

HEARING HEARD IN PUBLIC

DIMITROV, Nikolay Dimitrov

Registration No: 110782

PROFESSIONAL CONDUCT COMMITTEE

June 2012 – July 2014**

Most recent outcome:

Suspension order replaced with an order for indefinite suspension. Immediate suspension imposed**

** See page 13 for the latest determination

Nikolay Dimitrov DIMITROV, DDM Plovdiv 1989, was summoned to appear before the Professional Conduct Committee on 26 June 2012 for an inquiry into the following charge:

Amended with the agreement of both parties

“That, being a registered dentist:

1. Between around March 2010 and December 2010 you were employed as an associate dentist working at the Harbour Dental Practice, 3 High Street, Margate, Kent, CT9 1DL (“the practice”).
2. On around 18 November 2010 you were consulted by Patient A, a minor, who attended an appointment with his mother Mrs H (“the consultation”).
3. In the course of the Consultation you stated words to the effect that:
 - (a) reported soreness in Patients A’s gums was due to “being a teenager and growing up”;
 - (b) Patient A needed “to be educated”;
 - (c) Patient A needed “to grow up and be a man”;
 - (d) “men are superior to women”;
 - (e) “London and Los Angeles are full of gay men”;
 - (f) “in Bulgaria gay men are hidden away from society, unlike in London and Los Angeles”;
 - (g) “there are three gays to each straight man in London”;
 - (h) the British Government:
 - i. was unwise in its dealings with overseas dentists making it too easy for them to come and work in this country;
 - ii. does not treat or pay British dentists enough so they have to go abroad;
 - iii. had to ask foreign dentists to fill the places of the British dentist who had gone abroad;

- iv. begged you to come to the UK and work;
 - v. you were only in the UK for the money.
- 4. In making one or more of the remarks at (3) above you used a raised tone.
- 5. Your words and actions as described at (3) and (4) above were:
 - (a) inappropriate;
 - (b) made when you knew or ought to have known that they were capable of causing offence.
- 6. At or around the conclusion of Patient A's consultation, you stated "thank you for the filling" or words to that effect.
- 7. The remark described at (6) above was:
 - (a) inappropriate;
 - (b) made using a tone that you knew or ought to have known was capable of causing offence.
- 8. On separate, unknown dates between around August 2010 and December 2010 you stated to Nurse D, words to the effect that:
 - (a) "If you do not give your boyfriend a blow job daily then he will leave you";
 - (b) "I was asleep and dreaming of the Practice Manager, Mrs E, giving me a blow job".
- 9. Your comments at (8) above were
 - (a) inappropriate;
 - (b) made when you knew or ought to have known that they were capable of causing offence.

And that in relation to the facts alleged your fitness to practise is impaired by reason of your misconduct."

As Dr Dimitrov did not attend and was not represented at the hearing, the Chairman made the following statement regarding proof of service. He addressed this to the Counsel for the GDC.

"Ms Bruce,

Mr Dimitrov is neither present nor represented at this hearing. On behalf of the General Dental Council (GDC), you made an application pursuant to Rule 54 of the GDC (Fitness to Practise) Rules 2006 (the Rules), for the Committee to proceed to hear the case in his absence.

The Committee has taken into account your submissions and the supporting documentation you have provided. It has accepted the advice of the Legal Adviser.

The Committee first considered whether notification of this hearing was duly sent to Mr Dimitrov in accordance with Rules 13 and 65 of the Rules. The Committee noted that a copy of the Notice was sent to Mr Dimitrov by email and by international signed for post to his alternative address in Bulgaria, where delivery was refused. On the basis of this information the Committee was satisfied that service had been effected in accordance with

the Rules and that all reasonable efforts had been made to notify Mr Dimitrov of this hearing.

The Committee next considered whether to proceed to hear Mr Dimitrov's case. It approached this issue with the utmost care and caution. In accordance with the legal advice received, it had regard to the criteria approved by the House of Lords in R v Jones [2003] 1 AC 1HL.

The Committee read the email from Mr Dimitrov, dated 30 May 2012, in which he indicated that he is aware of the allegations against him and stated that he does not wish to take part in these proceedings.

In all the circumstances the Committee was satisfied that Mr Dimitrov has full knowledge of these proceedings and that he has voluntarily waived his right to attend. He has not requested an adjournment of this hearing, nor has he provided a medical certificate. There is no evidence before the Committee to indicate that an adjournment would make his attendance any more likely on a future date.

Taking these factors into account, the Committee concluded that it was fair and in the interests of justice to proceed with the hearing in his absence.

In reaching this decision, the Committee has borne in mind that it must not draw any adverse inferences from Mr Dimitrov's absence.

On 27 June 2012 the Chairman made the following statement regarding the finding of facts:

"Ms Bruce,

At the outset of the hearing, you made an application on behalf of the General Dental Council (GDC) under Rule 18 of the GDC (Fitness to Practise) Rules 2006, to amend head 7(b) of the charge by inserting the word 'made' at the beginning of it. The Committee agreed to this application, as it was satisfied that the grammatical amendment did not affect the substance of the allegation. It was subsequently agreed that 'Mrs B', as she was referred to in the charge, should be addressed and referred to as 'Mrs H' in accordance with her preference.

This case involves two categories of allegations against Mr Dimitrov. The first category concerns verbal remarks Mr Dimitrov made, including remarks relating to sexual preferences, during a consultation with Patient A, a minor, and Mrs H, the patient's mother, on 18 November 2010. The second category concerns sexual remarks Mr Dimitrov made to Nurse D, the dental nurse who worked with him at that practice.

The Committee heard factual evidence from Mrs H, Nurse D and the Integrated Dental Holdings Area Manager, Debbie Williams, who gave her evidence via a Skype link.

The Committee received documentary evidence, including copies of the notes of meetings attended by Mr Dimitrov at the practice, following the alleged events. The Committee also took into account the email received from Mr Dimitrov, dated 30 May 2012, in which he commented on some of the allegations against him.

The Committee has considered all the evidence before it. It has accepted the advice of the Legal Adviser.

The Committee first considered the evidence it had heard from the three witnesses in this case. It was satisfied that their evidence was credible and that they were honest and truthful in what they said. Whilst it noted that there were some discrepancies between the accounts of Mrs H and Nurse D, it attributed Mrs H's different recollection of certain events to her surprise at the unusual situation she faced at the consultation and to the passage of time. The Committee found Mrs H to be credible in respect of the matters she could recall.

The Committee then 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, namely the balance of probabilities. The Committee reminded itself that it could not draw any adverse inferences from Mr Dimitrov's absence and that his absence did not add anything to the GDC's case.

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

1. Proved.

2. Proved.

3(a). Proved.

3(b). Proved.

The Committee accepted the evidence of Nurse D that words to this effect were said during the consultation. It also accepted that during a meeting at the practice on 25 November 2010, Mr Dimitrov admitted that his comments were spoken in the context of what he perceived to be Patient A's "education".

3(c). Proved.

3(d). Proved.

The Committee accepted the evidence of Nurse D that words to this effect were said during the consultation.

3(e). Proved.

3(f). Proved.

3(g). Proved.

3(h)(i). Not proved.

The Committee accepted the evidence tendered that Mr Dimitrov spoke words concerning the British Government's lack of wisdom in dealing with dentists from overseas. However, the Committee did not find that the GDC had discharged the burden of proving that Mr Dimitrov had purported to justify his views on the basis that it had been made too easy for dentists from overseas to come and work in this country. Accordingly, this sub-head of charge is not proved.

3(h)(ii). Proved.

3(h)(iii). Proved.

The Committee accepted the evidence of Nurse D.

3(h)(iv). Proved.

3(h)(v). Proved.

4. Proved.

5(a). Proved.

The Committee found that Mr Dimitrov's actions as described in heads 3 and 4 were inappropriate on the basis that it considered an ordinary person would have found his actions inappropriate.

5(b). Proved.

Conversations of the sort found proved, spoken in the manner found proved, was conduct which clearly gave rise to the risk of offence being caused to those spoken to. The Committee noted the evidence that Mr Dimitrov had himself asked Nurse D whether she had heard anything about the incident involving Patient A. Also, in a subsequent email, Mr Dimitrov stated that he had apologised twice for his behaviour. In these circumstances, it is clear that he knew, or at the very least ought to have known, that his actions were capable of causing offence.

6. Proved.

7(a). Proved.

7(b). Proved.

The Committee accepted the evidence of Mrs H and Nurse D that Mr Dimitrov spoke the words in 7(a) in a sarcastic manner, reflecting the fact that neither Patient A nor Mrs H had thanked him for the treatment. The Committee was of the opinion that it was unacceptable for the dentist to use sarcastic language with a patient in this situation.

8(a). Proved.

8(b). Proved.

9(a). Proved.

9(b). Proved.

We move to Stage Two."

On 27 June 2012 the Chairman announced the determination as follows:

"Ms Bruce,

The Committee has considered all the evidence presented to it. It has heard submissions from you on behalf of the General Dental Council (GDC). It has considered and accepted the advice of the Legal Adviser.

Between March 2010 and December 2010, Mr Dimitrov was employed as an associate dentist working at the Harbour Dental Practice, 3 High Street, Margate, Kent, CT9 1DL ("the practice").

On 18 November 2010 he was consulted by Patient A, a minor, who attended an appointment with his mother Mrs H ("the consultation").

In the course of the consultation Mr Dimitrov stated words to the effect that:

- the reported soreness in Patient A's gums was due to him "being a teenager and growing up";
- Patient A needed "to be educated";
- Patient A needed "to grow up and be a man";
- "men are superior to women";
- "London and Los Angeles are full of gay men";
- "in Bulgaria gay men are hidden away from society, unlike in London and Los Angeles"; and
- "there are three gays to each straight man in London".

He went on to state words to the effect that, the British Government:

- does not treat or pay British dentists enough, so they have to go abroad;
- had to ask foreign dentists to fill the places of the British dentists who had gone abroad;
- begged him to come to the UK and work; and
- he was only in the UK for the money.

In making one or more of these remarks Mr Dimitrov used a raised tone.

Mr Dimitrov's words and actions during the consultation were inappropriate and he made these comments when he knew, or ought to have known, that they were capable of causing offence.

Further, at or around the conclusion of Patient A's consultation, Mr Dimitrov stated in a sarcastic tone "thank you for the filling" or words to that effect. He made this comment in response to the fact that neither Patient A, nor Mrs H had thanked him. Mr Dimitrov's remark in this respect was inappropriate and made using a tone that he knew, or ought to have known, was capable of causing offence.

On separate, unknown dates between August 2010 and December 2010, Mr Dimitrov stated to Nurse D, words to the effect that:

- "If you do not give your boyfriend a blow job daily then he will leave you"; and
- "I was asleep and dreaming of the Practice Manager, Mrs E, giving me a blow job".

These comments made by Mr Dimitrov were clearly inappropriate and again made when he knew, or ought to have known, that they were capable of causing offence.

In accordance with Rule 20 of the GDC (Fitness to Practise) Rules 2006, you informed the Committee of the matters known about Mr Dimitrov by the GDC. You provided the Committee with copies of a published warning issued to Mr Dimitrov on 29 March 2010 and a copy of a letter of advice issued to him on 28 January 2011. However, you invited the Committee to treat the information contained within the letters with caution. You stated that those matters had not been tested at a substantive hearing and were only provided to give background and context to Mr Dimitrov's behaviour. The Committee also took into account the legal advice on this matter that although the facts of the issuing of the warning and the

giving of the advice could be relied upon, it would not be appropriate to conclude that the underpinning events were proved against Mr Dimitrov.

In submitting that Mr Dimitrov's behaviour was serious, you referred not only to the facts that the Committee had found to be proven, but also to the fact that the offending words were spoken by Mr Dimitrov after he had been issued with a published warning in March 2010 and after he knew that he was being investigated with regard to the complaint that subsequently culminated in the letter of advice of 28 January 2011.

You submitted that Mr Dimitrov's behaviour had breached a number of the GDC's Standards. You further submitted that Mr Dimitrov appeared to be operating without any boundaries and that his responses to the matters in this case demonstrate a worrying lack of insight.

In deciding on whether Mr Dimitrov's fitness to practice is currently impaired, the Committee exercised its own independent judgement. It reminded itself of its primary duty to consider the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

The Committee first considered whether the facts found proved amounted to misconduct. In so doing, it had regard to the GDC's publication *Standards for Dental Professionals (May 2005)*. In particular, it took into account the following paragraphs, which it considered relevant in this case:

- 1.1 Put patients' interests before your own or those of any colleague, organisation or business.
- 1.2 Follow these principles when handling questions and complaints from patients and in all other aspects of non-clinical professional service.
- 2.1 Treat patients politely and with respect, in recognition of their dignity and rights as individuals.
- 2.4 Listen to patients and give them the information they need, in a way they can use, so that they can make decisions. This will include:
 - communicating effectively with patients;
 - explaining options (including risks and benefits); and
 - giving full information on proposed treatment and possible costs.
- 2.5 Maintain appropriate boundaries in the relationships you have with patients. Do not abuse those relationships.
- 4.1 Co-operate with other team members and colleagues and respect their role in caring for patients.
- 4.2 Treat all team members and other colleagues fairly and in line with the law. Do not discriminate against them.
- 4.3 Communicate effectively and share your knowledge and skills with other team members and colleagues as necessary in the interests of patients. In all dealings with other team members and colleagues, make the interests of patients your first priority. Follow our guidance 'Principles of dental team working'.

Mr Dimitrov's behaviour towards his young patient, his patient's mother and his trainee dental nurse, fell seriously short of the standards, which would have been expected of any reasonable dental professional in the circumstances. The seriousness of his behaviour in this case is highlighted by the fact that he was specifically referred to the GDC's Standards for Dental Professionals when issued with a warning in March 2010. Mr Dimitrov's repeated sexualised comments towards his trainee dental nurse were of particular concern to the Committee. It was in no doubt that Mr Dimitrov's words and actions amounted to misconduct.

The Committee then considered whether Mr Dimitrov's fitness to practise is currently impaired by reason of his misconduct. The Committee was of the opinion that Mr Dimitrov's inappropriate behaviour was conduct that could be remedied. However, there was no evidence before the Committee to suggest that Mr Dimitrov had made any attempt to address his misconduct.

The Committee was particularly concerned that this misconduct had occurred following a warning from the GDC's Investigating Committee and during another on-going investigation into his practice. While the Committee acknowledged that within the written documentation Mr Dimitrov had shown occasional insight into his own character, it appears that he has made no effort to change, despite being given the opportunity. This is most apparent in his email of 30 May 2012 in which he interprets the events in this case as a "tiny communication problem". Mr Dimitrov's responses throughout this case demonstrate to the Committee that there is a significant risk of repetition without Mr Dimitrov taking any positive steps to remediate. For these reasons, the Committee has determined that Mr Dimitrov's fitness to practise is currently impaired.

The Committee next considered what sanction, if any, to impose on Mr Dimitrov's registration. It remained mindful that the purpose of a sanction is not to be punitive, although it may have a punitive effect, but to protect patients and the wider public interest.

You submitted that in view of the facts found proved and Mr Dimitrov's GDC history, the appropriate sanction was one of at least suspension.

The Committee took into account the *Guidance for the Professional Conduct Committee (November 2009)*. It considered the range of sanctions available to it, starting with the least restrictive. In reaching its decision on the appropriate sanction the Committee applied the principle of proportionality, weighing the public interest with Mr Dimitrov's own interests.

In view of the serious nature of Mr Dimitrov's misconduct, the Committee determined that it would be wholly inappropriate to conclude this case without taking any action in respect of his registration. The Committee also determined that it would be inappropriate to conclude this case with a reprimand. The previous GDC warning received by Mr Dimitrov did not prevent the misconduct occurring. In the light of this, the Committee decided that the issue of a reprimand would not protect the public nor uphold public confidence in this regulatory process.

The Committee next considered whether to impose conditions on Mr Dimitrov's registration. It noted that any conditions imposed would have to be clear, workable, measurable and enforceable. The Committee found that it could not formulate any meaningful or workable conditions to address Mr Dimitrov's attitudinal and behavioural issues.

The Committee went on to consider whether to suspend Mr Dimitrov's registration. The Committee concluded that a period of suspension was sufficient in this case. The

Committee decided that the suspension of Mr Dimitrov's registration would protect the public and send a clear message that the behaviour he exhibited is not acceptable or to be tolerated in the dental profession. In view of the Committee's opinion that Mr Dimitrov's inappropriate behaviour was capable of being remedied, it considered that it would be disproportionate to erase his name from the register, given that a suspension would serve to protect the public whilst he undertook any remediation.

In all the circumstances the Committee has determined that it is appropriate and proportionate to suspend Mr Dimitrov's registration for a period of 12 months.

A Committee will review Mr Dimitrov's case at a resumed hearing to be held shortly before the end of the period of suspension. That Committee will consider what further action should be taken in relation to his registration. Mr Dimitrov will be informed of the date and time of that resumed hearing, which he will be expected to attend.

The Committee reviewing Mr Dimitrov's case may find it helpful to receive cogent and compelling evidence that he had taken real steps towards addressing the issues that have resulted in this decision. That Committee would wish to be convinced that the risk of a recurrence will be minimised.

The Committee is minded to consider suspending Mr Dimitrov's registration immediately, but first invites submissions from you, as to whether an immediate order is necessary."

"Ms Bruce,

The Committee has determined that it is necessary for the protection of the public and is otherwise in the public interest to impose an order for immediate suspension on Mr Dimitrov's registration. Its reasons are as set out in its substantive determination.

The effect of the foregoing determination and this order is that Mr Dimitrov's registration will be suspended from the date on which notice of this decision is deemed served upon him. Unless Mr Dimitrov exercises his right of appeal, the substantive direction for suspension, as already announced, will take effect 28 days from the date of deemed service.

Should Mr Dimitrov exercise his right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

The interim order currently on Mr Dimitrov's registration is hereby revoked.

That concludes this hearing."

At a review hearing on 22 July 2013 the Chairman announced the determination as follows:

"Ms Bruce: Mr Dimitrov is neither present nor represented at today's hearing. In his absence, the Committee first considered whether notice of this hearing had been served on Mr Dimitrov in accordance with Rule 54(a) of the General Dental Council (Fitness to Practise) Rules Order of Council 2006 (the Rules). The Committee has received a bundle of documents which comprises a print out from the General Dental Council's (GDC)

register of Mr Dimitrov's registered address in Bulgaria as at 14 March 2013 and a copy of the notification of today's hearing dated 14 March 2013 which was sent to that registered address by way of 'international signed for post'. A further notification of today's hearing was also sent on 14 March 2013 to Mr Dimitrov's address in Florida, USA. Finally, the Committee has seen the paperwork which confirms that notification of today's hearing was emailed to Mr Dimitrov on 14 March 2013, and that he acknowledged receipt of that notification by email. In these circumstances, the Committee is satisfied that notice of this hearing has been served on Mr Dimitrov in accordance with the Rules.

The Committee then went on to consider whether to exercise its discretion under Rule 54(b) to hear this case in the absence of Mr Dimitrov. You on behalf of the General Dental Council (GDC) have invited the Committee to do so on the basis that he has voluntarily absented himself from these proceedings. You referred the Committee to the correspondence dated 29 April 2013 from Ms Rigby at Capsticks (acting on behalf of the GDC) to Mr Dimitrov at his address in Bulgaria and copied to his address in Florida, USA, in which she writes to enquire whether or not Mr Dimitrov intends to attend the hearing and/or be represented. He was asked to provide a response by 10 May 2013. This Committee notes that by email dated 14 June 2013, Mr Dimitrov informs Ms Rigby that he has received the letters from the GDC and states that he will not be attending or be represented at today's hearing.

The Committee has considered carefully the submissions you have made. It has accepted the advice of the legal adviser. It is mindful of the need to proceed in the absence of the registrant with the utmost care and caution.

The Committee has concluded that Mr Dimitrov is aware of today's hearing, as indicated in his email dated 14 June 2013, and that he has voluntarily waived his right to attend. Further, he has not sought an adjournment. The Committee has concluded that no useful purpose would be gained by adjourning these proceedings. Additionally, the Committee is satisfied that there is a clear public interest in proceeding with today's hearing in the absence of Mr Dimitrov, given that the order must be reviewed before its expiry (31 July 2013). Taking all these factors into account, the Committee has decided to proceed in the absence of Mr Dimitrov.

This is a resumed hearing following a direction made on 27 June 2012 by the Professional Conduct Committee (PCC) that Mr Dimitrov's registration be suspended for a period of 12 months with a review by the PCC to take place prior to the end of that period.

This Committee has been reminded of the background of Mr Dimitrov's case and the grounds for holding a resumed hearing. It notes that there are two elements to this case – the first element involves a number of inappropriate and offensive verbal remarks made by Mr Dimitrov during the course of a consultation on 18 November 2010 with Patient A, a minor, who attended with his mother, Mrs H. The second category concerned sexual remarks made between the period August 2010 and December 2010 by Mr Dimotrov to Nurse D, the dental nurse who worked with him at the practice.

The PCC found proved that in the course of the consultation on 18 November 2010 Mr Dimitrov stated words to the effect that:

- the reported soreness in Patient A's gums was due to him "being a teenager and growing up";
- Patient A needed "to be educated";

- Patient A needed “to grow up and be a man”;
- “men are superior to women”;
- “London and Los Angeles are full of gay men”;
- “in Bulgaria gay men are hidden away from society, unlike in London and Los Angeles”; and
- “there are three gays to each straight man in London”.

He went on to state words to the effect that, the British Government:

- does not treat or pay British dentists enough, so they have to go abroad;
- had to ask foreign dentists to fill the places of the British dentists who had gone abroad;
- begged him to come to the UK and work; and
- he was only in the UK for the money.

In making one or more of these remarks Mr Dimitrov used a raised tone. That PCC further found proved that at around the conclusion of Patient A’s consultation, Mr Dimitrov stated in a sarcastic tone “thank you for the filling” or words to that effect. He made this comment in response to the fact that neither Patient A, nor Mrs H had thanked him.

Turning to the dental nurse, the PCC found proved that on separate, unknown dates between August 2010 and December 2010, Mr Dimitrov stated to Nurse D, words to the effect that:

- “If you do not give your boyfriend a blow job daily then he will leave you”; and
- “I was asleep and dreaming of the Practice Manager, Mrs E, giving me a blow job”.

That PCC considered that Mr Dimitrov’s behaviour towards his young patient, his patient’s mother and his repeated sexualised comments to his trainee dental nurse, fell seriously short of the standards, which would have been expected of any reasonable dental professional in the circumstances. It determined that Mr Dimitrov’s conduct breached fundamental tenets of the profession, as outlined in paragraphs 1.1, 1.2, 2.1, 2.4, 2.5, 4.1, 4.2 and 4.3 of the GDC’s Standards for Dental Professionals (May 2005). Another aggravating feature the PCC had regard to was the fact that Mr Dimitrov had been specifically referred to the GDC’s Standards for Dental Professionals when issued with a warning on 29 March 2010. It determined that the findings against Mr Dimitrov amounted to misconduct.

In considering whether Mr Dimitrov’s fitness to practise was then impaired, the Committee had regard to the absence of any evidence to show that Mr Dimitrov had made any attempt to address his misconduct. It was also concerned that this misconduct had occurred following a warning from the GDC’s Investigating Committee and during another on-going investigation into his practice. The PCC concluded that there was a significant risk of repetition without Mr Dimitrov taking any positive steps to remediate. It therefore determined that Mr Dimitrov’s fitness to practise was impaired.

The PCC determined to suspend Mr Dimitrov’s registration for a period of 12 months. It indicated that Mr Dimitrov’s case would be considered shortly before the end of the period of suspension. It further indicated that:

“The Committee reviewing Mr Dimitrov’s case may find it helpful to receive cogent and compelling evidence that he had taken real steps towards addressing the issues that have resulted in this decision. That Committee would wish to be convinced that the risk of a recurrence will be minimised”.

At today’s hearing, the Committee has considered all the information before it and has taken into account the submissions you have made on behalf of the GDC. It has first considered whether Mr Dimitrov’s fitness to practise remains impaired. In so doing, the Committee has reminded itself of its primary duty to consider the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

The Committee has borne in mind Mr Dimitrov’s continuing failure to engage with these proceedings. It has not had the benefit of any evidence that he has any insight into his inappropriate behaviour or has remedied it. Accordingly, the Committee considers that in the absence of any such evidence, patient safety remains a concern. For these reasons, the Committee has determined that Mr Dimitrov’s fitness to practise is currently impaired.

The Committee next considered what sanction, if any, to impose on Mr Dimitrov’s registration. It is mindful that the purpose of a sanction is not to be punitive, although it may have a punitive effect, but to protect patients and the wider public interest. You submitted that in view of Mr Dimitrov’s lack of engagement with the GDC and the absence of any evidence to satisfy this Committee that he has taken steps towards addressing the issues identified in this case, the appropriate sanction is to maintain the current order of suspension.

The Committee has exercised its own independent judgement. In so doing, it has taken into account the Guidance for the Professional Conduct Committee (November 2009). It has considered the range of sanctions available to it, starting with the least restrictive. In reaching its decision on the appropriate sanction the Committee applied the principle of proportionality, weighing the public interest with Mr Dimitrov’s own interests.

The Committee considered that, given the serious nature of Mr Dimitrov’s impairment, and his lack of engagement with the GDC, concluding the case would be wholly inappropriate. It determined that conditions would be unworkable as it could not have confidence that Mr Dimitrov would engage or comply with them.

The Committee determined that it is necessary for the protection of the public to impose a further period of suspension for a period of 12 months. The order is to be reviewed shortly before the end of that period. The Committee reviewing the case may find it helpful to receive cogent and compelling evidence that he has engaged with the GDC and has taken real steps towards addressing the issues that have resulted in this decision. That Committee would wish to be convinced that there is no risk of recurrence.”

At a review hearing on 14 July 2014 the Chairman announced the determination as follows:

“Ms Gani,

Mr Dimitrov is neither present nor represented at today’s hearing.

The Committee first considered whether notice of this hearing had been served on Mr Dimitrov in accordance with Rule 54(a) of the General Dental Council (Fitness to Practise) Rules Order of Council 2006 (the Rules). The Committee has received a bundle of

documents which included a print out from the General Dental Council's (GDC) database of Mr Dimitrov's registered address in Bulgaria as at 28 April 2014 and a copy of the notification of today's hearing dated 27 March 2014 which was sent to that registered address by way of 'international signed for post'. A printout from the Royal Mail Track and Trace website indicates that the notice was delivered in Bulgaria on 4 April 2014.

The Committee has also seen paperwork which confirms that the notification was emailed to Mr Dimitrov on 16 June 2014. In all of the circumstances, the Committee was satisfied that all reasonable efforts had been made to serve notice of today's hearing on Mr Dimitrov in accordance with the Rules.

The Committee then went on to consider whether to exercise its discretion under Rule 54(b) to hear this case in the absence of Mr Dimitrov. You on behalf of the General Dental Council (GDC) have invited the Committee to do so on the basis that he has voluntarily absented himself from these proceedings. The Committee notes that Mr Dimitrov has not acknowledged or responded to the notification and has in fact ceased engaging with the GDC. The Committee further notes that Mr Dimitrov did not attend the initial hearing or the last review.

The Committee saw printouts of a letter and of an email, both dated 1 July 2014, that were sent to Mr Dimitrov containing the bundle of papers relating to today's hearing.

The Committee has considered carefully the submissions you have made. It has accepted the advice of the legal adviser. It is mindful of the need to exercise the utmost care and caution, the matter of proceeding in the absence of the registrant.

The Committee has concluded that Mr Dimitrov has voluntarily absented himself today. Further, he has not engaged with the GDC since 2013. The Committee has concluded that no useful purpose would be gained by adjourning these proceedings. Additionally, the Committee is satisfied that there is a clear public interest in proceeding with today's hearing in the absence of Mr Dimitrov, given that the order must be reviewed before its expiry. Taking all these factors into account, the Committee has decided to proceed in the absence of Mr Dimitrov.

On 27 June 2012 the Professional Conduct Committee (PCC) made a direction that Mr Dimitrov's registration be suspended for a period of 12 months with a review to take place shortly before the end of that period. On 22 July 2013 the PCC reviewed the matter and imposed a further 12 month period of suspension with a further review to take place prior to the end of that period.

Today this Committee has conducted a second review of this matter.

Mr Dimitrov was found to have made a number of inappropriate and offensive verbal remarks during the course of a consultation on 18 November 2010 with Patient A, a minor, who attended with his mother, Mrs H. Further findings concerned sexual remarks made between the period August 2010 and December 2010 by Mr Dimotrov to Nurse D, the dental nurse who worked with him at his practice.

In the course of the consultation on 18 November 2010 Mr Dimitrov said words to the effect that:

- the reported soreness in Patient A's gums was due to him "being a teenager and growing up";
- Patient A needed "to be educated";

- Patient A needed “to grow up and be a man”;
- “men are superior to women”;
- “London and Los Angeles are full of gay men”;
- “in Bulgaria gay men are hidden away from society, unlike in London and Los Angeles”; and
- “there are three gays to each straight man in London”.

He went on to state words to the effect that, the British Government:

- does not treat or pay British dentists enough, so they have to go abroad;
- had to ask foreign dentists to fill the places of the British dentists who had gone abroad;
- begged him to come to the UK and work; and he was only in the UK for the money.

In making one or more of these remarks Mr Dimitrov used a raised tone. Around the conclusion of Patient A’s consultation, Mr Dimitrov stated in a sarcastic tone “thank you for the filling” or words to that effect. He made this comment in response to the fact that neither Patient A, nor Mrs H had thanked him.

In relation to the dental nurse, on separate, unknown dates between August 2010 and December 2010, Mr Dimitrov stated to Nurse D, words to the effect that:

- “If you do not give your boyfriend a blow job daily then he will leave you”; and
- “I was asleep and dreaming of the Practice Manager, Mrs E, giving me a blow job”.

At the initial hearing, the PCC considered that Mr Dimitrov’s behaviour towards his young patient, his patient’s mother and his repeated sexualised comments to his trainee dental nurse, fell seriously short of the standards, which would have been expected of any dental professional. It determined that Mr Dimitrov’s conduct breached fundamental tenets of the profession, as outlined in the GDC’s Standards for Dental Professionals.

An aggravating feature the PCC had regard to was the fact that Mr Dimitrov had been specifically referred to the GDC’s Standards for Dental Professionals when issued with a warning on 29 March 2010.

At the initial hearing of this case, the PCC noted a lack of evidence demonstrating that Mr Dimitrov had made any attempts to address his misconduct. It therefore concluded that there was a significant risk of repetition.

Upon suspending Mr Dimitrov’s registration in June 2012, the initial PCC gave an indication that:

“The Committee reviewing Mr Dimitrov’s case may find it helpful to receive cogent and compelling evidence that he had taken real steps towards addressing the issues that have resulted in this decision. That Committee would wish to be convinced that the risk of a recurrence will be minimised”.

At the first review hearing in July 2013 the PCC noted that Mr Dimitrov had not provided any evidence of insight or remediation.

Today this Committee has again considered all the information before it. It considered whether Mr Dimitrov's fitness to practise remains impaired. It noted the continuing lack of engagement and the lack of evidence that Mr Dimitrov has taken any steps to gain insight into his inappropriate behaviour or remedy it. In the absence of any such evidence, patient safety remains a concern and public confidence in the profession could be seriously undermined. The Committee notes that at the time of the incidents involving Patient A, Mr Dimitrov had already been given a warning by the GDC regarding inappropriate behaviour. It also notes that the incident involving the dental nurse occurred during the period Mr Dimitrov was under investigation regarding his remarks to Patient A. Neither the warning nor the investigation deterred Mr Dimitrov from his misconduct regarding his dental nurse. The Committee considers that there is a high risk of repetition of such misconduct in the future. For these reasons, the Committee has determined that Mr Dimitrov's fitness to practise is currently impaired.

The Committee next considered what sanction, if any, to impose on Mr Dimitrov's registration. It is mindful that the purpose of a sanction is not to be punitive, although it may have a punitive effect, but to protect patients and the wider public interest. You submitted that in view of Mr Dimitrov's continuing lack of engagement with the GDC and the absence of any evidence to satisfy this Committee that he has taken steps towards addressing the issues identified in this case, the appropriate sanction is to impose an order of indefinite suspension.

The Committee has exercised its own independent judgement. In so doing, it has taken into account the Guidance for the Professional Conduct Committee (November 2009). It has considered the range of sanctions available to it, starting with the least restrictive. In reaching its decision on the appropriate sanction the Committee applied the principle of proportionality, taking into consideration the public interest and Mr Dimitrov's own interests.

The Committee considered that, given the serious nature of Mr Dimitrov's misconduct and the finding of impairment, and his continuing lack of engagement with the GDC conditions remain unworkable as there is no indication that Mr Dimitrov would engage or comply with them.

The Committee next considered whether to impose a further period of suspension upon Mr Dimitrov's registration. It took into account his lack of engagement with these matters and his failure, on three occasions, to provide evidence aimed at demonstrating that he has remediated his misconduct. The Committee took the view that no useful purpose would be served by directing that he be subject to a further specified period of suspension.

The Committee determined that, given all of the circumstances outlined above, it is both proportionate and necessary for the protection of the public and the public interest, to impose an indefinite suspension upon Mr Dimitrov's registration.

The Committee notes that in terms of section 27C(4) of the Dentists Act 1984, Mr Dimitrov can request a review of this decision.

The Committee has considered the appeal period and has determined that it is necessary to impose an immediate order of suspension for the protection of the public.

Mr Dimitrov's registration is therefore subject to an immediate order of suspension from today. Unless he exercises his right of appeal, the substantive order of indefinite suspension will come into effect in 28 days time."

