

HEARING HEARD IN PUBLIC

JOSEPH-LOUISY, Desree

Registration No: 273037

PROFESSIONAL CONDUCT COMMITTEE

APRIL 2021

Outcome: Erased with immediate suspension

JOSEPH-LOUISY, Desree, a dental nurse, Diploma in Dental Nursing Level 3 QCF City & Guilds 2017, was summoned to appear before the Professional Conduct Committee on 27 April 2021 for an inquiry into the following charge:

Charge

“That being registered as a dental care professional,

1. From 14 March 2019 to 9 July 2019, you stole money from Practice A to the value of approximately £10,217.
2. Your conduct in relation to Charge 1 was dishonest.
3. On 18 July 2019, during an employment interview for a role at Practice B, you provided witness EM with false contact details for an employment referee.
4. Your conduct in relation to charge 3 was:
 - a) Misleading
 - b) Dishonest – in that you knew that the contact details you provided did not relate to the referee identified.
5. On 18 July 2019, you sent a fake reference to Practice B.
6. Your conduct in relation to charge 5 was:
 - a) Misleading
 - b) Dishonest – in that you knew the reference was fake

AND that by reasons of the matters alleged above your fitness to practise is impaired by reason of misconduct.”

Ms Joseph-Louisy did not attend and was not represented at the hearing. On 27 April 2021 the Chairman made the following statement regarding proof of service and proceeding in absence:

“Decision on service of notice of hearing – 27 April 2021

The Committee first considered whether notice of this hearing had been served on Ms Joseph-Louisy in accordance with Rules 13 and 65 of the General Dental Council (Fitness to Practise) Rules Order of Council 2006 (“the Rules”) and section 50 of the Dentists Act 1984, as amended.

The Committee received a bundle of documents which contained a copy of the notification of today's hearing, dated 11 March 2021 that was sent to Ms Joseph-Louisy's registered address by Royal Mail special delivery. The Committee was satisfied that the letter contained proper notification of today's hearing, including its time, date and location, as well as notification that the Committee has the power to proceed with the hearing in Ms Joseph-Louisy's absence.

The Committee also had sight of the Royal Mail Track and Trace proof of delivery document, regarding the notice of hearing which contained the same tracking number as appeared on the letter. This showed that the letter was delivered on 12 March 2021. The notice was also sent to Ms Joseph-Louisy's known email address on 11 March 2021 and the download receipt was put before the Committee which confirmed that the email attachment had been downloaded.

Accordingly, the Committee was satisfied that notice of this hearing had been served on Ms Joseph-Louisy in accordance with the Rules and the Act.

Decision on proceeding with the hearing in the absence of the Registrant – 27 April 2021

The Committee then considered whether to proceed with the hearing in the absence of Ms Joseph-Louisy pursuant to Rule 54. It noted that its power to proceed in a registrant's absence is a discretionary power that must be exercised with the utmost care and caution. The Committee was referred to the principles in the cases of *Tate v Royal College of Veterinary Surgeons*; *R v Hayward* and *R v Jones, Adeogba v GMC*.

The Committee noted from the correspondence between Ms Joseph-Louisy and the GDC that she is aware of this hearing. In an email to the GDC dated 22 January 2021, Ms Joseph-Louisy stated "*I will not be attending the hearing.*" In a more recent email dated 11 March 2021, Ms Joseph-Louisy again stated "*I will not be attending the hearing.*" An email was sent to Ms Joseph-Louisy on 26 April 2021 with details of the link for this hearing and Ms Joseph-Louisy responded to the email at 14.34 as she again stated "*I will not be attending*". Ms Joseph-Louisy has not requested an adjournment and the Committee was not assured from the evidence of the correspondence between Ms Joseph-Louisy and the GDC that an adjournment would lead to her attendance at a future date. The Committee concluded that Ms Joseph-Louisy had voluntarily absented herself from these proceedings. The allegations against Ms Joseph-Louisy are serious and there is a strong public interest in the expeditious disposal of the matter. Furthermore, the Committee took into account fairness to the Registrant as well to the GDC and witnesses who have been on standby to attend the hearing. Taking into account the public interest and the overarching objective of public protection, the Committee determined to proceed with the hearing in Ms Joseph-Louisy's absence."

On 28 April 2021 the Chairman made the following statement regarding the finding of facts:

"Ms Joseph-Louisy did not attend the hearing and was not represented in her absence. The GDC's case was presented by Mr Stevens. The entire hearing was conducted remotely via video link in line with the GDC's current practice.

Background

This case concerns allegations of misleading and dishonest conduct by Ms Joseph-Louisy in two aspects. Firstly, it is alleged that from 14 March 2019 to 9 July 2019, Ms Joseph-Louisy stole money, to the value of approximately £10,217, from a practice where she previously worked, referred to in this case as Practice A. It is further alleged that her conduct in stealing money from Practice A was dishonest.

The second aspect to this case is that shortly after leaving Practice A, Ms Joseph-Louisy applied for work at another dental practice, Practice B, as a dental nurse. It is alleged that as part of the application process Ms Joseph-Louisy provided false employment reference with false contact details to Practice B. She sent Practice B a fake written reference purporting it to be from Witness 4, a registered dentist who had previously worked with Ms Joseph-Louisy, when it was not written by Witness 4. It is further alleged that Ms Joseph-Louisy's actions in providing false contact details for an employment reference and sending a fake reference to Practice B were misleading and dishonest in that she knew that the contact details and reference were false.

Evidence Received

By way of factual evidence from the GDC, the Committee was provided with a hearing bundle which included the following:

- Email correspondence between the GDC and Ms Joseph-Louisy regarding her attendance.
- Case Examiner Decision sheet showing the casework allegations.
- Ms Joseph-Louisy's voluntary removal letter dated 13 October 2020.
- Signed witness statement dated 8 April 2021, including exhibits from Witness 1, a joint Practice Principal at Practice A.
- Signed witness statement dated 8 January 2021, including exhibits from Witness 2, HR Consultant for Practice A.
- Signed witness statement dated 22 January 2021, including exhibits from Witness 3, Director of a company which owns Practice B.
- Signed witness statement dated 12 October 2020, including exhibits from Witness 4, a qualified dentist registered with the GDC.
- Signed witness statement of Stephanie Gundy, a Senior Registration Officer at the GDC, dated 3 December 2020, including exhibits.
- Signed witness statement dated 17 December 2020, including exhibits from Ms Murphy, Senior Registrations Operations Officer with the GDC.
- Signed witness statement of Amy Jones, Senior Paralegal at the GDC, dated 6 January 2021, including exhibits.

The Committee did not hear oral evidence from any of the witnesses as their evidence was unchallenged by Ms Joseph-Louisy. The Committee however gave them significant weight given that they were not contested.

Ms Joseph-Louisy did not attend the hearing and the Committee drew no adverse inferences from her non-attendance. The Committee noted her voluntary removal letter dated 13

October 2020 in which Ms Joseph-Louisy admitted to the allegations against her as referred by the Case Examiners to this Committee. Mr Stevens on behalf of the GDC explained to the Committee that the specific allegations as referred by the Case Examiners had evolved in that they had been broken down further for clarity. However, he stated that the thrust of the allegations as referred by the Case Examiners remained the same.

The Committee’s Findings of Fact

The Committee considered all the evidence presented to it. It took account of the submissions made by Mr Stevens and Ms Joseph-Louisy’s observations to the GDC and her previous employer. The Committee heard and accepted the advice of the Legal Adviser. In accordance with that advice, it considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged matters are found proved on the balance of probabilities.

Dishonesty Allegation

In relation to the allegations on dishonesty the Legal Adviser referred the Committee 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 at paragraph 74.

“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 Committee’s findings in relation to each head of charge are as follows:

1.	<p><i>From 14 March 2019 to 9 July 2019, you stole money from Practice A to the value of approximately £10,217.</i></p> <p>Found proved.</p> <p>The Committee accepted the evidence of Witness 1. In her witness statement Witness 1 provided a background in relation to Ms Joseph-Louisy’s employment and the provision of a personal loan to Ms Joseph-Louisy. Witness 1 explained that her attention was brought to a potential concern surrounding money being stolen from the practice. This alert was raised by an organisation called Worldpay, who own the machines used at the practice to take card payments from patients. Practice A was notified of unmatched refund payments made from the Practice where no corresponding purchase had been processed. Witness 1 explained that the Practice Admin Manager and Ms Joseph-Louisy were the only people at the practice who were authorised to complete refunds. Witness 1 stated further that there was no authorisation for the refunds mentioned by Worldpay as the corresponding payments did not exist. Witness 1 also explained that an</p>
----	---

	<p>internal investigation was conducted, and it was discovered that:</p> <ul style="list-style-type: none"> • the refunds started with a penny, which was then put back in; • a breakdown of the refund transactions from Worldpay including when they were made, showed that the refunds were being paid to Ms Joseph-Louisy’s personal visa debit card; • the refunds were usually made either early in the morning or during lunchtimes; • a review of CCTV camera footage from the practice in relation to the times when the refunds were made showed that on two occasions Ms Joseph-Louisy could be seen at the reception desk with no other person or patient seen in the area at the time. <p>Witness 1 stated that a meeting was held with Ms Joseph-Louisy on 13 July 2019 where the findings of the internal investigation were presented to her. Ms Joseph-Louisy continued to deny that she had taken the money. Witness 1 stated that Ms Joseph-Louisy subsequently sent a text message admitting that she had taken the money and requested for account details so she could pay it back. The same day Ms Joseph-Louisy transferred £7000 to the practice and paid the rest within two weeks.</p> <p>The Committee accepted the evidence of Witness 2 who confirmed how Worldpay monitored transactions, the subsequent internal investigation into the offending transactions including the interview with Ms Joseph-Louisy and the admission by Ms Joseph-Louisy via text message.</p> <p>The Committee also noted that as a result of the GDC’s own investigations, it became apparent that Ms Joseph-Louisy made a payment for her GDC Annual Retention Fee (“ARF”) on 19 June 2019 using the same personal visa debit card as that identified by Worldpay during Practice A’s internal investigations as the account where the refunds were paid into. The Committee noted that this was within the time period of the offending refunds made by Ms Joseph-Louisy.</p> <p>The Committee concluded that Ms Joseph-Louisy’s unequivocal acceptance of wrongdoing, the act of paying the money back and the evidence that the refunded monies went into an account with the same account number as she had used to pay for her ARF, are conclusive proof that Ms Joseph-Louisy stole money from Practice A to the value of approximately £10,217. The Committee therefore found this charge proved.</p>
<p>2.</p>	<p><i>Your conduct in relation to Charge 1 was dishonest.</i></p> <p>Found proved.</p> <p>The Committee noted the letter dated 13 October 2020 from Ms Joseph-Louisy to the GDC in which she stated “<i>I admit to the allegations made against me in the case examiner detailed decision sheet.</i>”</p> <p>The Committee was of the view that the evidence showed that subjectively Ms Joseph-Louisy knew what she was doing. She tested her plan by making a 1p refund which she returned. Her actions were premeditated and not</p>

	<p>accidental. She was not authorised to make the refunds or to take the money. She subsequently made an unequivocal admission to Practice A and to the GDC that she stole the money. The Committee’s view is that the very act of stealing is a dishonest act and ordinary decent people would consider her actions to be dishonest. The Committee therefore found this charge proved.</p>
<p>3.</p>	<p><i>On 18 July 2019, during an employment interview for a role at Practice B, you provided witness EM with false contact details for an employment referee.</i></p> <p>Found proved.</p> <p>The Committee accepted the evidence of Witness 3. He was responsible for interviewing Ms Joseph-Louisy on 18 July 2019 for a dental nursing role at his practice. Witness 3 explained that Ms Joseph-Louisy was asked to supply a reference/contact details from her most recent employer, her GDC certificate and evidence of her HEP B immunisation at the interview. Witness 3 stated that Ms Joseph-Louisy provided the details of Witness 4 as her referee stating that Witness 4 was a Practice Manager at Practice A and a reference was received from Witness 4 on the same day that Ms Joseph-Louisy had attended the interview. Witness 3 stated that he developed concerns regarding Ms Joseph-Louisy when she provided evidence of her CPD that showed she had worked at a practice which she did not disclose previously. Witness 3 checked the website of Practice A and noted that the Practice Manager listed was not Witness 4. Witness 3 also telephoned Practice A and was told that Witness 4 was not known to the practice. Witness 1 sent an email to Witness 3 confirming that Witness 4 had never worked at Practice A. Witness 3 then checked the GDC’s online register and discovered that there was a registered dentist with the same name as Witness 4.</p> <p>The Committee accepted the evidence of Witness 4, a dentist who worked with Ms Joseph-Louisy sometime between 2014 and 2016. Witness 4 confirmed that she had a good working relationship with Ms Joseph-Louisy. However, she confirmed that Ms Joseph-Louisy did not ask her to provide a reference and that she did not write the reference letter sent to Witness 3. Witness 4 further confirmed that she had never held a position of Practice Manager and she had never worked at Practice A. Witness 4 also confirmed that the telephone number and email address provided in the reference letter were not hers and have never been attributed to her.</p> <p>The Committee also noted that as a result of the GDC’s own investigations, it became apparent that the telephone number provided by Ms Joseph-Louisy as belonging to her referee, Witness 4, was indeed a telephone number held on the GDC’s database for Ms Joseph-Louisy.</p> <p>The Committee concluded that Ms Joseph-Louisy had provided false contact details for an employment reference to a prospective employer. It therefore found this charge proved.</p>
<p>4.</p>	<p><i>Your conduct in relation to charge 3 was:</i></p>

4. a)	<p><i>Misleading.</i></p> <p>Found proved.</p> <p>Ms Joseph-Louisy provided a fictitious reference letter purportedly from Witness 4 and she included her own telephone number as contact details within the fake reference letter. The very act of providing a prospective employer with fictitious reference is inherently misleading as the prospective employer would have been led to believe that the reference was genuine when in fact it was not.</p> <p>The Committee therefore found this charge proved.</p>
4. b)	<p><i>Dishonest – in that you knew that the contact details you provided did not relate to the referee identified.</i></p> <p>Found proved.</p> <p>The Committee was of the view that in providing the contact details Ms Joseph-Louisy knew that they did not belong to Witness 4 and therefore she intended to mislead Practice B. Furthermore, the telephone number belonged to Ms Joseph-Louisy as shown on the GDC’s database. Ms Joseph-Louisy’s actions were clearly dishonest and would be considered dishonest by ordinary decent people.</p>
5.	<p><i>On 18 July 2019, you sent a fake reference to Practice B.</i></p> <p>Found proved.</p> <p>The Committee accepted the evidence of Witness 3 that on the day of Ms Joseph-Louisy’s interview for the role of dental nurse, she sent a written reference via email to Practice B purportedly to be from Witness 4. The Committee also accepted the evidence of Witness 4 that she did not write the reference letter, the contact details included within it did not belong to her and had never been attributed to her, she had never held the position of a Practice Manager and she had never worked at Practice A.</p> <p>The Committee therefore found this charge proved.</p>
6.	<p><i>Your conduct in relation to charge 5 was:</i></p>
6. a)	<p><i>Misleading.</i></p> <p>Found proved.</p> <p>Ms Joseph-Louisy sent a fake reference letter to Practice B purporting it to be from Witness 4 when in fact it was not. Providing a fake employment reference letter with fake contact details is designed to mislead a prospective employer. The Committee therefore found this charge proved.</p>
6. b)	<p><i>Dishonest – in that you knew the reference was fake</i></p> <p>Found proved.</p> <p>Ms Joseph-Louisy would have known that the reference letter she provided to Practice B was fake. The very nature of Ms Joseph-Louisy’s actions in creating the fake reference letter, including fictitious contact details and sending it to Practice B was dishonest. The Committee was of the view that</p>

ordinary decent people would consider Ms Joseph-Louisy's actions to be dishonest. It therefore found this charge proved.
--

We move to Stage Two.”

On 29 April 2021 the Chairman announced the determination as follows:

“Having announced its decision on the facts on 28 April 2021, in accordance with Rule 20 of the Fitness to Practise Rules 2006, the Committee heard submissions from Mr Stevens, on behalf of the General Dental Council (“the GDC”) in relation to the matters of misconduct, impairment and sanction. The Committee also received advice from the Legal Adviser which it accepted.

The Committee reminded itself that its decisions on misconduct, impairment and sanction are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings. It also had regard to its duty to protect the public, declare and uphold proper standards of conduct and competence and maintain public confidence in the profession. Where applicable, the Committee took into consideration the GDC’s “*Standards for the Dental Team*”, (September 2013) and the *Guidance for the Practice Committees, including Indicative Sanctions Guidance, (revised December 2020)* (“the Practice Committee Guidance”). The Committee was referred to the cases of *Nandi v GMC* [2004] EWHC 2317 (Admin); *Cohen v GMC* [2008] EWHC 581 (Admin); *CHRE v NMC & Grant* [2011] EWHC 927 (Admin); *Remedy UK v GMC* [2010] EWHC 1245 (Admin).

Fitness to Practise History

Mr Stevens informed the Committee that Ms Joseph-Louisy had no previous fitness to practise history with the GDC.

Summary of Findings

The Committee found proved that between 14 March 2019 and 9 July 2019, Ms Joseph-Louisy stole money from Practice A to the value of approximately £10,217. Ms Joseph-Louisy’s actions in this regard were found to be dishonest. Ms Joseph-Louisy subsequently left her employment at Practice A and applied for a role as a dental nurse at Practice B. The Committee found proved that on 18 July 2019, during an employment interview with Practice B, Ms Joseph-Louisy provided false contact details for an employment reference when she knew that the contact details did not relate to the referee. In fact, the contact details belonged to Ms Joseph-Louisy. The Committee found her actions to be both misleading and dishonest. On the same date as her interview with Practice B, Ms Joseph-Louisy sent a reference letter via email to Practice B purporting it to be from Witness 4, a dentist with whom she worked at some point between 2014 and 2016. Ms Joseph-Louisy knew that the reference was fake and Witness 4 confirmed that she did not provide Ms Joseph-Louisy with an employment reference. The Committee found that Ms Joseph-Louisy’s actions were both misleading and dishonest.

Misconduct

Submissions on behalf of the GDC

Mr Stevens submitted that the Committee’s findings involved particularly egregious and repeated failures demonstrating conduct wholly incompatible with the standards expected of

registered dental professionals. He submitted that the Committee found serious and persistent dishonesty involving stealing over a prolonged period of time, aggravated by the amount of money stolen which ran into thousands of pounds. Furthermore, the dishonesty was premeditated and planned, breaching the trust placed on her by her employer by being one of two people authorised to facilitate refunds for the Practice. Mr Stevens submitted that the facts found proved at charges 1 and 2 in relation to stealing justify a finding of misconduct. He submitted that a further aggravation is that Ms Joseph-Louisy continued to act dishonestly by securing a role with Practice B through dishonest means within days of leaving Practice A. He submitted further that the conduct of producing a fake reference purporting it to come from someone that it did not and providing fake contact details were also serious, egregious, undermined the employment process and fell below the standards expected. Particularly standards 1.3, 1.3.1, 1.3.2 and 9.1. Mr Stevens submitted that the Committee should have little difficulty in reaching a finding of misconduct.

Committee decision on misconduct

The Committee made three separate findings of dishonesty and two findings of misleading behaviour by Ms Joseph-Louisy. Her actions in stealing substantial amounts of money over a prolonged period of time from her then employer was premeditated, persistent and breached the trust placed in her. Furthermore, by providing false contact details and a fake reference letter to Practice B, Ms Joseph-Louisy breached the trust placed in her by the prospective employer and undermined the employment process. Ms Joseph-Louisy's failings were serious, brought the profession into disrepute and would be regarded as deplorable by fellow practitioners. The Committee considered that her actions were also a serious departure from the standards of conduct expected from a registered dental practitioner, particularly the following standards as set out within the GDC's *Standards for the Dental Team* (September 2013):

“Standard 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...

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

Standard 9.1 You must ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession”.

The Committee was in no doubt that the threshold for a finding of misconduct was met in this case. It concluded that the facts found proved against Ms Joseph-Louisy amount to misconduct.

Current Impairment

Submissions on behalf of the GDC

Mr Stevens submitted that if the Committee found misconduct, it should consider whether Ms Joseph-Louisy's fitness to practise is currently impaired. He invited the Committee to assess the risk of recurrence and the wider public interest considerations that flow from this case. He submitted that a finding of impairment was required on both grounds.

Mr Stevens submitted that the question of remedy was of fundamental importance and would be based on the Committee's assessment of insight demonstrated by Ms Joseph-Louisy. He submitted that, noting that Ms Joseph-Louisy had chosen not to engage or attend

this hearing, there was a notable absence of any evidence on which the Committee could be confident that the dishonesty would not be repeated in future. He submitted that although it was of significance that Ms Joseph-Louisy had admitted to the failings, the Committee could not conclude that there was insight because of the admissions. He submitted further that more evidence demonstrating an understanding of the seriousness of the failings and the steps taken to correct them was required in order for the Committee to reach a conclusion that the risk of repetition was low. Furthermore, Mr Stevens submitted that the dishonesty found proved was persistent, took place in two separate settings, demonstrated attitudinal behaviour which was ingrained and entrenched, and by its very nature was difficult to remedy. In the absence of any evidence, aside from the acknowledgement of wrongdoing by her admissions, the Committee could not be assured that dishonesty of this sort would not be repeated in future.

In addition, Mr Stevens submitted that the serious nature of this case demanded a finding of current impairment on public interest grounds as Ms Joseph-Louisy's conduct was wholly incompatible with the type of conduct demanded of those on the register. He submitted that public confidence in the regulator and the profession would be fundamentally undermined if a finding of current impairment was not made in this case.

Committee decision on current impairment

The Committee next considered whether Ms Joseph-Louisy's fitness to practise is currently impaired by reason of her misconduct.

The Committee considered the question of current impairment in two parts, firstly in relation to the need to protect the public and secondly the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession. The Committee first applied the Cohen questions to consider whether Ms Joseph-Louisy's failings are easily remediable, have been remedied and whether they are likely to be repeated. It was of the view that dishonesty is attitudinal in nature and therefore although can be remedied, is not easily remediable. In considering whether there has been remediation, the Committee noted that there was no evidence from Ms Joseph-Louisy of any steps she had taken to address her dishonest conduct. Furthermore, there is no evidence of Ms Joseph-Louisy's insight into her behaviour and the impact on the dental profession. In the absence of any evidence of insight, reflection and remediation, the Committee could not assess the likelihood of repetition. Given the findings of premeditated and persistent stealing of large sums of money and repeated misleading and dishonest behaviour, the Committee concluded that there is a real risk of repetition of similar conduct in future and a finding of current impairment was required in order to protect the public.

In relation to the public interest the Committee applied the approach formulated by Dame Janet Smith in her Fifth Report from The Shipman Inquiry, in which the appropriate test for panels considering current impairment to apply was identified:

"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."*

The Committee noted that Ms Joseph-Louisy's dishonest behaviour was not a one-off incident but was premeditated, involving a degree of planning and testing, persistent, repeated and was for direct personal gain. The Committee considered that Ms Joseph-Louisy would not have returned the money she stole from Practice A if her actions had not been discovered. Ms Joseph-Louisy's multiple dishonest behaviour breached fundamental tenets of the dental profession and brought the profession into disrepute. The Committee was of the view that a reasonable and informed member of the public, fully aware of the extent of Ms Joseph-Louisy's dishonest behaviour would lose confidence in the dental profession and the regulatory process if a finding of current impairment were not made in the circumstances of this case. It concluded that a finding of current impairment was needed in the public interest.

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

Sanction

Submissions on behalf of the GDC

Mr Stevens submitted that a sanction of erasure is the appropriate and proportionate sanction and any lesser sanction would undermine public confidence in the profession and the regulatory process.

Committee decision on sanction

The Committee next considered what sanction, if any, to impose on Ms Joseph-Louisy's registration. It recognised that the purpose of a sanction is not to be punitive although it may have that effect. The Committee had regard to the principle of proportionality and the requirements of public protection and the public interest.

The Committee took account of the mitigating and aggravating factors in this case. In mitigation, it noted that Ms Joseph-Louisy had no previous fitness to practise history with the GDC. The aggravating features include multiple findings of serious dishonesty which were premeditated and persistent, financial gain by Ms Joseph-Louisy, sustained and repeated misconduct over a period of time, breach of trust and a complete lack of insight. The Committee noted that insight is described in the Practice Committee Guidance in the following terms:

"In the context of a hearing, insight on the part of the dental professional is an important factor. Insight might be defined as an expectation that they will be able to:

- review their own performance or conduct;*
- recognise that they should have behaved differently in the circumstances being considered; and*
- identify and put in place measures that will prevent a recurrence of such circumstances.*

When considering whether or not a dental professional has insight, it will be necessary for a panel to consider whether or not the dental professional has demonstrated insight

consistently throughout the hearing – for example, in the giving of their evidence. The panel should also consider whether the dental professional has displayed insight prior to the hearing – for example by putting measures in place to prevent a repetition of the circumstances which led to the hearing (if appropriate).”

The Committee noted that other than Ms Joseph-Louisy’s admission to what was alleged against her, there is no evidence of her insight or a recognition by her that corrective actions need to be undertaken to prevent repetition of similar conduct. The Committee was of the view that to conclude this case with no further action in light of the above would be inappropriate and would not satisfy the public interest.

The Committee then considered the available sanctions in ascending order starting with the least serious.

In relation to a reprimand, the Committee noted that the Practice Committee Guidance at paragraphs 6.7 to 6.9. Paragraph 6.9 states that:

“A reprimand may be suitable where most of the following factors are present (this list should not be taken to be exhaustive):

- *there is no evidence to suggest that the dental professional poses any danger to the public;*
- *the dental professional has shown insight into his/her failings;*
- *the behaviour was an isolated incident;*
- *the behaviour was not deliberate;*
- *the dental professional acted under duress;*
- *the dental professional has genuinely expressed remorse;*
- *there is evidence that the dental professional has taken rehabilitative/corrective steps;*
- *the dental professional has no previous history.”*

Having found that Ms Joseph-Louisy behaved in a misleading and dishonest manner on multiple occasions, demonstrated no insight, remediation, reflection or remorse and, having concluded that Ms Joseph-Louisy’s fitness to practise is currently impaired as a result, a reprimand would be wholly inadequate to reflect the gravity of the findings and protect against the risk of repetition that has been identified by the Committee. It therefore concluded that a reprimand was not appropriate in this case.

The Committee then considered whether a conditions of practice order would be appropriate. It took account of paragraphs 6.10 to 6.20 of the Practice Committee Guidance. Paragraphs 6.12 and 6.18 state that:

“Conditions can only be considered to provide adequate public protection if the panel can reasonably be confident in the registrant’s capacity to comply with them. If the panel is concerned that a registrant may not comply with the conditions they are minded to impose, suspension may be a more appropriate sanction to ensure public protection. This applies equally if concerns about non-compliance are due to circumstances, rather than due to the registrant...”

Conditions may be appropriate when all or most of the following factors are present (this list is not exhaustive):

- *there are discrete aspects of the registrant's practice that are problematic;*
- *any deficiencies are not so significant that patients will be put at risk directly or indirectly as a result of continued – albeit restricted – registration;*
- *the registrant has shown evidence of insight and willingness to respond positively to conditions;*
- *it is possible to formulate conditions that will protect the public during the period they are in force;*
- *it is possible to formulate conditions that satisfy the requirements set out at 7.19.”*

Ms Joseph-Louisy's misleading and dishonest behaviour occurred in the workplace. She has not shown any evidence of insight or willingness to engage with her regulator which is required for conditions to be workable and achievable. Regardless of her non-engagement, the Committee considered that her dishonest behaviour, which is attitudinal in nature, was too serious to be addressed by the imposition of conditions. Honesty is a fundamental tenet of the dental profession which must be maintained by all registered dental professionals. The Committee therefore concluded that conditions were neither sufficient nor appropriate to address the serious dishonesty and safeguard the wider public interest concerns that arise therefrom.

The Committee next considered whether suspension would be sufficient to mark the serious dishonesty. It took account of paragraphs 6.21 to 6.28 of the Practice Committee Guidance. Paragraphs 6.21, 6.25 and 6.28 state that:

“If the PCC finds that the withdrawal of registration is necessary but that it does not need to last the five-year term that would be the minimum period for erasure, it may suspend the Registrant. Suspension prevents the Registrant from practising as a dental professional for the length of the Suspension Order...

The dental professional is expected to continue to meet the GDC's CPD requirements during any period of suspension and make any CPD declarations or submissions to the GDC when required. The dental professional's competence may be affected by prolonged periods of suspension, which their CPD activity during this time may take into account. They must ensure the CPD activities they undertake during any period of suspension will not lead to a breach of the suspension order...

Suspension is appropriate for more serious cases and may be appropriate when all or some of the following factors are present (this list is not exhaustive):

- *there is evidence of repetition of the behaviour;*
- *the Registrant has not shown insight and/or poses a significant risk of repeating the behaviour;*
- *patients' interests would be insufficiently protected by a lesser sanction;*
- *public confidence in the profession would be insufficiently protected by a lesser sanction;*

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

The Committee also took into account paragraphs 6.30, 6.34, 60, 61, 70 of the Practice Committee Guidance which states:

"The ability to erase exists because certain behaviours are so damaging to a registrant's fitness to practise and to public confidence in the dental profession that removal of their professional status is the only appropriate outcome. Erasure is the most severe sanction that can be applied by the PCC and should be used only where there is no other means of protecting the public and/or maintaining confidence in the profession. Erasure from the register is not intended to last for a particular or specified term of time. However, a registrant may apply for restoration only after the expiry of five years from the date of erasure.

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

- *serious departure(s) from the relevant professional standards;*
- *where serious harm to patients or other persons has occurred, either deliberately or through incompetence;*
- *where a continuing risk of serious harm to patients or other persons is identified;*
- *the abuse of a position of trust or violation of the rights of patients, particularly if involving vulnerable persons;*
- *convictions or findings of a sexual nature, including involvement in any form of child pornography;*
- *serious dishonesty, particularly where persistent or covered up;*
- *a persistent lack of insight into the seriousness of actions or their consequences."*

Acting with honesty and integrity is a fundamental tenet of the dental profession. As such, dishonesty will always be 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.

Dishonesty can take many forms, with some being more serious than others. Some forms of dishonest conduct can destroy trust instantly, whilst others can merely undermine it to a greater or lesser extent. Dishonest conduct may be considered less serious in cases of:

- *One-off incidents;*
- *Opportunistic or spontaneous conduct;*
- *No direct personal gain;*
- *No risk to patients;*
- *Incidents in private life.*

Where dishonesty is a central feature of a Committee's decision, there will always be a severe risk of a registrant's name being erased from the register. Where little remorse, regret or insight is demonstrated, or where a registrant fails to cooperate with an investigation, engage with the final hearing or persists in misconduct, then this may point to a more serious sanction needing to be imposed to ensure public confidence in the profession is not undermined and that proper professional standards of conduct are maintained.

Where, at the factual stage, the PCC has found proved a charge that the Registrant made a statement that was deliberately misleading, the Committee would be entitled to view the matter seriously when considering misconduct, impairment and sanction, because deliberately misleading behaviour calls into question the Registrant's integrity. Where, on the other hand, there is a finding that a statement was misleading (but no finding on any further charge of deliberately misleading conduct or dishonesty), then the Committee would need to consider carefully whether the tests for a finding of misconduct and/or impairment are met."

The Committee's view was that suspension would be inappropriate in this case given the findings of serious and persistent dishonesty which involved stealing on multiple occasions over a period of time, an abuse of a position of trust, the lack of insight, the real risk of repetition and the evidence of a deep-seated personality attitudinal problem. A suspension would not help to maintain public confidence in the dental profession and would not prevent Ms Joseph-Louisy from behaving in the same manner in the future.

The Committee therefore determined, pursuant to section 36P(7)(a) of the Dentists Act 1984, as amended, to direct that Ms Joseph-Louisy's name be erased from registration in the register under the title of Dental Nurse.

The Committee now invites submissions on whether an immediate order of suspension should be imposed on Ms Joseph-Louisy's registration.

Determination on immediate order of suspension

Having made its decision that, the appropriate action to take in respect of Ms Joseph-Louisy's registration is one of erasure, the Committee considered whether an immediate order is necessary for the protection of the public, otherwise in the public interest or is in the interest of Ms Joseph-Louisy.

Submissions on behalf of the GDC

Mr Stevens made an application pursuant to section 36U(1) of the Dentists Act 1984, as amended, for an immediate suspension order to cover the appeal period. He submitted that given that a decision for erasure had been made, that decision would not take effect for at least 28 days and without an application for an immediate order Ms Joseph-Louisy would be free to practice unrestricted until the determination to erase takes effect. Accordingly, Mr Stevens submitted that this application was to cover the appeal period, acknowledging the Committee's findings in respect of misconduct and impairment. He submitted that consistent with those findings an immediate suspension order is necessary for the protection of the public to guard against the risk of recurrence identified and otherwise in the public interest, noting the Committee's conclusion that Ms Joseph-Louisy's conduct is inconsistent with continued registration.

Decision of the Committee

The Committee considered the submissions made by Mr Stevens. It accepted the advice of the Legal Adviser.

The Committee was of the view that, having concluded that Ms Joseph-Louisy's dishonest behaviour is incompatible with continued registration and her registration should be erased, it would be wholly incompatible with this decision to leave her registration unrestricted pending the coming into effect of the substantive decision. The Committee therefore determined that an immediate order is necessary for the protection of the public. It also determined that an immediate order is otherwise in the public interest in order to maintain public confidence in the dental profession. It was of the view that a well-informed member of the public would be shocked if an immediate suspension were not imposed.

The effect of the foregoing direction and this order is that Ms Joseph-Louisy's registration will be suspended with immediate effect and unless she exercises her right to appeal, the substantive direction of erasure will take effect as indicated in the notice to be served on her. Should she exercise her right to appeal, this order for immediate suspension may remain in place pending the resolution of any appeal proceedings.

The interim order currently on Ms Joseph-Louisy's registration is hereby revoked.

That concludes this determination."