, the Committee found this head of charge not proved.</p>
6.	<p>At an appointment on or around 26 August 2021 with Patient A you failed to provide an adequate standard of care, in that you:</p> <p>a) Failed to adequately protect the back of Patient A's mouth and pharynx during treatment;</p> <p>Found Not Proved</p>

The Committee considered the evidence of Professor Brook and Dr Ashraf. The Committee noted that during his oral evidence Professor Brook initially stated that it was standard practice to use gauze or sponge to protect the back of the mouth and pharynx. However, the Committee noted that he later acknowledged that the use of high-volume suction would have been sufficient protection.

The Committee heard from Dr Ashraf that high volume suction was used during the procedure and that there was no evidence that Patient A was coughing or spluttering during treatment.

The Committee concluded, therefore, that high volume suction was used during the procedure and that this would have been sufficient protection. The Committee also acknowledged the journal articles it was presented with, which listed a range of preventative methods to help ensure a patient does not ingest anything when sedated. However, the Committee noted that the articles did not deal with UK practice and considered them to be of limited relevance.

Therefore, the Committee determined that Mr Harvie-Austin had adequately protected the back of Patient A's mouth and pharynx during treatment.

Accordingly, the Committee found this head of charge not proved.

b) Failed to use an extraction screw to an adequate standard.

Found Proved

The Committee accepted Professor Brook's oral evidence that if Mr Harvie-Austin had been using the extraction screw properly then it would not have separated and been ingested by Patient A. The Committee also accepted that Mr Harvie-Austin had a duty to ensure that all the component parts of the tool, including the extraction screw, were properly maintained and attached before undertaking the procedure.

The Committee also heard evidence from Dr Ashraf, in which he stated that when the incident occurred he heard raised voices, that there seemed to be an element of panic and that Mr Harvie-Austin said "catch it".

The Committee was satisfied, therefore, that Mr Harvie-Austin had failed to use an extraction screw to an adequate standard.

Accordingly, the Committee found this head of charge proved.

7.	<p>On or around 4 September 2021, having prescribed a prescription only medication, you asked Patient A to print and fill out a prescription and:</p> <ul style="list-style-type: none"> a) Pretend to be you; b) Copy your signature onto the prescription. <p>Found Proved</p> <p>The Committee had sight of Mr Harvie-Austin's email to Patient A, dated 4 September 2021, in which he stated:</p> <p><i>"Please print out the prescription attached that [sic] write your name and address in the top right and date on the top left.</i></p> <p><i>You'll have to pretend your [sic] me and sign something like: [here the registrant attached an image of his signature]</i></p> <p><i>Pharmacists do not like email copies and this is the easiest way to get you set up".</i></p> <p>In his written response to the allegations to the GDC's case examiners, Mr Harvie-Austin stated:</p> <p><i>"With all chemists, I have found that, and checked this with the pharmaceutical council, they will not accept printed name and address nor a copy of my signature on an emailed prescription. I have tried to resolve this situation as, when patients require antibiotics etc., there is normally an urgency and posted prescriptions would take too long. Due to the chemists' reluctance to accept the above, I sent the normal form by email and ask the patient to write their name and address and sign it with a pen – using my signature".</i></p> <p>The Committee also had sight of the submitted prescription.</p> <p>The Committee concluded that it was clear that Mr Harvie-Austin had asked Patient A to print and fill out a prescription and pretend to be him by copying his signature onto the prescription.</p> <p>Accordingly, the Committee found these charges proved.</p>
8.	<p>Your conduct at paragraph 7 above was:</p> <ul style="list-style-type: none"> a) Inappropriate;

	<p>Found Proved</p> <p>The Committee determined that it was clearly inappropriate for Mr Harvie-Austin to ask Patient A to pretend to be him by completing a prescription and copying his signature on a prescription form.</p> <p>Accordingly, the Committee found this charge proved.</p>
	<p>b) Misleading;</p> <p>Found Proved</p> <p>The Committee also determined that the registrant's behaviour was clearly misleading, as the pharmacist would have been led to believe that Mr Harvie-Austin had completed and signed the prescription when this was not the case.</p> <p>Accordingly, the Committee found this charge proved.</p>
	<p>c) Dishonest, in that you intended that a dispensing pharmacist would believe that you had signed the prescription.</p> <p>Found Proved</p> <p>When considering this charge, the Committee referred to the test set out in the case of <i>Ivey v Genting Casinos (UK) Ltd. t/a Crockfords</i> [2017] UKSC 67. It first considered the actual state of Mr Harvie-Austin's knowledge or belief as to the facts at the time. The Committee then considered whether his conduct would be viewed as dishonest by the objective standards of ordinary and decent people.</p> <p>The Committee determined that it was clear that Mr Harvie-Austin had intended for Patient A to pretend to be him when signing the prescription. The Committee concluded that ordinary and decent people would view this conduct to be dishonest.</p> <p>Accordingly, the Committee found this charge proved.</p>
9.	<p>At an appointment on or around 9 September 2021 you failed to have chairside support while treating and/or treatment planning for Patient A.</p> <p>Found Not Proved</p> <p>The Committee noted Patient A's witness statement in which she stated that for this appointment Mr Harvie-Austin told her, "<i>No nurse today, just you and</i></p>

	<p><i>me</i>". This was repeated by Patient A in her email to the GDC, dated 4 November 2021, in which she stated, "<i>On arrival we were in a side room and he said 'no nurse today, it's just you and me'</i>".</p> <p>However, the Committee also had sight of an entry in the records of this appointment which mentioned the name of Mr Harvie-Austin's dental nurse. The Committee could also see the further entries of appointments with Patient A between 26 August 2021 and 19 October 2021 and that Mr Harvie-Austin's dental nurse was present for the majority of these appointments.</p> <p>In Mr Harvie-Austin's written response to this allegation, he stated, "<i>I have no recollection of this. My nurse...was always present.</i>"</p> <p>The Committee noted that the burden of proof was on the GDC to prove this charge to the required standard. The Committee concluded that based on the information above there was insufficient evidence to find this charge proved on the balance of probabilities.</p> <p>Accordingly, the Committee found this charge not proved.</p>
10.	<p>You failed to notify the General Dental Council within 7 days of Patient A's complaint, in breach of the conditions of practice imposed on you by the Professional Conduct Committee in July 2021.</p> <p>Found Not Proved</p> <p>The Committee firstly had sight of the relevant conditions imposed by the PCC in July 2021 and acknowledged that Mr Harvie-Austin was under a duty to notify the General Dental Council within 7 days of any complaint received.</p> <p>The Committee had sight of a large volume of communications between Mr Harvie-Austin and Patient A, in the form of text messages, emails and Facebook messages. The Committee noted that it was, on the whole, informal and affectionate.</p> <p>In particular, the Committee had sight of Patient A's last emails to Mr Harvie-Austin, dated 2 and 3 November 2021. It noted that Patient A was "<i>very saddened and disappointed</i>" by a previous email from Mr Harvie-Austin regarding her treatment and that Patient A stated that "<i>...I now need to take this matter further...</i>". It was clear that by this time Patient A had sought treatment elsewhere. However, the Committee noted that within the same email, Patient A had also stated:</p>

	<p><i>"I had felt a real communication with you, something lacking in the dentistry world, and because of that have persevered with repeated trips up to London, where others would not of done so..."</i></p> <p><i>Thank you for all you have done for the world of dentistry in the UK in your career, and I sincerely mean that from my heart".</i></p> <p>The Committee considered that in the context of the amicable correspondence between Mr Harvie-Austin and Patient A, it was reasonable that Mr Harvie-Austin did not consider any of the emails from Patient A to constitute a complaint and, therefore, did not need to notify the GDC.</p> <p>Accordingly, the Committee found this charge not proved.</p>
11.	<p>Your conduct at paragraph 10 above was:</p> <ul style="list-style-type: none"> a) Misleading; b) Dishonest, in that you intended that the General Dental Council would not become aware of Patient A's complaint. <p>As the Committee has found charge 10 not proved, charge 11 falls away and the Committee did not consider it.</p>
<u>Patient B</u>	
12.	<p>From on or around 15 July 2021 to on or around 9 November 2021 you failed to provide an adequate standard of care to Patient B, in that you:</p> <ul style="list-style-type: none"> a) Did not take any, or any adequate, history of Patient B's current condition, needs and aspirations; <p>Found Not Proved</p> <p>The Committee considered Patient B's witness statement and various correspondence between Patient B and Mr Harvie-Austin.</p> <p>The Committee also had sight of the questionnaire sent to Patient B, which she stated in her email to Mr Harvie-Austin dated 19 July 2021, she would bring to her appointment. The Committee also noted that Patient B was provided with a document titled, '<i>BASS Toothbrush Technique [for gum conditioning]</i>'.</p> <p>The Committee also considered the document titled 'Treatment Report & Estimate', which was sent to Patient B and dated 3 August 2021. The Committee was satisfied that the content within this document was sufficient</p>

evidence that he had taken a history of Patient B's current condition, needs and aspirations.

Accordingly, the Committee found this charge not proved.

b) Did not conduct any enquiry into factors that may have resulted in decay, gum disease and/or loss of teeth;

Found Not Proved

As above, the Committee noted the questionnaire sent to Patient B, the 'BASS toothbrush technique' document, and the correspondence between her and Mr Harvie-Austin.

Based on this evidence, the Committee was satisfied that it was more likely than not that Mr Harvie-Austin had conducted an enquiry into factors that may have resulted in decay, gum disease and/or loss of teeth.

Accordingly, the Committee found this charge not proved.

c) Did not take any, or any adequate, medical history;

Found Not Proved

The Committee noted the questionnaire sent to Patient B included details of medical history. It also noted that the records from her previous dental practice highlighted few medical issues.

The Committee was therefore satisfied that it was more likely than not that Mr Harvie-Austin did take a medical history from Patient B.

Accordingly, the Committee found this charge not proved.

d) Did not take any, or any adequate, social history;

Found Not Proved

As above, the Committee noted that the questionnaire sent to Patient B included details of social history in terms of alcohol consumption and smoking.

The Committee was therefore satisfied that it was more likely than not that Mr Harvie-Austin did take a social history from Patient B.

Accordingly, the Committee found this charge not proved.

- e) Did not undertake an adequate examination of the hard and soft tissues of the face and jaws;

Found Proved

The Committee had sight of the 'Treatment report & Estimate', dated 3 August 2021, which suggested that Mr Harvie-Austin may have undertaken an examination of the hard tissues of the face and jaws. However, it could see no evidence that this was done to an adequate standard, and no evidence that any examination was undertaken of the soft tissues.

Accordingly, the Committee found this charge proved.

- f) Did not undertake any, or any adequate cancer screening;

Found Proved

The Committee noted from Professor Brook's report that cancer screening should involve an examination of hard and soft tissues, which was not evidenced.

The Committee determined, therefore, that Mr Harvie-Austin did not undertake adequate cancer screening.

Accordingly, the Committee found this charge proved.

- g) Did not undertake any, or any adequate, assessment of Patient B's periodontal status.

Found Not Proved

The Committee noted from the Treatment Report, dated 3 August 2021, that it seemed Mr Harvie-Austin had undertaken some form of periodontal assessment as he stated that Patient B's gum pocket depth had an average of 3mm. The Committee had also previously determined that he provided Patient B with relevant documentation, including advice on brushing technique (the BASS document).

The Committee determined, therefore, that it was likely that Mr Harvie-Smith had undertaken an adequate assessment of Patient B's periodontal status.

Accordingly, the Committee found this charge not proved.

13.	You failed to make adequate dental records, in that you:
	<p data-bbox="405 394 1382 472">1. Made no, or no adequate, records of the matters particularised at paragraphs 12. a) to 12. g) above;</p> <p data-bbox="355 517 571 551">Found Proved</p> <p data-bbox="355 602 1465 846">The Committee could see no evidence that any of the matters particularised at paragraphs 12. a) to 12. g) above had been included in Patient B's records. The Committee had sight of a range of correspondence, including the Treatment Report & Estimate document, but noted that this was sent in by Patient B and there was no evidence from Mr Harvie-Austin that this had been included in her records.</p> <p data-bbox="355 898 1118 931">Accordingly, the Committee found this charge proved.</p>
	2. Deleted
14.	<p data-bbox="355 1070 1369 1149">You failed to obtain valid consent for a dressing placed to the LL7 at an appointment on 14 September 2021.</p> <p data-bbox="355 1193 571 1227">Found Proved</p> <p data-bbox="355 1279 1362 1312">The Committee noted the following from Patient B's witness statement:</p> <p data-bbox="451 1364 1369 1485"><i>"The Registrant then covered the sedative dressing with a hard, composite type material on the second left molar. He didn't even explain what he was doing or why he was doing it."</i></p> <p data-bbox="355 1536 1449 1655">The Committee was satisfied that this clearly showed that Patient B had not understood the treatment that Mr Harvie-Austin had provided, and, therefore, it was more likely than not that she had not consented to it.</p> <p data-bbox="355 1706 1118 1740">Accordingly, the Committee found this charge proved.</p>
15.	<p data-bbox="355 1792 1465 1870">Between in or around August 2021 and November 2021 you practised without any, or any adequate, indemnity or insurance cover.</p> <p data-bbox="355 1915 571 1948">Found Proved</p> <p data-bbox="355 2000 1437 2078">The Committee had sight of the transcript from Mr Harvie-Austin's Interim Orders Committee hearing on 21 November 2021. In answer to the question</p>

as to whether he held indemnity insurance between August and November 2021, Mr Harvie-Austin answered, “No”.

Accordingly, the Committee found this charge proved.

Stage Two

35. Having announced its decision on the facts, in accordance with Rule 20 of the Rules, the Committee heard submissions from Mr Micklewright, on behalf of the GDC in relation to the matters of misconduct, impairment and sanction. The Committee also received advice from the Legal Adviser, which it accepted.
36. The Committee reminded itself that its decisions on misconduct, impairment and sanction are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings. It had regard to its duty to protect the public, declare and uphold proper standards of conduct and competence and maintain public confidence in the profession. Where applicable, the Committee took into consideration the GDC’s “*Standards for the Dental Team*” (September 2013) and the Guidance for the Practice Committees, including Indicative Sanctions Guidance, (October 2016, revised December 2020) (“the Practice Committee Guidance”). The Committee also had regard to relevant case law.
37. The Committee also had regard to further documents at this stage of the proceedings, which were provided by the GDC. This comprised a PCC determination from Mr Harvie-Austin’s previous appearance at a substantive hearing in July 2021 where his fitness to practice was found to be impaired and a conditions of practice order for 12 months was imposed. Further determinations were provided in respect of the subsequent PCC review hearings in February 2022 and February 2023. In February 2022, the conditions were revoked and a suspension order imposed. This was renewed at the hearing in February 2023.

Summary of the Committee’s Findings

38. In respect of Patient A’s treatment, the Committee has found proved between on or around 9 July 2021 and on or around 19 October 2021, Mr Harvie-Austin failed to provide an adequate standard of care to Patient A as he did not undertake an adequate examination of the hard and soft tissues of the face and jaws, did not undertake any adequate cancer screening or any adequate assessment of Patient A’s periodontal status. It has also found proved that he failed to report on radiographs (adequately or at all), failed to make adequate dental records, failed to provide Patient A with a written treatment plan and failed to obtain valid consent for

Patient A's treatment by not discussing with her the risks and benefits or treatment options.

39. During the appointment on or around 26 August 2021 with Patient A, the Committee found Mr Harvie-Austin failed to provide an adequate standard of care by not using an extraction screw to an adequate standard, which resulted in it being ingested by Patient A during treatment. Further, on or around 4 September 2021, having prescribed a prescription-only medication, it found proved that Mr Harvie-Austin asked Patient A to print out a prescription, which he had emailed to her, pretend to be the registrant and copy his signature onto the said prescription. The Committee found this conduct to be inappropriate, misleading and dishonest in that Mr Harvie-Austin intended the dispensing pharmacist to believe that the registrant had signed the prescription.
40. In respect of Patient B's treatment, the Committee found proved that Mr Harvie-Austin failed to provide an adequate standard of care from on or around 15 July 2021 to on or around 9 November 2021 by not undertaking an adequate examination of the hard and soft tissues of the face and jaws or any adequate cancer screening, and failed to make adequate dental records by not recording this. It also found proved that Mr Harvie-Austin failed to obtain valid consent for a dressing placed to the LL7 at an appointment on 14 September 2021. Lastly it found proved that Mr Harvie-Austin practised without any, or adequate, indemnity or insurance cover from at least August 2021 to November 2021.

Submissions

41. Mr Micklewright first addressed the Committee on the matter of misconduct. He submitted that the conduct found proved amounts to a serious case of misconduct. He referred the Committee to the GDC's Standards and submitted that Mr Harvie-Austin had breached the following: 1.3, 1.4.2, 1.8, 2.2, 2.3, 3.1, 3.2, 3.3 and 9.1. In particular, he submitted that his conduct overlapped the period of his previous substantive hearing in July 2021, when he would have been on notice that aspects of his practice were being criticised. He submitted that a responsible practitioner in those circumstances would have adapted their practice to ensure that there was no repetition of those concerns. Therefore, he submitted, it is a surprising and aggravating feature of this case that some of the same failings have reappeared.
42. In particular, Mr Micklewright submitted that the dishonesty issue is serious as Mr Harvie-Austin deliberately sought to circumvent the protections in place regarding prescribing and deliberately engaged his patient in this process. He further submitted that his failure to have indemnity or insurance was also serious as it appears that he carried on practising whilst knowing full well that he did not have indemnity or insurance cover.

43. In conclusion, Mr Micklewright submitted that the threshold for a finding of misconduct had been clearly met in this case.
44. In relation to the matter of impairment, Mr Micklewright submitted that the risk of repetition of the failings in this case was high indeed. He submitted that there is no evidence of remediation or insight from Mr Harvie-Austin. He referred the Committee to the previous findings made by the PCC in July 2021 and submitted that a number of failings found proved then have also been found proved at this hearing. Furthermore, he submitted that it was of particular concern that the conditions initially imposed on Mr Harvie-Austin's registration in July 2021 were revoked in February 2022 owing to his non-compliance. He submitted, therefore, that Mr Harvie-Austin's fitness to practise is currently impaired on the grounds of public protection. Furthermore, he submitted that a finding of impairment was required in the public interest.
45. Lastly, Mr Micklewright addressed the Committee on the matter of sanction. He submitted that, owing to the seriousness of the concerns found proved, some of which had been found proved previously, Mr Harvie-Austin's lack of engagement with these proceedings, and the lack of evidence of any remediation or insight, meant that the most appropriate and proportionate sanction was one of erasure.

Misconduct

46. The Committee first considered whether the facts found proved against Mr Harvie-Austin amounted to misconduct. The Committee noted that the failings found proved covered a wide range of clinical matters, including Mr Harvie-Austin's failure to carry out basic clinical examinations and a lack of record keeping. The failings also included breaches of fundamental tenets of the profession in respect of his dishonest conduct and working without any indemnity or insurance.
47. The Committee had regard to Mr Micklewright's submissions in respect of the GDC Standards which Mr Harvie-Austin had breached. The Committee agreed with these submissions and concluded that Mr Harvie-Austin's failings were a serious departure from, and a clear breach of, these and other GDC standards.
48. The Committee also determined that Mr Harvie-Austin's actions, particularly in relation to dishonesty and working without indemnity or insurance, would be considered deplorable by fellow members of the dental profession and members of the public alike. The Committee concluded, therefore, that Mr Harvie-Austin's actions in this case had fallen far short of the standards of conduct that are proper in these circumstances and amounted to serious professional misconduct.

Impairment

49. The Committee then considered in turn whether Mr Harvie-Austin's fitness to practise is currently impaired by reason of his misconduct.
50. The Committee was mindful of its role to protect patients and the public interest, which includes the need to maintain proper standards of conduct among dental professionals, and to protect patients from risk of harm.
51. The Committee firstly considered whether the misconduct it has found proved was remediable. It considered that the clinical failings and working without indemnity or insurance were capable of being remedied. However, it noted that dishonesty, as it is an attitudinal failing, is difficult to remediate. The Committee next considered whether the failings have been remedied. The Committee considered the evidence of remediation provided by Mr Harvie-Austin at his previous PCC hearing in July 2021, but noted that this was more than two years ago. The Committee further noted that that PCC determined that this remediation evidence was "limited" and that he had "insufficient insight". The Committee has seen no evidence of any remedial action undertaken by Mr Harvie-Austin since July 2021 as he has not engaged with these proceedings. With regard to his clinical failings, the Committee noted that some of these had been found proved at the substantive hearing in July 2021 and there is no evidence to show that these have been satisfactorily addressed.
52. The Committee has seen no evidence that Mr Harvie-Austin possesses any insight into his misconduct. On the contrary, in relation to his dishonesty, the Committee noted from the evidence that it seemed to be his standard practice to ask patients to fill out prescriptions using his signature. The Committee also noted that it appeared that he worked deliberately without indemnity or insurance for several months and there was no evidence to suggest that he had attempted to rectify this during this time.
53. For these reasons, the Committee considered that there is a high risk that Mr Harvie-Austin could repeat the misconduct it has found, thereby putting patients at risk of harm. It therefore concluded that a finding of impairment is necessary in the interest of public protection.
54. The Committee also determined that a finding of impairment is necessary in the wider public interest to maintain public confidence and uphold proper standards of conduct and behaviour. Mr Harvie-Austin has breached fundamental standards and tenets of the dental profession and has to date shown no insight into these serious matters. The Committee considered that public confidence in the dental profession and in the GDC as regulator would be severely undermined if a finding of impairment in relation to misconduct was not made in the circumstances of this case.

Sanction

55. The Committee next considered what sanction, if any, to impose on Mr Harvie-Austin's registration. It recognised that the purpose of a sanction is not to be punitive although it may have that effect. The Committee applied the principle of proportionality balancing Mr Harvie-Austin's interest with the public interest. It also took into account the *Practice Committee Guidance*.

56. The Committee considered the mitigating and aggravating factors in this case as outlined in paragraphs 5.17 and 5.18 of the *Practice Committee Guidance*.

57. The Committee could not identify any mitigating factors in this case, although it acknowledged that Mr Harvie-Austin may have been suffering from fatigue during the appointment on 26 August 2021 when Patient A ingested an extraction screw, as he had at that time been operating for about two hours.

58. The aggravating factors in this case include:

- Actual harm and risk of harm to patients – the Committee noted that Patient A suffered actual harm and that there was a risk of harm to patients in Mr Harvie-Austin practising without indemnity or insurance;
- Dishonesty;
- Premeditated misconduct – in respect of the dishonesty relating to prescribing and working without indemnity or insurance;
- Financial gain by the Registrant – the Committee considered that Mr Harvie-Austin benefitted financially by deliberately not paying for indemnity or insurance cover whilst practising;
- Breach of trust – the Committee considered that Mr Harvie-Austin had breached the trust of the dispensing pharmacist, who would have relied on all the information being correct on the prescription. The Committee also considered that Mr Harvie-Austin had breached the trust of the patients when practising without indemnity or insurance, and noted they would have relied on him to act in a professional manner and adhere to the GDC Standards;
- The involvement of a vulnerable patient – the Committee noted elements of vulnerability with Patient A during her treatment with Mr Harvie-Austin and Dr Ashraf;
- Misconduct sustained or repeated over a period of time;
- Blatant or wilful disregard of the role of the GDC and the systems regulating the profession;
- Previous adverse findings – in particular, the Committee noted that Mr Harvie-Austin had repeated some of the misconduct found in July 2021;
- Lack of insight.

59. The Committee decided that it would be inappropriate to conclude this case with no further action. It would not satisfy the public interest given the serious nature of the misconduct.
60. The Committee then considered the available sanctions in ascending order starting with the least serious.
61. The Committee concluded that misconduct of this nature cannot be adequately addressed by way of a reprimand. It cannot be said to be at the lower end of the spectrum of seriousness. The public interest would not be sufficiently protected by the imposition of such a sanction. The Committee therefore determined that a reprimand would be inappropriate and inadequate.
62. The Committee then considered whether a conditions of practice order would be appropriate. The Committee considered that it could formulate conditions to address the clinical issues and the issue of working without indemnity or insurance. However, it noted that it would be difficult to formulate conditions to address the issue of Mr Harvie-Austin's dishonest misconduct. The Committee also noted that Mr Harvie-Austin is currently not engaging with these proceedings and had previously not complied with the conditions imposed on him by a PCC. The Committee concluded that conditions would neither be workable, sufficient nor appropriate to address the seriousness of the misconduct and safeguard the wider public interest.
63. The Committee next considered whether to suspend Mr Harvie-Austin's registration for a specified period. It questioned whether a suspension would be sufficient in all the circumstances of the misconduct that it has found. In reaching its decision, the Committee considered that Mr Harvie-Austin has provided no evidence of remediation or shown any insight into these serious matters. The Committee also noted that Mr Harvie-Austin has not engaged with these proceedings. In particular, the Committee was shocked and troubled by his dishonest conduct. It was of the view that this could amount to a criminal offence, namely fraud by false representation, and had deliberately engaged his patient in this process. Furthermore, in his messages to Patient A, it seemed that Mr Harvie-Austin had regarded this to be acceptable practice. The Committee, therefore, concluded that a sanction of suspension would not be sufficient to mark the seriousness of Mr Harvie-Austin's misconduct in this case. Furthermore, the Committee concluded that the suspension of Mr Harvie-Austin's registration would not be sufficient to maintain the public's confidence in the dental profession.
64. In considering whether the sanction of erasure was appropriate, the Committee had regard to paragraph 7.34 of the *Practice Committee Guidance*, which states:

65. *“Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion:*

- *serious departure(s) from the relevant professional standards;*
- *the abuse of a position of trust...;*
- *serious dishonesty...;*
- *a persistent lack of insight into the seriousness of actions or their consequences.”*

66. It was the view of the Committee that all of the above applied in the circumstances of this case. It noted that Mr Harvie-Austin has shown no insight into his behaviour and his conduct was a serious departure from the standards expected of dental professionals. Given these reasons, the Committee concluded that Mr Harvie-Austin’s behaviour was so egregious that it was fundamentally incompatible with being a dental professional.

67. In all the circumstances, the Committee has determined to erase Mr Harvie-Austin’s name from the Dentists Register.

68. The Committee now invites submissions as to whether an immediate order should be imposed on Mr Harvie-Austin’s registration, pending the taking effect of its determination for erasure.

Decision on Immediate Order

69. The Committee has considered whether to make an order for the immediate suspension of Mr Harvie-Austin’s registration in accordance with Section 30 of the Dentists Act 1984 (as amended).

70. Mr Micklewright, on behalf of the GDC, submitted that such an order is necessary for the protection of the public and is otherwise in the public interest. He submitted that the Committee has made significant findings in respect of its ongoing concerns about the risk to the public and repetition of the failings found proved in this case. He submitted that a member of the public would be shocked and concerned if no immediate order was imposed. Furthermore, he submitted that an immediate order was necessary notwithstanding the previous substantive order of suspension on Mr Harvie-Austin’s registration, as this may fall away.

71. The Committee has considered the submission made. It has accepted the advice of the Legal Adviser.

72. The Committee is satisfied that an immediate order of suspension is necessary for the protection of the public and is otherwise in the public interest. The Committee concluded that given the nature of its findings and its reasons for the substantive order of erasure in Mr Harvie-Austin's case, it is necessary to direct that an immediate order of suspension be imposed on both of these grounds. The Committee considered that, given its findings, if an immediate order was not made in the circumstances, there would be a risk to public safety and public confidence in the profession would be undermined.
73. The effect of this direction is that Mr Harvie-Austin's registration will be suspended immediately. Unless Mr Harvie-Austin exercises his right of appeal, the substantive order of erasure will come into effect 28 days from the date on which notice of this decision is deemed to have been served on him. Should Mr Harvie-Austin exercise his right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.
74. The Committee also directs that the interim order of suspension currently in place on Mr Harvie-Austin's registration should be revoked.
75. That concludes this hearing.