

**HEARING HEARD IN PUBLIC**

**AYOR-AYO, Auma Hilda**

**Registration No: 198660**

**PROFESSIONAL CONDUCT COMMITTEE**

**AUGUST 2020**

**Outcome: Erased with Immediate Suspension**

Auma Hilda AYOR-AYO, a dental nurse, Qual- National Certificate NEBDN 2010, was summoned to appear before the Professional Conduct Committee on 10 August 2020 for an inquiry into the following charge:

**Charge**

“That, being registered as a dental care professional:

1. On 21 November 2017, you were cautioned by the Metropolitan Police for ‘assault by beating’, contrary to section 39 of the Criminal Justice Act 1988.
2. You failed to immediately inform the General Dental Council that you were cautioned for a criminal offence, as set out in paragraph 1 above.
3. Whilst working as a receptionist for Employer A, you transferred money from your employer’s account/s to your building society account without permission:
  - a. On or around 30 April 2018, you transferred £500 to your building society account;
  - b. On or around 7 May 2018, you transferred £300 to your building society account;
  - c. On or around 14 May 2018, you transferred £600 to your building society account;
  - d. On or around 26 May 2018, you transferred £600 to your building society account;
  - e. On or around 5 June 2018, you transferred £600 to your building society account;
  - f. On or around 11 June 2018, you transferred £695 to your building society account;
  - g. On or around 18 June 2018, you transferred £650 to your building society account;
  - h. On or around 21 June 2018, you transferred £650 to your building society account.
4. Your conduct at any or all of paragraphs 3(a) to (h) was:
  - a. Misleading;
  - b. Dishonest, in that you knew that you did not have permission to transfer money from your employer’s account/s to your building society account.

5. Whilst working as a receptionist at Practice B, you used patient credit card and/or debit card details to make online purchases from New Look without permission:
  - a. On or around 26 November 2018 you used Patient A's Visa details to purchase 9 items from New Look to the value of £143.96;
  - b. On or around 4 March 2019 you used Patient B's Mastercard details to purchase 27 items from New Look to the value of £267.99;
  - c. On or around 5 March 2019, you used Patient C's Visa details to purchase 17 items from New Look to the value of £264.88;
  - d. On or around 9 March 2019, you used Patient D's Mastercard details to purchase 22 items from New Look to the value of £254.97;
  - e. On or around 24 March 2019, you used Patient E's Visa details to purchase exactly or around 21 items to the value of exactly or around £274.56.
6. Your conduct at any or all of paragraphs 5(a) to (e) was:
  - a. Misleading;
  - b. Dishonest, in that you knew that you did not have permission to use patient credit card and/or debit card details to make online purchases from New Look.
7. From 19 August 2019 to 15 June 2020, you failed to cooperate with an investigation conducted by the General Dental Council into your fitness to practise, in that you did not provide the General Dental Council with:
  - a. Details of your employment;
  - b. Proof of your indemnity insurance.

AND that by reason of the facts alleged, your fitness to practise is impaired by reason of misconduct and/or caution."

Ms Ayor-Ayo was not present and was not represented. On 12 August 2020 the Chairman announced the findings of fact to the Counsel for the GDC:

"Mr Ahmed

This is a Professional Conduct Committee hearing. The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Skype in line with the current GDC practice. Mr Ahmed appears on behalf of the GDC via Skype. The Registrant is neither present nor represented.

The Committee has taken into account all the evidence presented to it. It has accepted the advice of the Legal Adviser. In accordance with that advice it has considered each head of charge separately.

This is the Professional Conduct Committee's inquiry into the facts which form the basis of the allegation against Ms Ayor-Ayo that her fitness to practise is impaired by reason of misconduct and/or caution.

Ms Ayor-Ayo was neither present nor represented in this hearing. Mr Ahmed, Counsel and Case Presenter for the General Dental Council's (GDC) case, made an application under Rule 54 of the General Dental Council (Fitness to Practise) Rules 2006 ("the Rules") that the

hearing should proceed in Ms Ayor-Ayo's absence. He submitted that the notification of hearing had been served on Ms Ayor-Ayo in accordance with Rules 13 and 65.

#### **Decision on service of notification of hearing**

The Committee had before it a copy of the notification of hearing letter dated 18 June 2020 which was sent by special delivery to Ms Ayor-Ayo's registered address as it appears on the GDC's Register. It was satisfied that the letter contained all the components necessary for a notice of hearing to be valid in accordance with Rule 13. The Committee noted the Royal Mail track and trace proof of delivery which showed that the letter was delivered on 19 June 2020 at 10:54 a.m. and was signed for under the name "AYO".

The notice of hearing was also sent to Ms Ayor-Ayo via email to an address held by the GDC.

The Committee note a telephone attendance note recording that the GDC made attempts to contact Ms Ayor-Ayo on her phone on 13, 20 and 27 June 2020, which were unsuccessful. The Committee also notes that Ms Ayor-Ayo was also sent other correspondence from the GDC which would alert her to the fact that a PCC hearing is scheduled for today.

Having heard the advice of the Legal Adviser who advised that the rules required service of notice at least 28 days before the hearing and required to satisfy Rule 13, the Committee was satisfied that the notification of hearing had been served in accordance with Rules 13 and 65.

#### **Decision on proceeding in the Registrant's absence**

Mr Ahmed then made an application under Rule 54 that the hearing should proceed in Ms Ayor-Ayo's absence. The Committee bore in mind that its discretion to proceed with a hearing in these circumstances should be exercised with the utmost care and caution. It took account of Mr Ahmed's submissions and it accepted the advice of the Legal Adviser, that it could proceed with upmost care and caution and were referred to the case of *GMC v Adeogba*, and the case of *Hayward v Jones*.

Mr Ahmed stated to the Committee that notification of the hearing had been properly served and Ms Ayor-Ayo was aware that the hearing was taking place. Mr Ahmed referred the Committee to relevant case law including the case of *GMC v Adeogba*.

The Committee noted that the GDC had taken all possible steps to notify Ms Ayor-Ayo of the hearing, and that they had informed her that she could also attend the hearing by telephone or video link. The Committee is satisfied that the GDC has made substantial efforts to obtain the Registrant's attendance today, however Ms Ayor-Ayo has failed to engage with the proceedings. There was no adjournment requested. It considers that Ms Ayor-Ayo had waived her right to attend the hearing. Given that Ms Ayor-Ayo has voluntarily absented herself the Committee determined that it should proceed in her absence having regard to the public interest in the expeditious disposal of cases. It concluded that no useful purpose would be served by an adjournment of this hearing.

#### **Preliminary Matters**

Mr Ahmed made an application under Rule 57 to adduce evidence, that of Ms Ayor-Ayo's stage one findings of fact PCC determination in August 2017 regarding a similar matter. He submitted that it is fair in the circumstances to admit this material as this is relevant, fair and similar to some of the particulars of fact the Committee are asked to consider today.

He referred to the case of Haworth V NMC [2014] All ER (D) 152 (Jan) [2013] EWHC 4258 (Admin).

Mr Ahmed submitted that the findings of fact PCC determination dated August 2017 is relevant as this goes to issues regarding her character and would be helpful to this Committee. The bundle contains a findings of fact determination which confirms a finding of misuse of a credit card belonging to a colleague. He submitted that this is of an evidential value in that it shows a propensity to act in the manner alleged. Mr Ahmed submitted that these allegations are similar in that Ms Ayor-Ayo was employed in the same role as a Dental Nurse/Receptionist role, similar allegations of misuse of credit card details, and thirdly, it relates to how those credit cards were used.

Mr Ahmed also submitted that it is in the interests of justice and is in the public interest to admit this.

He also invited the Committee to ignore various parts of the bundle as they make mention of a previous finding of a suspension order given to Ms Ayor-Ayo.

Having taken legal advice, which was to the effect that it should be satisfied that the evidential value outweighed the prejudicial effect, and that the case of Haworth V NMC was not particularly relevant. The Committee considered that it was not relevant and fair to admit the findings of fact determination dated August 2017. It notes that although it contains information containing similar facts to this case today, the GDC Rules stipulate that a Registrants Fitness to Practise (FTP) history only comes into practice as the second stage. The Committee considers that the 2017 determination related to one incident on one occasion, and the Committee considers that it would be too prejudicial to accept this information at this stage.

The Committee is not satisfied that the 2017 determination is relevant at this stage. The hearing bundle before this Committee contains a large volume of information and the Committee was not persuaded that this determination would assist them further.

The Committee therefore considers that the 2017 determination should not be admitted. It also considered it would be in the public interest for this document not to be admitted.

The Committee next considered the three sources of information, as identified by Mr Ahmed, that makes reference to a previous finding of a suspension order. The Committee, which is an experienced regulatory panel, is satisfied that it is able to strike this from its minds when considering the facts in this matter.

## **Background**

The case involves two separate referrals from two previous employers of Miss Ayor-Ayo.

The first complaint received alleges that between 30 April 2018 and 21 June 2018 whilst working as a dental receptionist, Miss Ayor-Ayo fraudulently transferred money from her employer's accounts to her building society account without permission, and put through refunds amounting approximately £4500 using patient details of the practice. It is alleged that her actions were both misleading and dishonest.

The second complaint received alleges that between November 2018 and March 2019 at a separate practice, Ms Ayor-Ayo used patients' credit/debit cards to make personal online purchases on 5 separate occasions, amounting to the sum of £1213.36. It is alleged that her actions were both misleading and dishonest. In that she knew that she did not have

permission to use patient credit card and/or debit card details to make online purchases from New Look.

During the course of the GDC's investigation it is alleged that Ms Ayor-Ayo failed to provide details of her employment and proof of her indemnity insurance. It is finally alleged that Miss Ayor-Ayo failed to immediately inform the GDC when cautioned for 'assault by beating' on 21 November 2017.

### **Witnesses**

The Committee received a witness statements from H P, Partner at Smile House Dental Practice dated 12 February and 23 April 2020, R P, Dentist at Smile with Pride Dental Care, dated 29 April 2020, SS, management consultant /Operations Manager at Smile with Pride Dental Care dated 22 May 2020, SB, General Manager, The Whiter Smile Ltd, dated 20 May 2020, CS Practice Manager the Whiter Smile, dated 8 August 2020 and Ameera Islam GDC Paralegal dated 29 April 2020.

The Committee also heard oral evidence from all witnesses apart from Witness CS. The Committee found their oral evidence to be credible, concise, candid and helpful.

The Committee noted that it had no evidence or submissions on behalf of the Registrant.

The Committee took account of all the documentary evidence presented in this hearing. It considered the submissions made by Mr Ahmed for the GDC. Although Ms Ayor-Ayo was not present, the Committee drew no adverse inferences from her absence.

The Committee accepted the advice of the Legal Adviser. In accordance with that advice it has considered each head and sub-head of charge separately. In relation to the allegation on dishonesty the Committee was referred by the Legal Adviser to the Supreme Court judgment in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 where the test for dishonesty was revisited.

*"The test of dishonesty is as set out by Lord Nicholls in Royal Brunei Airlines Sdn Bhd v Tan and by Lord Hoffmann in Barlow Clowes: When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."*

The burden of proving the facts alleged is on the General Dental Council (GDC) and the standard of proof is the civil standard which is "on the balance of probabilities". Ms Ayor-Ayo is not required to prove anything.

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

1.	<p><i>On 21 November 2017, you were cautioned by the Metropolitan Police for 'assault by beating', contrary to section 39 of the Criminal Justice Act 1988.</i></p> <p><b>Proved.</b></p> <p>The Committee had sight of a copy of the Record of Simple Caution</p>
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	<p>together with the Case Summary. It also had sight of the Police National Computer (PNC) notification detailing the facts regarding her caution. The Committee is satisfied that she was cautioned by on 21 November 2017 for an offence of ‘assault by beating’.</p> <p>The Committee therefore finds on the balance of probabilities this head of charge proved.</p>
2.	<p><i>You failed to immediately inform the General Dental Council that you were cautioned for a criminal offence, as set out in paragraph 1 above.</i></p> <p><b>Proved</b></p> <p>The Committee noted that there was duty on Ms Ayor-Ayo to inform the GDC of her caution as outlined in paragraph 9.3.1 of the Standards for the Dental Team and the GDC guidance on reporting criminal proceedings. Furthermore, when Ms Ayor-Ayo applied for registration with the GDC in September 2010 she signed a declaration to the effect that, “she will advise the GDC of any future criminal convictions or cautions”.</p> <p>The Committee also accepted the evidence as documented in an exhibit to Ms Ameera Islam’s statement which detailed the correspondence between the GDC and Ms Ayor-Ayo. She also testified that the GDC had never been informed of the caution by Ms Ayor-Ayo. It concluded that after Ms Ayor-Ayo’s caution in November 2017, she was duty bound to declare this to the GDC but did not do so.</p> <p>The Committee therefore finds this head or charge proved.</p>
3.	<p><i>Whilst working as a receptionist for Employer A, you transferred money from your employer’s account/s to your building society account without permission:</i></p>
3.(a)	<p><i>On or around 30 April 2018, you transferred £500 to your building society account;</i></p> <p><b>Proved.</b></p> <p>The Committee accepted the evidence of Witness SB and also the email of Mr A, a senior credit risk analyst from First Data, (who had notified the practice of these transactions), confirming dates and times of transactions and the branches from which they were made.</p> <p>The Committee has sight of the transactions within the hearing bundle. The Committee notes that other colleagues had access to the practice card machine, however, Mr A has identified during this transaction that the beneficiary had the same name as the Registrant. Witness CS in her statement reported that when Ms Ayor-Ayo was confronted by the practice during their internal investigation, she admitted that she did this as she wanted to pay the rent.</p> <p>The Committee therefore finds this head of charge proved.</p>
3.(b)	<p><i>On or around 7 May 2018, you transferred £300 to your building society account;</i></p>



	<p><b>Proved.</b></p> <p>For the same reasons as in head of charge 3(a).</p>
3.(c)	<p><i>On or around 14 May 2018, you transferred £600 to your building society account;</i></p> <p><b>Proved.</b></p> <p>For the same reasons as in head of charge 3(a).</p>
3.(d)	<p><i>On or around 26 May 2018, you transferred £600 to your building society account;</i></p> <p><b>Proved.</b></p> <p>For the same reasons as in head of charge 3(a).</p>
3.(e)	<p><i>On or around 5 June 2018, you transferred £600 to your building society account;</i></p> <p><b>Proved.</b></p> <p>For the same reasons as in head of charge 3(a).</p>
3.(f)	<p><i>On or around 11 June 2018, you transferred £695 to your building society account;</i></p> <p><b>Proved.</b></p> <p>The Committee accepted the evidence of Witness SB and also the email of Mr A, a senior credit risk analyst from First data, (who had notified the practice of these transactions), confirming dates and times of transactions and the branches from which they were made.</p> <p>The Committee has sight of the transactions within the hearing bundle. The Committee notes that other colleagues had access to the practice card machine, however, Mr A has identified during this transaction that the beneficiary had the same name as the Registrant. When Ms Ayor-Ayo was confronted by the practice during their internal investigation, she admitted that she did this as she wanted to pay the rent.</p> <p>The Committee also saw CCTV footage of the reception area of the relevant practice on 11 June 2018. It appeared to show the Registrant inserting a credit/debit card into a card reader on the desk at the time Mr A said the transaction was recorded.</p> <p>The Committee therefore finds this head of charge proved.</p>
3.(g)	<p><i>On or around 18 June 2018, you transferred £650 to your building society account;</i></p> <p><b>Proved.</b></p> <p>For the same reasons as in head of charge 3(a).</p>
3.(h)	<p><i>On or around 21 June 2018, you transferred £650 to your building society account.</i></p>

	<p><b>Proved.</b></p> <p>For the same reasons as in head of charge 3(f).</p>
4.	<p><i>Your conduct at any or all of paragraphs 3(a) to (h) was:</i></p>
4.(a)	<p><i>Misleading;</i></p> <p>In reaching its decision on whether Ms Ayor-Ayo's actions were misleading, the Committee applied the ordinary meaning of the word 'misleading'. It agreed that a misleading action was something that gave the wrong idea or impression.</p> <p>The Committee is satisfied that Ms Ayor-Ayo misled her employers on more than one occasions by transferring monies belonging to the practice into her building society account.</p> <p>The Committee has found strong evidence to support that Ms Ayor-Ayo transferred sums of money to her account processed as refunds. There are copies of the transactions confirming Ms Ayor-Ayo as being the beneficiary. The refunds would give her employer the wrongful impression of the relevant funds going to customers as opposed to the registrant.</p> <p>The Committee was satisfied that Ms Ayor-Ayo's conduct in transferring these funds into her own account, was misleading.</p> <p>The ordinary everyday meaning defines misleading as giving the wrong idea or impression. In this case, failing to disclose that these funds did not go into the patients' account, she would have given the wrongful impression.</p> <p>Therefore, the Committee finds head of charge 4(a) proved in relation to each of 3(a) to 3(h).</p>
4.(b)	<p><i>Dishonest, in that you knew that you did not have permission to transfer money from your employer's account/s to your building society account.</i></p> <p>The Committee was referred to the case of <u>Ivey v Genting Casinos (UK) Ltd TA Crockfords [2017] UKSC 67</u>. It first considered the actual state of Ms Ayor-Ayo's knowledge or belief of the facts. Having established that it then went on to determine whether her conduct was dishonest by the standards of ordinary, decent people.</p> <p>Ms Ayor- Ayo has not attended this hearing to give evidence to this Committee. Therefore, the Committee was unable to test her account of her knowledge or belief at the time.</p> <p>However, the Committee is satisfied that Ms Ayor-Ayo knew at that time that her actions were dishonest. Records of transactions confirm that her name was the recipient on more than one occasion. The Committee considers that this was not a coincidence. Also, some of her actions were caught on CCTV. The Committee is satisfied that there is no evidence to suggest that there was an error or mistake on Ms Ayor-Ayo's part.</p> <p>The Committee is satisfied, on the balance of probabilities, that Ms Ayor-Ayo's state of mind at that time was that she knew she did not have</p>



	<p>permission. She was claiming a refund when she did not make the initial payment, and that these transactions from her employer's account were not patient refunds but monies to be paid in her personal account, yet she failed to inform her employer of this.</p> <p>Considering all of the evidence the Committee determined that Ms Ayor-Ayo's conduct would be considered dishonest by the ordinary decent member of the public.</p> <p>Accordingly, the Committee finds this charge proved in relation to heads of charge 3(a) to 3(h).</p>
5.	<p><i>Whilst working as a receptionist at Practice B, you used patient credit card and/or debit card details to make online purchases from New Look without permission:</i></p>
5.(a)	<p><i>On or 26 November 2018 you used Patient A's Visa details to purchase 9 items from New Look to the value of £143.96;</i></p> <p><b>Proved.</b></p> <p>The Committee notes that it was not in possession of any evidence from the patients concerned or from New Look. It referred to the evidence contained in the bundle. It accepted the witness statements of HP, RP and SS.</p> <p>The Committee noted the exhibits attached with the witness statements, and noted that concerns were raised by the practice into her behaviour. An internal investigation occurred during which it was found that she had accessed her New Look account whilst at work, screen shots were taken by senior staff, which contained details of patient names and addresses, as well as details confirming transaction dates and the value of items purchased made by Ms Ayor-Ayor. The Committee noted that the default delivery address was that of the Registrant's home address which is recorded on the GDC Register.</p> <p>Records provided by the practice shows corresponding names of patients used to purchase items from New Look.</p> <p>Having considered all of this information, the Committee is satisfied that this transaction was not a coincidence and that this was made by Ms Ayor-Ayo.</p> <p>It therefore finds this head of charge proved.</p>
5.(b)	<p><i>On or around 4 March 2019 you used Patient B's Mastercard details to purchase 27 items from New Look to the value of £267.99;</i></p> <p><b>Proved.</b></p> <p>For the same reasons as given in head of charge 5(a).</p>
5.(c)	<p><i>On or around 5 March 2019, you used Patient C's Visa details to purchase 17 items from New Look to the value of £264.88;</i></p> <p><b>Proved.</b></p>

	For the same reasons as given in head of charge 5(a).
5.(d)	<p><i>On or around 9 March 2019, you used Patient D's Mastercard details to purchase 22 items from New Look to the value of £254.97;</i></p> <p><b>Proved.</b></p> <p>For the same reasons as given in head of charge 5(a).</p>
5.(e)	<p><i>On or around 24 March 2019, you used Patient E's Visa details to purchase exactly or around 21 items to the value of exactly or around £274.56.</i></p> <p><b>Proved.</b></p> <p>For the same reasons as given in head of charge 5(a).</p>
6.	<i>Your conduct at any or all of paragraphs 5(a) to (e) was:</i>
6.(a)	<p><i>Misleading;</i></p> <p><b>Proved.</b></p> <p>In reaching its decision on whether Ms Ayor-Ayo's actions were misleading, the Committee applied the ordinary meaning of the word 'misleading'. It agreed that a misleading action was something that gave the wrong idea or impression.</p> <p>The Committee are of the view that New Look was misled in that the Registrant did not have permission to use the patients' credit/debit cards.</p> <p>The Committee is satisfied that Ms Ayor-Ayo on more than one occasion had used patient credit card and/or debit card details to make online purchases from New Look without their permission. The Committee has found strong evidence to support that her actions were misleading. There are documents including copies of screen shots containing details of patient names and addresses, as well as details confirming transaction dates and the value of items purchased made by Ms Ayor-Ayo.</p> <p>The ordinary everyday meaning defines misleading as giving the wrong idea or impression. In this case, failing to disclose that these items were in fact purchased by her and not patients belonging to that practice, she would have given the wrongful impression.</p> <p>It therefore finds this head of charge proved in relation to heads of charge 5(a) to 5(e).</p>
6.(b)	<p><i>Dishonest, in that you knew that you did not have permission to use patient credit card and/or debit card details to make online purchases from New Look.</i></p> <p>The Committee was referred to the case of <u><a href="#">Ivey v Genting Casinos (UK) Ltd TA Crockfords [2017] UKSC 67</a></u>. It first considered the actual state of Ms Ayor-Ayo's knowledge or belief of the facts. Having established that it then went on to determine whether her conduct was dishonest by the standards of ordinary, decent people.</p> <p>Ms Ayor-Ayo has not attended this hearing to give evidence to this</p>

	<p>Committee. Therefore, the Committee was unable to test her account of her knowledge or belief at the time.</p> <p>However, the Committee is satisfied that the Registrant knew at that time that her actions were dishonest. Records of transactions confirm that her name was the recipient on more than one occasion. The Committee considers that this was not a coincidence.</p> <p>The Committee is satisfied that there is no evidence to suggest that there was an error or mistake on Ms Ayor Ayo's part. She did this on more than one occasion and the delivery address was her registered address with the GDC.</p> <p>The Committee is satisfied that on the balance of probabilities, Ms Ayor-Ayo was aware at that time, that these transactions were for her benefit and she knew she did not have permission to make them.</p> <p>Considering all of the evidence the Committee determined that Ms Ayo-Ayo's conduct would be considered dishonest by the ordinary decent member of the public.</p> <p>Accordingly, the Committee finds this charge proved in relation to heads of charge 5(a) to 5(e).</p>
7.	<p><i>From 19 August 2019 to 15 June 2020, you failed to cooperate with an investigation conducted by the General Dental Council into your fitness to practise, in that you did not provide the General Dental Council with:</i></p>
7.(a)	<p><i>Details of your employment;</i></p> <p><b>Proved.</b></p> <p>The Committee accepted the evidence of Witness Almeera Islam, GDC para legal, which exhibits correspondence sent by GDC to Ms Ayor-Ayo during the course of the GDC investigation requesting both details of employment and proof of indemnity. Correspondence from the GDC also reminds her of her duty to cooperate, despite that, this has not been provided.</p> <p>The Committee having viewed carefully the correspondence from the GDC requesting details of her employment is satisfied that the Registrant failed to cooperate between 19 August 2019 to 13 December 2019. However, there was a letter from the GDC dated 13 December 2019 stating "<b>Please note that we are now unable to accept any more documents/information for review by the Case Examiners.</b>"</p> <p>The Committee is satisfied that there was not a duty on Ms Ayor-Ayo from 13 December 2019 to provide this information as she had been notified by the GDC not to send in any more documentation. The Committee therefore finds that there was a failure but only up until the email was sent on 13 December 2019.</p> <p>Accordingly, the Committee finds this head of charge proved only in</p>

	respect of the dates between 19 August 2019 and 13 December 2019.
7.(b)	<p><i>Proof of your indemnity insurance.</i></p> <p><b>Not proved.</b></p> <p>The Committee noted that during its investigation, the GDC had asked Ms Ayor-Ayo for proof of her indemnity insurance but she did not do so.</p> <p>The Committee is aware that the GDC standards are very clear that all dental professionals when requested must provide proof of indemnity insurance. However, the Committee was not satisfied that the GDC had proved that Ms Ayor-Ayo either had or needed to have indemnity insurance on the facts of this case.</p> <p>Therefore, she did not fail to provide proof of something that she may not have had, and there was no failure on her part to provide it.</p> <p>It therefore finds this head of charge not proved.</p>

We move to Stage Two.”

On 13 August 2020 the Chairman announced the determination as follows:

“Having announced its decision on the facts, Mr Ahmed proceeded to make submissions pursuant to Rule 20 of the General Dental Council (GDC) (Fitness to Practise) Rules 2006. He informed the Committee of Ms Ayor-Ayo’s previous fitness to practise findings against her. In August 2017 her fitness to practise was found to be impaired and her registration was suspended for 12 months after she had admitted and it was found proved that she had used a colleague’s credit card for her own use.

Mr Ahmed submitted that the facts found proved amount to misconduct, and that Ms Ayor-Ayo’s fitness to practise is impaired by reason of the misconduct, and also by reason of the caution and that the appropriate sanction to impose is one of erasure.

The Committee took account of the submissions made by Mr Ahmed on behalf of the GDC. It accepted the advice of the Legal Adviser. The Committee received no submissions or evidence from the Registrant.

The Committee bore in mind that its decisions on misconduct and impairment are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings. The Committee was referred to case law including;

*“These cases always result in the balancing of one public interest against another. In cases of actual proven dishonesty, the balance ordinarily can be expected to fall down on the side of maintaining public confidence in the profession by a severe sanction against the practitioner concerned. Indeed, that sanction will often and perfectly properly be the sanction of erasure, even in the case of a one-off instance of dishonesty. In this case, the panel, it seems to me, took a merciful course by deciding only to suspend Dr Nicholas-Pillai, and to do so for six months. I find it quite impossible to say that that sentence was disproportionate to the professional misconduct which it found proved or is in any way open to criticism.” – Nicholas-Pillai v GMC [2009] EWHC 1048 (Admin). Paragraph 27 (part).*

## **Misconduct**

The Committee first considered whether the facts found proved at charges 2, 3(a) -3(h), 4(a), 4(b), 5(a)-5(e), 6(a), 6(b) and 7(a) amount to misconduct. The Committee took into account the Registrant's previous history with the GDC. It accepted the advice of the Legal Adviser who advised the Committee that at this stage the Committee should decide whether the facts found proved amounted to misconduct which was serious professional misconduct, and which was a ground for impairment under the Dentists Act 1984, section 36N. Such conduct might be that regarded as 'deplorable' conduct by other practitioners. It was relevant for the Committee to have regard to standards and guidance issued by the GDC.

The Committee first considered the findings made at charges 2 to 7(a) individually, together with the GDC's Standards applicable at the time of these events, *Standards for the Dental Team*, effective September 2013 ("the Standards").

The Committee found proved that Ms Ayor-Ayo did not notify the GDC of the police caution she received on 21 November 2017 for the offence of "assault by beating". Her conduct was a serious departure from the standards of conduct expected, in particular:

9.3 – Inform the GDC if you are subject to criminal proceedings or a regulatory finding is made against you anywhere in the world.

9.3.1 You must inform the GDC immediately if you are subject to any criminal proceedings anywhere in the world.

The Committee was of the view that in not informing the GDC of her police caution, Ms Ayor-Ayo's conduct fell far short of the standards required to be followed by registered dental professionals. She demonstrated a complete disregard of her regulatory body and her action has brought the profession into disrepute. The Committee determined that the fact found proved at charge 2 amounted to misconduct.

The Committee regards the behaviour as found proved in head of charge 3 and 5 amounted to misconduct. The Committee determined that to misuse another's bank account or credit/debit cards without permission was very serious.

The Committee also found proved that Ms Ayor-Ayo's conduct was both misleading and dishonest in respect of heads of charges 3 and 5. Ms Ayor-Ayo transferred money from her employer's account/s to her building society account without permission on eight occasions at the practice of Employer A. Ms Ayor-Ayo also used patient credit card and/or debit card details to make online purchases from New Look without permission whilst working for a different employer at practice B. The Committee was in no doubt that Ms Ayor-Ayo's conduct was an extremely serious departure from the standards of conduct expected, in particular:

1.3 You must be honest and act with integrity.

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

1.3.2 You must make sure you do not bring the profession into disrepute.

The Committee is of the view that honesty and integrity are fundamental tenets of the profession. Her misleading and dishonest conduct fell far short of the standards of conduct

that would be expected of a registered dental professional and were extremely serious failings. The Committee was particularly alarmed at the timing of the conduct in head of charge 3. These transactions occurred shortly after her registration was suspended for a 12-month period by the GDC for a similar matter.

Her conduct at heads of charges 4 and 6 would be regarded as deplorable by fellow professionals. The Committee was in no doubt that the facts found proved in relation to this misleading and dishonest behaviour, are serious and amount to misconduct.

The Committee determined that the fact found proved at heads of charge 3 (a)-(3(g), 4 (a), 4(b), 5(a)-5(e), 6 (a) and 6(b) amounted to misconduct.

The Committee also found proved that Ms Ayor-Ayo failed to co-operate with the GDC requesting details of her employment during its investigations into her fitness to practise. The Committee noted multiple correspondence sent to Ms Ayor-Ayo at her registered address. Ms Ayor-Ayo did not respond at all. Her conduct breached the following provisions of the Standards:

9.4 – You must co-operate with any relevant formal or informal inquiry and give full and truthful information.

9.4.1 If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter.

The Committee was of the view that it is the responsibility of a registered dental professional to co-operate with their regulatory body. To ignore correspondence from a regulator is a serious departure from the conduct expected of registered dental professionals and falls far below the standards expected. The Committee determined that the facts found proved at charge 7(a) amounted to misconduct.

The Committee also determined that the facts found proved cumulatively were serious departures from the standards of conduct expected of registered dental professionals and would be regarded as deplorable by fellow professionals, and was misconduct.

### **Impairment**

The Committee next considered whether Ms Ayor-Ayo's fitness to practise is currently impaired by reason of her misconduct. The Legal Adviser advised the Committee that, if any misconduct was found, it should then consider whether this misconduct and separately the Registrant's caution for 'assault by beating', demonstrated that her fitness to practise was impaired. Impairment was a matter of judgement, not involving a burden of proof. The Legal Adviser reminded the Committee that it should consider current impairment and any evidence of remediation, but some cases involve breaches of fundamental tenets of the profession, in which cases efforts to remediate are of less effect. He also referred the Committee to the test summarised in *CHRE v NMC & Grant*.

### **Impairment in relation to Misconduct**

The Committee acknowledged that a finding of misconduct does not automatically lead to a finding of current impairment. It applied the factors set out by Dame Janet Smith in the Fifth Shipman Report, that is, "the PCC should ask itself:

Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:



- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

This case does not relate to Ms Ayor-Ayo’s clinical practice and no findings have been made against her in this respect. Ms Ayor-Ayo’s conduct brought the profession into disrepute, breached standards of the profession and she had acted dishonestly on 13 occasions by the Committee’s findings.

In relation to the financial transactions at both practices in relation of heads of charge 3 and 5, the Committee is satisfied that her fitness to practise is impaired by reason of her misconduct. Ms Ayor-Ayo transferred monies from her employer’s account into her personal building society account on 8 occasions. When employed at another practice later, she then used patient credit/debit card details on 5 occasions to make purchases for herself. The Committee has not been provided with any evidence of insight or remorse on the part of Ms Ayor-Ayo, although it noted she apologised to one of her employers. The Committee considers that there was financial harm to both her employer and her patients. Ms Ayor-Ayo had breached a fundamental tenet of the profession, that of honesty. She has abused her position of trust. The Committee is satisfied that a finding of impairment is required for both the protection of the public and otherwise in the public interest, and also to uphold and maintain standards.

The Committee then considered her misleading and dishonest conduct in relation to heads of charge 4 and 6. The Committee notes that Ms Ayor-Ayo had been suspended from the GDC in August 2017 for a similar matter. Ms Ayor-Ayo has not provided any evidence of insight or remorse to this Committee for her dishonest conduct. The Committee is satisfied in these matters and in the previous findings in 2017 that there is a pattern of dishonest behaviour which occurred over a prolonged period of time and as such there is a likelihood of repetition. Her conduct caused financial harm to both her employer and her patients and there is a real likelihood of a repetition of similar harm. It is satisfied that a finding of impairment is required for the protection of the public.

In relation to the public interest, the Committee was of the view that public confidence in the profession would be greatly undermined if a finding of impairment was not made in light of the dishonest misconduct found in this case to uphold and maintain professional standards.

Ms Ayor-Ayo failed to notify the GDC of her caution. The Committee considers that it is an important requirement on all dental professionals to notify their regulatory body of any criminal matters. Her actions have breached a fundamental tenet of the profession. The Committee is satisfied that her fitness to practise is impaired by reason of her misconduct. In relation to public interest, the Committee was of the view that the reputation of the profession and public confidence in it would be greatly undermined if a finding of impairment was not made. Such a finding was also necessary to uphold and maintain standards in the profession.

The Committee then considered her failure to cooperate with her regulatory body. Ms Ayor-Ayo has demonstrated a total disregard to her regulator during its investigation. She was

given multiple opportunities to reply to her regulator, but she failed to do so. The Committee considers that she has not demonstrated any insight into her behaviour and as such her fitness to practise is impaired by reason of her misconduct. The Committee is satisfied that this is required for both protection of the public and otherwise in the public interest and to uphold and maintain standards.

There is no evidence before the Committee of Ms Ayor-Ayo's efforts to address her misconduct above. There is no evidence from the Registrant with regards to insight and remediation. Ms Ayor-Ayo has not engaged with the GDC throughout the fitness to practise process. However, the Committee has no information before it from Ms Ayor-Ayo on her behaviour and her insight into the severity of such dishonest conduct and its impact on the reputation of the profession. Despite being suspended by the GDC for a similar matter, she continued her dishonest conduct at two separate practices, Practice A whilst under a suspension order, Practice B shortly after demonstrating apparent remediation to a review PCC on 23 August 2018.

The Committee determined that Ms Ayor-Ayo's fitness to practise is currently impaired by reason of her misconduct.

### **Impairment in relation to Caution**

The Committee acknowledged that the fact of a caution does not automatically lead to a finding of current impairment. Ms Ayor-Ayo was cautioned for 'assault by beating'. Her conduct breached the standards of the profession, and had brought the profession into disrepute.

In considering the level of her insight, remorse and remediation, the Committee noted that Ms Ayor-Ayo had demonstrated some insight at the time of the offence as she made admissions to the police and had apologised to those concerned.

The Committee notes that the offence occurred almost three years ago and was not in a clinical setting. There has been no pattern of this type of behaviour before or since and the Committee is satisfied that this was an isolated incident. It also noted that no injuries or pain were sustained in this particular incident. The Committee is satisfied that there is no evidence to suggest there is a real risk of repetition.

In relation to the public interest, the Committee was of the view that public confidence in the profession would not be undermined if a finding of impairment were not made in this case. It determined that a finding of impairment was not required in the public interest. The Committee therefore determined that Ms Ayor-Ayo's fitness to practise is not impaired by reason of her caution.

The Committee therefore determined that Ms Ayor-Ayo's fitness to practise is currently impaired by reason of her misconduct only.

### **Disposal**

The Committee next considered what action, if any, to take in relation to Ms Ayor-Ayo's registration. It reminded itself that the purpose of a sanction was not to be punitive although it may have that effect. The Committee bore in mind the principle of proportionality. It also had regard to the *Guidance for the Practice Committees including Indicative Sanctions Guidance, October 2016, ("PCC Guidance")*.

The Legal Adviser advised the Committee that, if it found impairment, it should consider the sanctions set out in section 36P(7) of the Dentists Act 1984. It should work up from the least

serious sanction and impose a sanction that was appropriate and proportionate to the level of impairment found. It should weigh the Registrant's interests with the public interest. Although a sanction was not intended to be a punishment, it might have punitive effect in the result, so long as it was proportionate to the impairment found.

The Committee considered the mitigating and aggravating factors in this case. In mitigation it noted the time that has elapsed since the matters and there is no evidence to suggest any subsequent repetition of the misconduct. In contrast, there are a range of aggravating factors in this case and they include risk of financial harm to patients, matters of dishonesty, premeditated and repeated misconduct, financial gain, breach of trust, blatant and wilful disregard of the role of the GDC and the systems regulating the profession, and a persistent lack of insight.

The Committee was of the view that the findings made in this case which include repeated dishonest behaviour are so serious that taking no action would be wholly disproportionate.

The Committee then considered the available sanctions in ascending order starting with the least serious. It determined that a reprimand would be inappropriate and inadequate given that Ms Ayor-Ayo's conduct was deliberate, serious and she has not engaged with these proceedings or shown to this Committee any insight into her behaviour or remorse for having breached GDC standards, or harm caused to others. The Committee determined that a reprimand would not send the correct message to the public and the profession.

The Committee then considered whether a conditions of practice order would be appropriate. There are no clinical or performance issues in this case. There are no conditions that could be formulated to address the identified impairment. Given her lack of engagement the Committee could not be assured that Ms Ayor-Ayo would engage with any conditions it imposed. Furthermore, in this case, the Committee found proved conduct which was misleading and dishonest. In addition, Ms Ayor-Ayo was suspended from the GDC Register in 2017, yet at that time she chose to continue her dishonest behaviour at two dental practices. This is not a case where conditions could be imposed as they could not address the serious identified shortcomings. The Committee concluded that conditions would be insufficient to safeguard the wider public interest.

The Committee went on to consider whether suspension would be sufficient to mark the serious nature of Ms Ayor-Ayo's misconduct. Ms Ayor-Ayo's behaviour was serious, repeated and dishonest.

The Committee considers that Ms Ayor-Ayo's serious dishonest behaviour is conduct which is damaging to public confidence in the dental profession and moreover such repeated misconduct is fundamentally incompatible with her being a registered dental professional on the GDC register.

The Committee took into account paragraph 7.28 of the GDC Indicative Sanctions Guidance:

*"Suspension is appropriate for more serious cases and maybe appropriate when..."*

- *There is no evidence of harmful or deep seated personality or professional attitudinal problems (which might make erasure the appropriate order)."*

The Committee also took account of the guidance including paragraph 49 of Appendix A in the PCC Guidance:

*"Dishonesty is serious even when it does not involve direct harm to patients (for example defrauding the NHS or providing misleading information) because it can*

undermine public confidence in the profession. The Privy Council has emphasised that “Health Authorities must be able to place complete reliance on the integrity of practitioners and the Committee is entitled to regard conduct which undermines that confidence as calculated to reflect on the standards and reputation of the profession as a whole”.

The Committee concluded that a period of suspension would not be appropriate in light of the nature of Ms Ayor-Ayo’s repeated dishonest conduct. Having decided that suspension would be inappropriate, the Committee determined that erasure was the proportionate outcome in this case. In making this decision, the Committee took note of the Registrant’s ability to pursue her career and the impact that erasure would have. However, the public interest plainly outweighed the Registrant’s interest in this case.

Ms Ayor-Ayo’s actions were a serious departure from the GDC standards, and her actions caused financial harm to both her patients and employers. She had abused her position of trust and continued her dishonest conduct over a prolonged period of time.

The Committee therefore determined, pursuant to Section 36P(7)(a) of the Dentists Act 1984, as amended, to direct that Ms Ayor-Ayo’s name be erased from the Register.

#### **Revocation of Interim Order**

The interim order of suspension currently on Ms Ayor-Ayo’s registration is revoked.

The Committee took into account that Ms Ayor-Ayo has been subject to an Interim Suspension Order which had been in place for about a year before this PCC hearing. However, this did not alter its decision to erase her registration from the register.

The Committee now invites Mr Ahmed to make submissions on an immediate order.

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#### **Decision on immediate order of suspension**

The Committee took account of the submissions made by Mr Ahmed that an immediate order should be imposed on Ms Ayor-Ayo’s registration. The Committee accepted the advice of the Legal Adviser.

Having directed that Ms Ayor-Ayo’s name be erased from the register, the Committee had to consider whether to impose an immediate order to cover the appeal period, or until any appeal against the outcome is heard.

The Committee was satisfied that an immediate order of suspension was necessary for the protection of the public and it was otherwise in the public interest. The Committee concluded that given the seriousness and the nature of its findings and its reasons for the substantive order of erasure, including Ms Ayor-Ayo’s lack of insight and the identified risk of repetition, it would be perverse if it did not direct an immediate order of suspension to be imposed. The Committee considered that, given its findings, especially the finding that her behaviour is fundamentally incompatible with registration, if an immediate order were not made in the circumstances, public confidence in the profession and in the GDC as its regulator would be undermined.

If, at the end of the appeal period of 28 days, Ms Ayor-Ayo has not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of erasure. If she

does lodge an appeal, this immediate order will continue in effect until that appeal is determined.

Unless Ms Ayor-Ayo exercises her right of appeal, her name will be erased from the register 28 days from the date upon which this decision is deemed served on her.

That concludes this case.”