

HEARING PARTLY HEARD IN PRIVATE*

*The Committee has made a determination in this case that includes some private information. That information has been omitted from the text.

HIGHTON, Jill Mary

Registration No: 62800

PROFESSIONAL CONDUCT COMMITTEE

DECEMBER 2020

Outcome: Erased with Immediate Suspension

HIGHTON, Jill Mary, a dentist, BDS University of Liverpool 1987, was summoned to appear before the Professional Conduct Committee on 14 December 2020 for an inquiry into the following charge:

Charge (as AMENDED and READ on 14 December 2020 and as further AMENDED on 16 December 2020)

"That, being a registered dentist:

1. For all or some of the period from 19 October 2017 to 14 February 2019:
 - a. You failed to hold adequate indemnity or insurance; and /or
 - b. You provided dental services whilst you did not hold adequate indemnity or insurance.
2. Your conduct in relation to charge 1(b) above was:
 - a. Misleading: and / or
 - b. Dishonest, in that:
 - i. You knew you did not have adequate indemnity or insurance in place for all or some of the period, specified in charge 1 above; and
 - ii. You knew you were required to have adequate indemnity or insurance in place while providing dental services.
3. In October 2017, you made a false declaration to your employer that you held adequate indemnity or insurance by providing your employer with Evidence of Cover from Catlin Insurance Company (UK) Ltd.
4. Your conduct in relation to charge 3 above was:
 - a. Misleading; and/or
 - b. Dishonest, in that you knew that that you did not have adequate indemnity or insurance in that:
 - i. your Evidence of Cover only related to work as a 'lecturer'; and/or
 - ii. from at least 5 October 2017, you knew that you had failed to make the payments for your cover; and
 - iii. you intended to create the false impression that you held adequate indemnity or insurance.

5. You made a false declaration to the General Dental Council ("GDC") that you held adequate indemnity or insurance on:
 - a. On 31 December 2017; and / or
 - b. On 31 December 2018
6. Your conduct in relation to charge 5 above was:
 - a. misleading; and/or
 - b. dishonest, in that you knew, or ought to have known, that you did not have indemnity or insurance when you made the declarations.
7. Between 26 April 2019 and 20 November 2019 you failed to cooperate with an investigation conducted by the GDC into your fitness to practise, in that you did not respond when requested to provide evidence of your indemnity arrangements.
8. Between 5 August 2020 and 23 September 2020 you failed to cooperate with an investigation conducted by the GDC into your Fitness to practise, in that you failed to respond to requests for a health assessment, when requested to by the GDC.
9. You have an adverse mental or physical health condition, as specified in Schedule A¹.

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

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

"This is a hearing of the Professional Conduct Committee (PCC). Ms Laura Bayley of Counsel, instructed by the GDC's In-House Legal Presentation Service, appears for the GDC. Ms Highton is not present and is not represented in her absence. The hearing is being held remotely in line with the GDC's current practice.

Service of notice

At the outset of the hearing on 14 December 2020, the Committee considered whether notice of the hearing had been properly effected in accordance with Rules 13 and 65 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules').

On 12 November 2020 a notice of hearing was sent to the address that Ms Highton has registered with the GDC, setting out the date and time of this hearing, as well as its remote nature. The notice was contained in a sealed envelope and was enclosed with a letter marked for the attention of the practice manager at that address, with a request that the practice manager pass on the envelope to Ms Highton if Ms Highton was at the address or could otherwise be contacted. The notice was sent using the Royal Mail's Special Delivery postal service. The Royal Mail's Track and Trace service records that the notice was delivered on the morning of the following day, namely 13 November 2020.

The notice was also sent to Ms Highton at her other known address on 12 November 2020, again using the Royal Mail's Special Delivery postal service. The Royal Mail's Track and Trace Service records that an attempt was made to deliver the item on the following day, namely 13 November 2020, but that no-one was present at the address.

¹ Schedule A is a private document and is not disclosed to the public.

A copy of the notice was also sent to Ms Highton by email.

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

Proceeding in absence

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Ms Highton in accordance with Rule 54 of the Rules. Ms Bayley submitted that it would be appropriate for the Committee to proceed in the absence of Ms Highton on the basis that the GDC has made all reasonable efforts to secure her attendance at this hearing, and that she has not engaged with the GDC for a considerable period of time.

The Committee accepted the advice provided by the Legal Adviser. The Committee was mindful that its discretion to conduct a hearing in the absence of a registrant should be exercised with the utmost care and caution. After careful consideration the Committee determined that it would be appropriate and fair for the Committee to proceed in the absence of Ms Highton. The Committee considers that Ms Highton has voluntarily absented herself from these proceedings and that an adjournment, which has not been sought, would be unlikely to secure her attendance given her history of non-engagement. The Committee was also mindful of the public interest in the expeditious disposal of this case.

Application to proceed partly in private

Ms Bayley then invited the Committee to hear part of the case in private given that the case partly relates to Ms Highton's health. The application was made pursuant to Rule 53 (2) of the Rules. The Committee accepted the advice of the Legal Adviser, and determined that it would be appropriate to hear matters relating to Ms Highton's health in private.

Rule 25 and Rule 18 applications

The Committee then heard an application made by Ms Bayley on behalf of the GDC to add further allegations to those that Ms Highton already faces in accordance with Rule 25 (2) of the Rules.

The allegations that have been referred to this Committee by the GDC's Case Examiners (CEs) were set out in a notice of hearing dated 12 November 2020. The existing allegations relate to concerns that Ms Highton failed to hold adequate indemnity insurance in the period of 19 October 2017 to 14 February 2019, and provided dental services without having adequate indemnity insurance in place during that period. The GDC alleges that such conduct was misleading and dishonest. The GDC further contends that Ms Highton failed to co-operate with a GDC investigation in the period of 26 April 2019 to 20 November 2019, more particularly in that she did not respond when asked by the GDC to provide evidence of her indemnity arrangements. The GDC also alleges that Ms Highton has an adverse mental or physical health condition.

The GDC seeks to add further allegations to those already referred to the PCC by the CEs. These new allegations arise out of further investigations undertaken by the GDC in relation to the existing allegations referred to above. The GDC proposes to further allege that Ms Highton made a false declaration to her employer about her indemnity insurance arrangements in October 2017, and to the GDC in December 2017 and December 2018, and that such declarations were misleading and dishonest. The GDC also seeks to allege that Ms Highton failed to co-operate with a GDC investigation into her health between 5 August 2018 and 23 September 2020. These new proposed allegations were set out in a letter that the GDC sent to Ms Highton on 13 November

2020 pursuant to Rule 25 (3) (a). That letter set out that the GDC would seek to add the new allegations to the existing allegations. In accordance with Rule 25 (3) (b) Ms Highton was provided with the opportunity to make written representations.

The Committee also heard an application to amend the heads of charge that Ms Highton faces in accordance with Rule 18. Ms Bayley applied to amend the wording of one of the existing heads of charge, which is now numbered head of charge 7 in the consolidated charge document, and one of the new proposed heads of charge, which is now numbered head of charge 4 (b) (i) in the consolidated charge document.

The Committee accepted the advice of the Legal Adviser.

The Committee has determined to join the further proposed allegations to those that Ms Highton already faces in accordance with the provisions of Rule 25 (2). The Committee notes that the existing allegations have been referred to the PCC, that the PCC hearing has yet to be formally opened, and that the new allegations are similar in nature to, or are founded on the same alleged facts as, the existing allegations. The Committee considers that in the circumstances it would be fair and appropriate for the new allegations to be joined.

The Committee hereby directs that the additional allegations as set out in the GDC's letter to Ms Highton dated 13 November 2020, and in the disclosed consolidated charge document contained in the bundle before this Committee, be joined to the allegations that Ms Highton already faces so that the new and existing allegations can be considered together at this hearing.

The Committee also acceded to Ms Bayley's application to amend two of the heads of charge, which are now numbered head of charge 4 (b) (i) and head of charge 7, on the basis that the amendments can be made without injustice."

On 16 December 2020 the Chairman announced the findings of fact to the Counsel for the GDC:

"This is a hearing of the Professional Conduct Committee (PCC). Ms Laura Bayley of Counsel, instructed by the GDC's In-House Legal Presentation Service, appears for the GDC. Ms Highton is not present and is not represented in her absence. The hearing is being held remotely in line with the GDC's current practice.

Preliminary matters

At the outset of the hearing on 14 December 2020 the Committee made a number of decisions regarding preliminary matters. Those decisions are set out in a separate determination dated 14 December 2020.

Background to the case and summary of allegations

The allegations giving rise to this hearing relate to Ms Highton's indemnity insurance arrangements, including declarations made about those arrangements; her co-operation with the GDC; and her health.

It is alleged that, for some or all of the period of 19 October 2017 to 14 February 2019, Ms Highton failed to hold adequate indemnity or insurance. It is further contended that Ms Highton provided dental services in that period without holding adequate indemnity or insurance, and the GDC alleges that such conduct was misleading and dishonest.

The GDC also alleges that Ms Highton made a false declaration to her employer in October 2017 and to the GDC on 31 December 2017 and 31 December 2018 that she held adequate indemnity or insurance, and that such declarations were misleading and dishonest.

It is further contended that Ms Highton failed to co-operate with investigations conducted by the GDC into her fitness to practise. It is specifically alleged that between 26 April 2019 and 20 November 2019 Ms Highton failed to respond when asked for evidence of her indemnity arrangements. It is further alleged that between 5 August 2020 and 23 September 2020 Ms Highton failed to respond to the GDC's requests for her to undergo a health assessment.

It is also alleged that Ms Highton has an adverse mental or physical health condition.

IN PRIVATE

[text omitted]

IN PUBLIC

Evidence

The Committee has been provided with documentary material in relation to the heads of charge, including the witness statements and documentary exhibits of a paralegal in the GDC's In-House Legal Presentation Service, namely Ms Amy Pertwee; a Senior Registration Operations Officer with the GDC, namely Ms Jagdish Kaur; the Head of Clinical Services at Ms Highton's former employer, who is referred to as Witness 1; and a broker with an insurance firm who has knowledge of Ms Highton's purported indemnity insurance arrangements, who is referred to as Witness 2.

IN PRIVATE

[text omitted]

IN PUBLIC

The Committee heard oral evidence from Dr Mavroudis.

Further amendment of the charge under Rule 18

On 16 December 2020, prior to these findings of fact being announced, the Committee drew Ms Bayley's attention to what appeared to be a typographical error concerning one of the dates referred to at head of charge 8, and a grammatical error at head of charge 9. The Committee invited Ms Bayley's submissions. Ms Bayley supported the proposed amendments.

The Committee accepted the advice of the Legal Adviser.

The Committee determined to amend heads of charge 8 and 9 in accordance with the provisions of Rule 18. The schedule of charge was amended accordingly.

Committee's findings of fact

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

The Committee was assisted by the oral evidence that it heard from Dr Mavroudis.

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

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

1.	<i>For all or some of the period from 19 October 2017 to 14 February 2019:</i>
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1. (a)	<p><i>You failed to hold adequate indemnity or insurance; and/or</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 1 (a) proved.</p> <p>The Committee finds that Ms Highton was under a duty to hold adequate indemnity or insurance as a practising dentist. The Committee notes that Section 26A (1) of the Dentist Act 1984 (as amended) ('the Act') states, '<i>A registered dentist who is practising as a dental practitioner must have in force in relation to him an indemnity arrangement which provides appropriate cover for practising as such.</i>' The Committee also notes that Standard 1.8 of the GDC's <i>Standards for the Dental Team</i> (September 2013) states that as a dentist you must, '<i>Have appropriate arrangements in place for patients to seek compensation if they suffer harm</i>'. The Committee further notes from the witness statement and documentary exhibits of Jagdish Kaur that reminders and further guidance are provided to registrants about their indemnity or insurance obligations.</p> <p>The evidence presented to the Committee is that the indemnity insurance that Ms Highton obtained online was only for the purposes of lecturing. Indeed, the evidence from Witness 2 is that Witness 2's company, as insurance broker, did not offer cover online for dentists at the time. Furthermore, and most importantly, the cover that Ms Highton obtained was cancelled by the insurer on 19 October 2017, with the cancellation being backdated to the date of inception, namely 19 September 2017. The evidence of Witness 2 is that the policy was cancelled because Ms Highton made no payments for the policy. Reminders were sent to Ms Highton by Witness 2's company on 5 and 12 October 2017, stating that payment was due and that cover could not be maintained for longer than 30 days without payment. A voicemail message was also left for Ms Highton on 12 October 2017 about payment. An email was then sent one week later on 19 October 2017 stating that the insurer had cancelled the policy, effective from 19 September 2017, due to non-payment.</p> <p>There is no suggestion that any other indemnity or insurance was in place, and the Committee infers that there was no such alternative cover in place during the period referred to at this head of charge.</p> <p>The Committee therefore finds the facts alleged at head of charge 1 (a) proved.</p>
1. (b)	<p><i>You provided dental services whilst you did not hold adequate indemnity or insurance.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 1 (b) proved.</p> <p>The evidence of Witness 1 is that Ms Highton started working as a locum dentist on 24 October 2017. The registrant subsequently became an associate on 1 October 2018. The evidence of Witness 1 is that Ms Highton was engaged to provide dental services, and provided such services during the course of her engagement. The Committee has found above at head of charge 1 (a) that Ms Highton did not have indemnity or insurance in place in relation to dental services, and it follows that as Ms Highton did indeed provide dental services she did so in the absence of adequate indemnity or insurance.</p>

	Accordingly, the Committee finds the facts alleged at head of charge 1 (b) proved.
2.	<i>Your conduct in relation to charge 1(b) above was:</i>
2. (a)	<i>Misleading: and / or</i> Proved
	<p>The Committee finds the facts alleged at head of charge 2 (a) proved.</p> <p>The Committee considers that Ms Highton's provision of dental services whilst not holding adequate indemnity or insurance was misleading. The Committee has found above at head of charge 1 (a) that having adequate indemnity or insurance is a requirement of practising. As Ms Highton provided dental services to patients in the period in question, the Committee considers that those patients would reasonably have assumed that Ms Highton held adequate indemnity or insurance for the simple reason that she was treating them. The Committee also considers that Ms Highton's employer would have similarly been misled into believing that Ms Highton, as a registered dentist, had adequate indemnity or insurance in place, particularly in light of her providing her employer with a document entitled 'Evidence of cover – professional indemnity insurance' in October 2017.</p> <p>For these reasons, the Committee finds the facts alleged at head of charge 2 (a) proved.</p>
2. (b)	<i>Dishonest, in that:</i>
2. (b) (i)	<i>You knew you did not have adequate indemnity or insurance in place for all or some of the period, specified in charge 1 above; and</i> Proved
2. (b) (ii)	<i>You knew you were required to have adequate indemnity or insurance in place while providing dental services.</i> Proved
	<p>The Committee finds the facts alleged at heads of charge 2 (b) (i) and 2 (b) (ii) proved.</p> <p>In approaching these heads of charge, and heads of charge 4 (b) (i), 4 (b) (ii), 4 (b) (iii) and 6 (b), the Committee applied the test set out in <i>Ivey v Genting Casinos (UK) Ltd. t/a Crockfords</i> [2017] UKSC 67. The test is that the Committee must decide subjectively the actual state of Ms Highton's knowledge or belief as to the facts, and must then apply the objective standards of ordinary and decent people to determine whether her conduct is dishonest by those standards.</p> <p>IN PRIVATE</p> <p>[text omitted]</p> <p>IN PUBLIC</p> <p>The Committee has found above that Ms Highton did not have adequate indemnity or insurance in place in relation to her provision of dental services in the period of 19 October 2017 to 14 February 2019. The Committee has also found above that Ms Highton was under a duty to have such cover in place.</p> <p>The Committee first considered the actual state of Ms Highton's knowledge</p>

and belief as to the facts.

The Committee considers that Ms Highton knew that she did not have adequate indemnity or insurance in place. The evidence of Witness 2 is that Ms Highton obtained insurance on 19 September 2017 on Witness 2's company's website. Ms Highton appears to have entered 'lecturer' on her online application for insurance. This resulted in policy documents being issued to Ms Highton later that same day which record that Ms Highton's occupation or business was that of 'lecturer'. As the Committee has found above, such cover would not have been adequate as it would not have covered Ms Highton's provision of dental services. The Committee considers that this would have been obvious to Ms Highton from the policy documents, which were only drawn up with the information that she was seeking cover as a lecturer on the basis of her specifically entering that occupation and type of business when seeking insurance. Ms Highton could not in the Committee's judgement, possibly have believed that the insurance that she had obtained was sufficient for the purposes of providing dental services. The Committee also considers that Ms Highton could not have been under any illusion about the inadequacy of her cover given that she was providing dental services. In short, Ms Highton sought cover as a lecturer and sought work providing dental services, and the difference between the two would in the Committee's judgement have been perfectly obvious and unmistakeable to her.

The policy was in any event cancelled on 19 October 2017, with the cancellation backdated to 19 September 2017. The Committee considers that it would have been obvious to Ms Highton from the emails referred to above, beginning with that on 5 October 2017, that her policy would be cancelled if she did not make payment, and was then duly cancelled on 19 October 2017 on account of her not making any of the payments that were required of her. The Committee considers that Ms Highton is more likely than not to have received and read those emails, as the evidence presented to the Committee is that the email address to which those reminders were sent is the one that Ms Highton has registered with the GDC, and from which she has corresponded with her employer.

The Committee also considers that Ms Highton knew that she was under a duty to have adequate indemnity or insurance. The Committee considers that the requirement for a registered dentist to hold adequate indemnity or insurance is deeply ingrained in the profession. As set out in its findings at head of charge 1 (a) above, the requirement is made clear, for instance in the Act, the GDC's *Standards for the Dental Team*, and associated guidance such as the GDC's *Guidance on Indemnity* (15 June 2016) and reminders issued to and made available to registrants. In this particular case, the Committee notes from the witness statement and documentary exhibits of Jagdish Kaur that Ms Highton made two separate declarations to the GDC on its eGDC registrant website portal 31 December 2017 and 31 December 2018 when renewing her registration. Those declarations were that, 'I have in place, or will have in place at the point at which I practise in the UK, insurance or indemnity arrangement appropriate to the areas of my practice'. In making such a declaration registrant are warned that a false declaration is a serious issue and might give rise to fitness to practise proceedings.

The Committee considers that Ms Highton's declarations to the GDC are

	<p>revealing in terms of her actual state of knowledge and belief, and that she knew that she was required to have adequate indemnity or insurance in place. The Committee also considers that, by providing her employer with a document entitled '<i>Evidence of cover – professional indemnity insurance</i>' in October 2017 when commencing work which involved the provision of dental services, Ms Highton further demonstrated that she was aware of her indemnity or insurance obligations.</p> <p>The Committee then applied the objective standards of ordinary and decent people to determine whether her conduct was dishonest by those standards. The Committee considers that Ms Highton's conduct was dishonest by those standards. The Committee finds that an ordinary member of the public would conclude that Ms Highton acted dishonestly by providing dental services despite knowing that she did not have the necessary and adequate indemnity or insurance arrangements in place to properly entitle her to do so.</p> <p>For these reasons, the Committee considers that the proven conduct at head of charge 1 (b) was dishonest. Accordingly, it finds the facts alleged at heads of charge 2 (b) (i) and 2 (b) (ii) proved.</p>
3.	<p><i>In October 2017, you made a false declaration to your employer that you held adequate indemnity or insurance by providing your employer with Evidence of Cover from Catlin Insurance Company (UK) Ltd.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 3 proved.</p> <p>The Committee notes from the written evidence of Witness 1 that Ms Highton provided a document entitled, '<i>Evidence of cover – professional indemnity insurance</i>' to her employer in October 2017 when commencing work as a locum dentist. As set out in the Committee's findings of fact above, the policy to which this document related was cancelled on 19 October 2017, backdated to inception on 19 September 2017, and in any event was not adequate for Ms Highton's provision of dental services. The Committee finds that, in sending this document to her employer, Ms Highton made a false declaration to her employer about holding adequate indemnity or insurance, and it therefore finds the facts alleged at head of charge 3 proved.</p>
4.	<p><i>Your conduct in relation to charge 3 above was:</i></p>
4. (a)	<p><i>Misleading; and/or</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 4 (a) proved. The Committee has found at head of charge 3 above that Ms Highton's declaration that she held adequate indemnity or insurance cover was false, in that she did not in fact hold such cover. It follows that this declaration was misleading, in that her employer would be inclined to believe that Ms Highton held adequate indemnity or insurance when that was not the case. Consequently the Committee finds the facts alleged at this head of charge proved.</p>
4. (b)	<p><i>Dishonest, in that you knew that that you did not have adequate indemnity or insurance in that:</i></p>

4. (b) (i)	<i>your Evidence of Cover only related to work as a 'lecturer'; and/or</i> Proved
4. (b) (ii)	<i>from at least 5 October 2017, you knew that you had failed to make the payments for your cover; and</i> Proved
4. (b) (iii)	<i>you intended to create the false impression that you held adequate indemnity or insurance.</i> Proved
	<p>The Committee finds the facts alleged at heads of charge 4 (b) (i), 4 (b) (ii) and 4 (b) (iii) proved.</p> <p>In reaching these findings the Committee relies on the reasons that it gave in relation to its findings at heads of charge 2 (b) (i) and 2 (b) (ii). In summary, and as the Committee has already found, Ms Highton knew that her indemnity insurance was inadequate in that it related only to work as a lecturer, and that she had not made payments for the policy.</p> <p>The Committee further considers that Ms Highton intended to create the false impression that she held adequate indemnity insurance by sending the '<i>Evidence of cover – professional indemnity insurance</i>' document to her employer in October 2017 when commencing work as a locum dentist. In assessing the actual state of Ms Highton's knowledge or belief as to the facts, it considers that Ms Highton was clearly intending to mislead her employers into believing that she held adequate indemnity insurance when that was not the case, so that she could provide dental services. The Committee also considers that Ms Highton's conduct would be regarded as dishonest by reference to the objective standards of ordinary and decent people, in that her conduct would be seen as having been motivated by a desire to conceal the absence of adequate indemnity or insurance so that she could provide dental services.</p> <p>The Committee therefore finds the facts alleged at heads of charge 4 (b) (i), 4 (b) (ii) and 4 (b) (iii) proved.</p>
5.	<i>You made a false declaration to the General Dental Council ("GDC") that you held adequate indemnity or insurance on:</i>
5. (a)	<i>On 31 December 2017; and / or</i> Proved
5. (b)	<i>On 31 December 2018</i> Proved
	<p>The Committee finds the facts alleged at heads of charge 5 (a) and 5 (b) proved.</p> <p>As set out in its findings at heads of charge 2 (b) (i) and 2 (b) (ii) above, the Committee notes from the witness statement and documentary exhibits of Jagdish Kaur that Ms Highton made two separate declarations to the GDC on its eGDC registrant website portal 31 December 2017 and 31 December 2017 when renewing her registration. Those declarations were that, 'I have in place, or will have in place at the point at which I practise in the UK, insurance or indemnity arrangement appropriate to the areas of my</p>

	<p>practice'. The Committee has already found that Ms Highton did not in fact have adequate indemnity or insurance in place at the time of either of those two declarations, and it follows that those declarations were false.</p> <p>Accordingly, the Committee finds the facts alleged at heads of charge 5 (a) and 5 (b) proved.</p>
6.	<i>Your conduct in relation to charge 5 above was:</i>
6. (a)	<p><i>misleading; and/or</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 6 (a) proved. The Committee has found at heads of charge 5 (a) and 5 (b) above that Ms Highton's declaration that she held adequate indemnity or insurance cover was false, in that she did not hold such cover. It follows that this declaration was misleading, in that the GDC would be inclined to believe that Ms Highton held adequate indemnity or insurance when that was not the case. Consequently the Committee finds the facts alleged at this head of charge proved.</p>
6. (b)	<p><i>dishonest, in that you knew, or ought to have known, that you did not have indemnity or insurance when you made the declarations.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 6 (b) proved.</p> <p>The Committee has found above at heads of charge 2 (b) (i), 2 (b) (ii), 4 (b) (i), 4 (b) (ii) and 4 (b) (iii) that Ms Highton knew that she did not have adequate indemnity or insurance in place. The Committee again adopts the reasons that it provided at those heads of charge in reaching its finding at head of charge 6 (b). In assessing her actual state of her knowledge and belief, the Committee considers that Ms Highton intended to mislead the GDC into believing that she had adequate indemnity or insurance in place when that was not the case. The Committee also considers that such conduct would be regarded as dishonest by the objective standards of ordinary and decent people, in that her conduct would be seen as having been motivated by a desire to conceal the absence of adequate indemnity or insurance from her regulator, and to thereby allow her to continue to practise.</p> <p>Accordingly, the Committee finds the facts alleged at head of charge 6 (b) proved.</p>
7.	<p><i>Between 26 April 2019 and 20 November 2019 you failed to cooperate with an investigation conducted by the GDC into your fitness to practise, in that you did not respond when requested to provide evidence of your indemnity arrangements.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 7 proved.</p> <p>The Committee notes from the written evidence of Amy Pertwee that the GDC made a considerable number of attempts to seek Ms Highton's co-operation with its investigation into her fitness to practise in the period in question. These attempts were made by post, email and telephone, but Ms Highton did not engage with the GDC's investigation.</p>

	<p>The Committee considers that this amounts to a failure on the part of Ms Highton. The Committee is mindful that Standard 9.4 of the GDC's <i>Standards for the Dental Team</i> (September 2013) requires registrants to co-operate with such inquiries. In particular, paragraph 9.4.1 states, '<i>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. You should also seek advice from your indemnity provider or professional association.</i>' The Committee is further satisfied that the GDC's enquiries were appropriate, noting as it does that Standard 1.8 of the GDC's <i>Standards for the Dental Team</i> (September 2013) states that as a dentist you must, '<i>Have appropriate arrangements in place for patients to seek compensation if they suffer harm</i>'.</p> <p>For these reasons, the Committee finds the facts alleged at head of charge 7 proved.</p>
8.	<p><i>Between 5 August 2020 and 23 September 2020 you failed to cooperate with an investigation conducted by the GDC into your fitness to practise, in that you failed to respond to requests for a health assessment, when requested to by the GDC.</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 8 proved.</p> <p>The Committee notes from the witness statements of Amy Pertwee that she wrote to Ms Highton by email on 5 August 2020 to request her consent for a health assessment. Having not received a reply, Ms Pertwee again emailed Ms Highton on 9 September 2020 to elicit her co-operation. In that email Ms Pertwee asked Ms Highton to reply by 23 September 2020. Ms Pertwee's supplementary witness statement of 13 November 2020 states that no response was received from Ms Highton.</p> <p>The Committee finds that this amounts to a failure to co-operate with the GDC's investigation, contrary to Standard 9.4 and paragraph 9.4.1 as set out in full at head of charge 7.</p> <p>Accordingly, the Committee finds the facts alleged at head of charge 8 proved.</p>
9.	<p><i>You have an adverse mental or physical health condition, as specified in Schedule A.</i></p> <p>Proved</p>
	<p>The Committee finds the fact alleged at head of charge 9 proved.</p> <p>IN PRIVATE</p> <p>[text omitted]</p>

IN PUBLIC

We move to stage two."

On 17 December 2020 the Chairman announced the determination as follows:

Proceedings at stage two

The Committee has considered all the evidence presented to it, both written and oral. It has taken into account the submissions made by Ms Bayley on behalf of the General Dental Council (GDC).

In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated May 2019). The Committee has accepted the advice of the Legal Adviser.

Fitness to practise history

Ms Bayley addressed the Committee in accordance with Rule 20 (1) (a) of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). Ms Bayley informed the Committee that Ms Highton has no other fitness to practise history. The Committee noted this, and bore it in mind in its deliberations on impairment and sanction.

Misconduct

The Committee first considered whether the facts that it has found proved constitute misconduct. Ms Bayley submitted on behalf of the GDC that the Committee's findings amount to misconduct. In considering this matter, the Committee has exercised its own independent judgement.

The Committee has had regard to the following paragraphs of the GDC's *Standards for the Dental Team* (September 2013) in place at the time of the incidents giving rise to the facts that the Committee has found proved. These paragraphs state that as a dentist you must:

- 1 Put patients' interests first.
- 1.3 Be honest and act with integrity.
 - 1.3.1 [...] 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 [...] make sure you do not bring the profession into disrepute.
- 1.7 Put patients' interests before your own or those of any colleague, business or organisation.
 - 1.7.1 [...] always put your patients' interests before any financial, personal or other gain.
- 1.8 Have appropriate arrangements in place for patients to seek compensation if they suffer harm.
 - 1.8.1 [...] have appropriate insurance or indemnity in place to make sure your patients can claim any compensation to which they may be entitled (See our website for further guidance on what types of insurance or indemnity the GDC considers to be appropriate).
- 7.2.1 [...] only carry out a task or a type of treatment if you are appropriately trained, competent, confident and indemnified. [...]
- 8.1 Always put patients' safety first.
9. Make sure your personal behaviour maintains patients' confidence in you and the dental profession.
 - 9.1 [You must] ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.
 - 9.1.1 [...] treat all team members, other colleagues and members of the public fairly, with dignity and in line with the law.

- 9.2 [You must] protect patients and colleagues from risks posed by your health, conduct or performance.
- 9.4 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. You should also seek advice from your indemnity provider or professional association.

The Committee's findings relate to Ms Highton having acted in a dishonest manner by providing dental services without having adequate indemnity or insurance in place for a period of approximately 16 months. The Committee has also found that Ms Highton acted dishonestly by making false declarations that she held adequate indemnity or insurance when that was not the case. Ms Highton then made the same declaration to the GDC on two separate occasions in connection with the renewal of her registration as a dentist. The Committee also found that Ms Highton failed to co-operate with the GDC in relation to its investigation of her indemnity or insurance arrangements for a period of nearly seven months. Ms Highton also failed to co-operate with a separate GDC investigation by not responding to requests for her to undergo a health assessment.

In the Committee's judgement Ms Highton's conduct fell far below the standards reasonably expected of a general dental practitioner. Its findings amount to a breach of a fundamental tenet of the profession, namely the need to act with honesty and integrity. The Committee finds that this conduct would be regarded by Ms Highton's fellow practitioners as deplorable. Ms Highton's dishonest conduct ran contrary to the reasonable expectations of the conduct and behaviour of a general dental practitioner. Ms Highton put her own interests ahead of those of patients, and her dishonesty was sustained and repeated.

By providing dental services without holding adequate indemnity or insurance, and by then making false declarations to the GDC on two separate occasions, Ms Highton sought to subvert the proper functioning of regulatory systems which exist to protect the public. Ms Highton placed patients at a real risk of harm by practising without holding adequate indemnity or insurance, in that patients would not have been able to seek redress in the event that it had been required. Ms Highton's actions are likely to have brought the standing and reputation of the profession into disrepute and undermined public trust and confidence in the profession and in the regulatory process. The Committee therefore has little difficulty in finding that the facts that it has found proved amount to misconduct.

Impairment

The Committee then went on to consider whether Ms Highton's fitness to practise is currently impaired by reason of her misconduct and/or her adverse health. In doing so, it exercised its independent judgement. Throughout its deliberations, the Committee has borne in mind its overarching objective to address the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

Ms Bayley submitted on behalf of the GDC that Ms Highton's misconduct and adverse health impair her fitness to practise.

IMPAIRMENT BY REASON OF MISCONDUCT

The Committee has determined that Ms Highton's fitness to practise is impaired by reason of the misconduct that it has found. The Committee considers that Ms Highton's serious, sustained and repeated dishonesty connotes a deep-seated attitudinal problem which is difficult to remedy. In any event, the Committee has been provided with no information whatsoever to suggest that Ms Highton has developed and demonstrated any insight into, or remediation of, her dishonest conduct, or that she has any intention of doing so in the future.

Ms Highton has acted in the past in such a way to put patients at the risk of harm, and is liable to do so again because of the absence of any evidence of insight and remediation. Ms Highton has breached a fundamental tenet of the profession, namely the requirement to act with honesty and integrity. By practising without indemnity or insurance, and by making false declarations about those arrangements, Ms Highton has repeatedly and persistently put her own interests before those of her patients. Ms Highton's misconduct is likely to have undermined trust and confidence in the profession. Her dishonest conduct in providing dental services without adequate indemnity or insurance, and in then making false declarations to her employer and to the GDC about those arrangements, was exacerbated by her avoiding accountability for her actions in not co-operating with the GDC's investigation.

The Committee therefore finds that there is a real risk of Ms Highton repeating her misconduct on account of her apparent lack of insight and remediation. A repetition of Ms Highton's misconduct would put the public at further risk of harm. As Ms Highton presents an ongoing risk to the public, her fitness to practise is therefore impaired on public protection grounds.

In the Committee's judgement a finding of impairment is also required in order to declare and uphold proper standards of conduct and behaviour and to maintain trust and confidence in the profession and in the regulatory process. The Committee finds that Ms Highton's dishonest conduct has breached a fundamental tenet of the profession, namely the need to act with honesty and integrity. Ms Highton's dishonest conduct was a serious departure from proper professional standards, and has brought the reputation of the profession into disrepute. In the Committee's judgement, public trust and confidence in the profession, and in the regulator, would be seriously undermined if a finding of impairment were not made in the particularly serious circumstances of this case.

IMPAIRMENT BY REASON OF ADVERSE HEALTH

IN PRIVATE

[text omitted]

IN PUBLIC

The Committee has therefore determined that Ms Highton's fitness to practise is currently impaired by reason of her misconduct and her adverse health.

Sanction

The Committee then determined what sanction, if any, would be appropriate in light of the findings of fact, misconduct and impairment that it has made. The Committee recognises that the purpose of a sanction is not to be punitive, although a sanction may have that effect, but is instead imposed in order to protect patients and safeguard the wider public interest referred to above.

In reaching its decision the Committee has again taken into account the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated May 2019). The Committee has heard that Ms Bayley submits

on behalf of the GDC that the appropriate and proportionate sanction is that of erasure. The Committee has applied the principle of proportionality, balancing the public interest with Ms Highton's own interests.

The Committee has considered the aggravating and mitigating factors present in this case.

In relation to aggravating factors, the Committee finds that Ms Highton's conduct placed patients at a risk of harm. Ms Highton's dishonesty was premeditated, as it involved a sustained and repeated deception of patients, her employer and the GDC. Her conduct was also likely to have been financially motivated, as it allowed her to provide dental services, for which she was remunerated, in spite of not having the necessary indemnity or insurance. Ms Highton breached the trust that patients placed in her. Ms Highton's dishonesty, as well as her failure to co-operate with GDC investigations, was a blatant and wilful disregard of the regulatory systems in place to protect patients. Ms Highton has also not demonstrated any insight into, or remorse for, her conduct.

The Committee bore in mind that Ms Highton has no other fitness to practise history. It considers that there are no other matters which might be considered to mitigate the misconduct that it has found.

The Committee has considered the range of sanctions available to it, starting with the least restrictive. In light of the findings made against Ms Highton, the Committee has determined that it would be wholly inappropriate and insufficient to conclude this case with no action or with a reprimand. The nature of the Committee's findings, which relate to repeated and sustained dishonest conduct, means that taking no action, or issuing a reprimand, would be insufficient to protect the public, would undermine public confidence and trust in the profession and in the GDC as regulator, and would not be sufficient to declare and uphold proper standards of conduct and behaviour.

The Committee next considered whether a period of conditional registration would be appropriate. The Committee concluded that conditions could not properly be formulated to address the dishonest conduct that it has found, and would be unlikely to be complied with given that Ms Highton has previously failed to comply with the requirements of her registration. Ms Highton has also not engaged with these proceedings, and the Committee would not be able to formulate conditions without information about her present circumstances. In any event, and more importantly, the Committee considers that a period of conditional registration would undermine public trust and confidence in the profession and would not be sufficient to declare and uphold proper standards of conduct and behaviour given the seriousness of its findings.

The Committee then went on to consider whether to suspend Ms Highton's registration. After careful consideration, the Committee determined that suspension would not be sufficient to declare and uphold proper professional standards of conduct and behaviour and would not adequately maintain public trust and confidence in the profession. As set out above, Ms Highton's serious, sustained and repeated dishonest conduct placed patients at the risk of harm, and is likely to have brought the reputation of the profession into disrepute and undermined public trust and confidence in the profession. Ms Highton's misconduct is fundamentally incompatible with registration.

In the Committee's view erasure from the register is, therefore, the only appropriate and proportionate outcome. In reaching this decision the Committee finds that Ms Highton has a harmful and deep-seated attitudinal problem. This is further demonstrated by her lack of engagement, the absence of any information whatsoever to suggest that she has any remorse for or insight into her misconduct, and her

apparent unwillingness to be held accountable for her conduct. Ms Highton's dishonest conduct was serious, and was a significant departure from proper professional standards. She undermined the trust that patients placed in her, and placed those patients at risk of harm. Ms Highton continues to present a real risk to the public. In the Committee's judgement any sanction less than erasure would be insufficient to protect the public, which includes the need to declare and uphold proper professional standards of conduct and behaviour and maintain public trust and confidence in the profession.

The Committee has therefore determined, and hereby directs, that Ms Highton's name be erased from the register.

The Committee has also found above that Ms Highton's fitness to practise is impaired by reason of her adverse health. The Committee has reached its decision to erase Ms Highton's name from the register on the basis that its finding of impairment by reason of misconduct requires such a disposal. The Committee considered that it was not necessary for it to determine whether its finding of impairment by reason of adverse health might suggest some other form of disposal, given that it determined that erasure was the only appropriate outcome in respect of its finding of impairment by reason of misconduct.

Existing interim order

In accordance with Rule 21 (3) of the General Dental Council (Fitness to Practise) Rules 2006 and section 27B (9) of the Dentists Act 1984 (as amended) the interim order of suspension in place on Ms Highton's registration is hereby revoked.

Immediate order

Having directed that Ms Highton's name be erased from the register, the Committee now invites submissions as to whether it should impose an order for her immediate suspension in accordance with section 30 (1) of the Dentists Act 1984 (as amended)."

Determination on immediate order – 17 December 2020

"Having directed that Ms Highton's entry in the register be erased, the Committee has considered whether to impose an order for her immediate suspension in accordance with Section 30 (1) of the Dentists Act 1984 (as amended).

The Committee has heard from Ms Bayley on behalf of the GDC that an immediate order is necessary for the protection of the public and is otherwise in the public interest.

The Committee has accepted the advice of the Legal Adviser.

In all the circumstances, the Committee considers that an immediate order of suspension is necessary to protect the public and is otherwise in the public interest. The Committee has decided that, given the risks that it has identified, it would not be appropriate to permit Ms Highton to practise before the substantive direction of erasure takes effect. The Committee considers that an immediate order for suspension is proportionate, and is consistent with the findings that it has set out in its foregoing determination. The Committee considers that public trust and confidence in the profession would be undermined if an immediate order for suspension were not made in the circumstances of the case.

The effect of the foregoing determination and this immediate order is that Ms Highton's registration will be suspended from the date on which notice of this decision is deemed served upon her. Unless she exercises her right of appeal, the substantive direction of

erasure will be recorded in the register 28 days from the date of deemed service. Should she so decide to exercise her right of appeal, this immediate order of suspension will remain in place until the resolution of any appeal.

That concludes this case.”