

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.

KOOTVAL, Majid

Registration No: 75034

PROFESSIONAL CONDUCT COMMITTEE

JULY 2022

Outcome: Erased with immediate suspension

KOOTVAL, Majid a dentist, BDS Lond 1998, was summoned to appear before the Professional Conduct Committee on 18 July 2022 for an inquiry into the following charge:

Charge (as amended on 18 July 2022)

“That being a registered dentist:

1. On 19 January 2016, you pleaded guilty to the offence of “stealing by clerks and servants (between 02/06/2015 and 09/06/2015)” at the Noosa Magistrates Court in Australia;
2. On 18 February 2016, you were cautioned by the Dental Board of Australia for unsatisfactory clinical conduct in Australia;
3. You failed to inform the General Dental Council of:
 - a. the matter as set out in Head of Charge 1;
 - b. the caution as set out in Head of Charge 2
4. Your conduct as set out in Head of Charge 3(a) was:
 - a. Misleading;
 - b. Dishonest, in that you knew you were required to inform the General Dental Council if you had been found guilty of a criminal offence anywhere in the world;
5. Your conduct as set out in Head of Charge 3(b) was:
 - a. Misleading;
 - b. Dishonest, in that you knew you were required to inform the General Dental Council if a finding had been made against your registration as a healthcare regulator in the UK or abroad;
6. On 18 July 2016, at the Maroochydore Magistrates Court in Australia, you pleaded guilty to:

- a. “attempted fraud – dishonestly gain benefit/advantage (on 11/07/2016)”; and
 - b. “possess tainted property (on 11/07/2016)”
- 7. You failed to inform the General Dental Council of the matters as set out in Head of Charge 6;
- 8. Your conduct as set out in Head of Charge 7 was:
 - a. Misleading;
 - b. Dishonest, in that you knew you were required to inform the General Dental Council immediately if you had been found guilty of a criminal offence anywhere in the world;
- 9. On 18 December 2020, you were reprimanded by the Queensland Civil and Administrative Tribunal after a hearing found that allegations against you amounted to misconduct;
- 10. You failed to inform the General Dental Council of the reprimand as set out in Head of Charge 9;
- 11. Your conduct as set out in Head of Charge 10 was:
 - a. Misleading;
 - b. Dishonest, in that you knew you were required to inform the General Dental Council immediately if a regulatory finding was made against you anywhere in the world

AND that by reason of the matters alleged above, your fitness to practise is impaired by reason of misconduct, conviction and determination by another regulatory body.”

On 18 July 2022, the Chairman announced the finding of facts as follows:

“Mr Kootval,

This is the Professional Conduct Committee's inquiry into the facts which form the basis of the allegation against you that your fitness to practise is impaired by reason of your misconduct, conviction and determination by another regulatory body. You attended the hearing, and you were represented by Ms Julia Furley of Counsel. Ms Laura Stockdale of Counsel presented the General Dental Council's (GDC) case.

The hearing is being held remotely using Microsoft Teams in line with the GDC's current practice.

Preliminary matters

At the start of the hearing on 18 July 2022, Ms Stockdale invited the Committee to amend charges 2, 4, 5, 7 and 8 in accordance with Rule 18 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). Ms Furley, on your behalf,

made no objection to the application. The Committee accepted the advice of the Legal Adviser. The Committee determined that the amendments would cause no injustice and that it would be fair and appropriate to amend charges 2, 4, 5, 7 and 8. The schedule of charge was duly amended.

Admissions

At the start of the hearing, you made admissions to the following heads of charge: 1, 2, 3 (a), 3 (b), 4 (a), 4 (b), 6 (a), 6 (b), 7, 8 (a), 8 (b), 9, 10, 11 (a) and 11 (b).

Background to the case and summary of allegations

The heads of charge giving rise to this hearing relate to a caution by the Dental Board of Australia and criminal convictions in 2016 and your alleged failure to have informed the GDC that you were subject to criminal and regulatory proceedings. The charges also relate to a reprimand received in 2020 by the Queensland Civil and Administrative Tribunal (QCAT) and your alleged failure to have informed the GDC of this reprimand.

The Committee heard that you were first registered with the GDC as a dentist on 27 July 1998.

On 13 March 2009, you were erased from the GDC Register.

On 3 May 2013, you registered as a dentist with the Australian Health Practitioner Regulation Agency (AHPRA).

On 15 May 2015, you applied for restoration to the GDC's Register. You declared that you would advise the GDC of "*any future criminal proceedings/police investigations, convictions or cautions*".

On 3 September 2015, a complaint was made to the Office of Health Ombudsman (OHO) regarding your clinical conduct towards a patient in Australia.

On 30 September 2015, the complaint was referred from OHO to AHPRA. A response and attachments were provided to AHPRA, on your behalf, regarding this complaint.

On 19 January 2016, you entered a guilty plea in the Noosa Magistrates' Court in Australia to a criminal offence of "*stealing by clerks and servants*" between 2 and 9 June 2015. You were ordered to pay a fine of \$1,500 AUD within 28 days and no conviction was recorded. The facts of this criminal offence were that you had arranged for a patient to pay for the fitting of two crowns by transferring money directly to your personal bank account, rather than making payment to the clinic where you were working. You allegedly failed to inform the GDC of this matter and, in doing so, you are alleged to have acted in a manner that was misleading, and also dishonest, in that you knew that you were required to inform the GDC if you had been found guilty of a criminal offence anywhere in the world.

On 3 September 2015, a complaint was made to the OHO by a former patient of yours. The complaint was subsequently referred by the OHO by the AHPRA.

On 30 September 2015, you provided a response to AHPRA regarding the complaint.

On 18 February 2016, you were cautioned by the Dental Board of Australia for unsatisfactory clinical conduct as a result of this complaint. The Dental Board of Australia determined that you had failed to prescribe appropriate antibiotics to the patient who had presented with symptoms of pain and swelling 48 hours after having two wisdom teeth extracted, and that there were deficiencies in your records relating to this patient. You are alleged to have failed to inform the GDC of this matter. In so doing, it is alleged that you acted in a manner that was misleading, and also dishonest, in that you knew that you were required to inform the GDC if a finding had been made against your registration as a healthcare regulator in the UK or abroad.

On 27 May 2016, a hearing for your application for restoration to the GDC Register was conducted. You attended the hearing, via telephone, and your application was successful. At no point during the hearing did you disclose that you had pleaded guilty to a criminal offence or that you had been cautioned by the Dental Board of Australia.

On 18 July 2016, you entered a guilty plea in the Maroochydore Magistrates' Court to offences of "*attempted fraud – dishonestly gain benefit/advantage*" (on 11 July 2016) and "*possess tainted property*" (on 11 July 2016). You're alleged to have failed to have informed the GDC of these matters and, in doing so, you are alleged to have acted in a manner that was misleading, and also dishonest, in that you knew that you were required to inform the GDC if you had been found guilty of a criminal offence anywhere in the world.

On 21 December 2018, the Director of Proceedings on behalf of the OHO referred you to a disciplinary hearing before the QCAT.

On 16 December 2020, AHPRA informed the GDC of the disciplinary proceedings against you before the QCAT.

On 18 December 2020, the disciplinary proceedings before QCAT took place. QCAT found your conduct amounted to misconduct and you were reprimanded. It is alleged that you failed to inform the GDC of the reprimand and, in doing so, you are alleged to have acted in a manner that was misleading, and also dishonest, in that you knew that you were required to inform the GDC if a regulatory finding was made against you anywhere in the world.

On 22 December 2020, AHPRA informed the GDC of the decision made by QCAT.

Evidence

The Committee received a witness statement dated 18 February 2022 from Witness 1, a GDC Registration Caseworker within the Registration Dentist Casework team;

and a witness statement, dated 18 February 2022, from Witness 2, a Paralegal employed by the GDC's In-house Legal Presentation Service.

The Committee did not require these two witnesses to be called and took their witness statements as read.

As part of your defence case, the Committee received your witness statement, dated 14 July 2022. It also heard oral evidence from you.

The Committee's findings of fact

The Committee has taken into account all the evidence presented to it, both oral and documentary. It has considered the submissions made by Ms Stockdale, on behalf of the GDC, and those made by Ms Furley, on your behalf.

The Committee has accepted the advice of the Legal Adviser. In accordance with that advice, it has considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged matters are found proved on the balance of probabilities.

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

1.	<p>On 19 January 2016, you pleaded guilty to the offence of "<i>stealing by clerks and servants (between 02/06/2015 and 09/06/2015)</i>" at the Noosa Magistrates Court in Australia;</p> <p>Admitted and found proved.</p> <p>The Committee noted your admission and had regard to the Magistrates Court of Queensland, Noosa "<i>Verdict and Judgment Record</i>" certificate, dated 7 February 2022. The certificate records that, following a guilty plea of "<i>stealing by clerks and servants</i>", you were ordered on 19 January 2016 to pay a fine of \$1,500.</p> <p>Accordingly, the Committee found this charge proved.</p>
2.	<p>On 18 February 2016, you were cautioned by the Dental Board of Australia for unsatisfactory clinical conduct in Australia;</p> <p>Admitted and found proved.</p> <p>The Committee noted your admission and had regard to the letter from AHPRA, dated 24 February 2016, stating that it would take "<i>relevant action to caution the practitioner [s. 178(2)(a) of the National Law]</i>".</p> <p>Accordingly, the Committee found this charge proved.</p>
3.	<i>You failed to inform the General Dental Council of:</i>
3.(a)	<i>The matter as set out in Head of Charge 1</i>

	<p>Admitted and found proved.</p> <p>As a GDC registrant, you were under a duty to have informed the GDC of this offence. The Committee saw no evidence that suggests you did notify the GDC of this offence. It also noted that you have admitted that you did not inform the GDC of the criminal proceedings to which you were subject.</p> <p>Accordingly, the Committee found this charge proved.</p>
3.(b)	<p><i>The matter as set out in Head of Charge 2</i></p> <p>Admitted and found proved.</p> <p>As a GDC registrant, you were under a duty to have informed the GDC of this caution by the Dental Board of Australia. The Committee saw no evidence to suggest that you did notify the GDC of this caution. Further, you have admitted that you did not inform the GDC that you were cautioned by the Dental Board of Australia for unsatisfactory clinical conduct in February 2016.</p> <p>Accordingly, the Committee found this charge proved.</p>
4.	<p><i>Your conduct as set out in Head of Charge 3(a) was:</i></p>
4.(a)	<p><i>Misleading;</i></p> <p>Admitted and found proved.</p> <p>The Committee noted your admission in relation to this charge. The Committee finds that your conduct was misleading, as you created the impression that you had not been subject to any criminal offence when you were in fact pleaded guilty to an offence and were fined by the Noosa Magistrates Court in January 2016.</p> <p>Accordingly, the Committee found this charge proved.</p>
4.(b)	<p><i>Dishonest, in that you knew you were required to inform the General Dental Council if you had been found guilty of a criminal offence anywhere in the world;</i></p> <p>Admitted and found proved.</p> <p>The Committee noted your admission in relation to this charge. The Committee finds that your conduct was dishonest, as you did not declare that you pleaded guilty to an offence in the Noosa Magistrates Court in Australia, which you were required to do during the process of applying for restoration.</p> <p>Accordingly, the Committee found this charge proved.</p>
5.	<p><i>Your conduct as set out in Head of Charge 3(b) was:</i></p>

5.(a)	<p><i>Misleading;</i></p> <p>Not admitted and not found proved</p> <p>The Committee noted your denial that you were aware of the caution issued by the Dental Board of Australia in February 2016 and therefore did not mislead the GDC.</p> <p>The Committee has not had sight of any documentary evidence to prove that you were notified of the caution in 2016. It bore in mind your evidence, that during this period your place of address changed regularly. The Committee concluded that, on balance, it is not proved that you did receive any notification that you had been cautioned by the Dental Board of Australia and therefore did not mislead the GDC. The Committee noted the letter of 24 February 2016 from the AHPRA to the OHO describing the patient complaint of September 2015 and the outcome of AHPRA proceedings. However, the Committee could not interpret this as evidence that you yourself were aware of the caution. The Committee concluded that the evidence presented by the GDC in relation to this charge is insubstantial and the charge is therefore not made out.</p> <p>Accordingly, the Committee found this charge not proved.</p>
5.(b)	<p><i>Dishonest, in that you knew you were required to inform the General Dental Council if a finding had been made against your registration as a healthcare regulator in the UK or abroad;</i></p> <p>Not admitted and not found proved</p> <p>Having found that your conduct above was not misleading, the Committee concludes that you did not act dishonestly, for the same reasons. The Committee concluded that there is insufficient evidence to reach a finding that you acted dishonestly with regards to this head of charge.</p> <p>Accordingly, the Committee found this charge not proved.</p>
6.	<p><i>On 18 July 2016, at the Maroochydore Magistrates Court in Australia, you pleaded guilty to:</i></p>
6.(a)	<p><i>“attempted fraud – dishonestly gain benefit/advantage (on 11/07/2016)”;</i> and</p> <p>Admitted and found proved.</p> <p>The Committee noted your admission and had regard to the Magistrates Court of Queensland, Maroochydore “<i>Verdict and Judgment Record</i>” certificate, dated 2 February 2022. The certificate records that, following a guilty plea of “<i>attempted fraud – dishonestly</i></p>

	<p><i>gain benefit/advantage”, you were ordered to pay a fine of \$3,000. Accordingly, the Committee found this charge proved.</i></p>
6.(b)	<p><i>“possess tainted property (on 11/07/2016)”</i></p> <p>Admitted and found proved.</p> <p>The Committee noted your admission and had regard to the Magistrates Court of Queensland, Maroochydore “<i>Verdict and Judgment Record</i>” certificate, dated 2 February 2022. The certificate records that, following a guilty plea of “<i>possess tainted property</i>”, you were ordered to pay a fine of \$3,000.</p> <p>Accordingly, the Committee found this charge proved.</p>
7.	<p><i>You failed to inform the General Dental Council of the matters as set out in Head of Charge 6;</i></p> <p>Admitted and found proved.</p> <p>As a GDC registrant, you were under a duty to have informed the GDC of this offence. The Committee saw no evidence that suggests you did notify the GDC of this offence. It also noted that you have admitted that you did not inform the GDC of the criminal proceedings to which you were subject.</p> <p>Accordingly, the Committee found this charge proved.</p>
8.	<p><i>Your conduct as set out in Head of Charge 7 was:</i></p>
8.(a)	<p><i>Misleading;</i></p> <p>Admitted and found proved.</p> <p>The Committee noted your admission in relation to this charge. The Committee finds that your conduct was misleading, as you created the impression that you had not been subject to any criminal offence when you plead guilty to offences at the Maroochydore Magistrates Court in January 2016.</p> <p>Accordingly, the Committee found this charge proved.</p>
8.(b)	<p><i>Dishonest, in that you knew you were required to inform the General Dental Council immediately if you had been found guilty of a criminal offence anywhere in the world;</i></p> <p>Admitted and found proved.</p> <p>The Committee noted your admission in relation to this charge. The Committee finds that your conduct was dishonest, as you did not declare that you pleaded guilty to offences at the Maroochydore Magistrates Court in Australia, which you were required to do when</p>

	<p>applying for restoration.</p> <p>Accordingly, the Committee found this charge proved.</p>
9.	<p><i>On 18 December 2020, you were reprimanded by the Queensland Civil and Administrative Tribunal after a hearing found that allegations against you amounted to misconduct;</i></p> <p>Admitted and found proved.</p> <p>The Committee noted your admission and had regard to the QCAT Reasons for Decision, dated 18 December 2020. The reasons set out that you were reprimanded by the QCAT at the conclusion of the hearing.</p> <p>Accordingly, the Committee found this charge proved.</p>
10.	<p><i>You failed to inform the General Dental Council of the reprimand as set out in Head of Charge 9;</i></p> <p>Admitted and found proved.</p> <p>As a GDC registrant, you were under a duty to have informed the GDC of this offence. The Committee saw no evidence that suggests you did notify the GDC of this offence. It also noted that you have admitted that you did not inform the GDC of the proceedings to which you were subject.</p> <p>Accordingly, the Committee found this charge proved.</p>
11.	<p><i>Your conduct as set out in Head of Charge 10 was:</i></p>
11.(a)	<p><i>Misleading;</i></p> <p>Admitted and found proved.</p> <p>The Committee noted your admission in relation to this charge. The Committee finds that your conduct was misleading, as you created the impression that you had not been subject to any Civil or Administrative proceedings when you were in fact reprimanded by the QCAT after a hearing found that allegation against you amounted to misconduct.</p> <p>Accordingly, the Committee found this charge proved.</p>
11.(b)	<p><i>Dishonest, in that you knew you were required to inform the General Dental Council immediately if a regulatory finding was made against you anywhere in the world</i></p> <p>Admitted and found proved.</p> <p>The Committee noted your admission in relation to this charge. The Committee finds that your conduct was dishonest, as you did not declare that you had been reprimanded by the QCAT after a hearing</p>

	<p>on 18 December 2020 found that allegations against you amounted to misconduct, which you were required to do so.</p> <p>Accordingly, the Committee found this charge proved.</p>
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We move to Stage Two.”

On 20 July 2022, the Chairman announced the determination as follows:

“Mr Kootval,

At this stage, the Committee shall decide whether the facts found proved amount to misconduct and, if so, whether your fitness to practise as a dentist is currently impaired by reason of that misconduct. The Committee shall also decide whether your fitness to practise is currently impaired by reason of your conviction and by reason of the determination by QCAT.

If the Committee finds current impairment on any of these grounds, it shall then decide what action, if any, to take in respect of your registration.

You gave oral evidence on affirmation to the Committee at this stage of the proceedings.

The Committee heard parts of your oral evidence in private under Rule 53 of the General Dental Council (Fitness to Practise) Rules 2006, as some of your evidence related to your health, private and family life.

In your evidence you provided further background to your personal circumstances between 2013 – 2016, whilst working as a dentist in Australia. You explained that you were in significant debt at the time and, as a result, you were working 7 days a week through an agency, involving numerous changes of address and challenging living conditions. You told the Committee that you were “*living hand to mouth*” and were the sole financial provider for your family who had not joined you in Australia. You expressed that you were under significant financial and personal pressure, [IN PRIVATE...]

In relation to the “*stealing by clerks and servants*” offence you pleaded guilty to in January 2016, you told the Committee that you were in a desperate financial situation at that time. You explained that a patient wanted to pay in full up front for their treatment and so you asked them to make the payment directly to you. You stated that you didn’t have enough money in your bank account to make it to the end of the week and you thought you could get away with this. You explained that the theft came to light almost immediately and you paid the money back to the dental practice. You also said you made full admissions to the police and submitted a guilty plea at the Magistrates Court, resulting in a fine. You told the Committee that you did not inform AHPRA about this offence, but you did inform your agency, who then placed you in a new role elsewhere.

Regarding the attempted fraud in July 2016, you told the Committee that work was “scattered”, and you were finding it difficult to secure a permanent position as a dentist at the time. You explained that your debts were accruing and you wrongly thought that you could make some money by reporting your motorcycle stolen. You told the Committee that it was a “rash and stupid decision”. When approached by the police regarding this, you told the Committee that you immediately admitted what you had done. You pleaded guilty to this offence and were issued with a fine and forfeited your motorcycle.

You told the Committee that you had meanwhile applied for restoration to the GDC register in May 2015 as you wished to return to the UK and were conscious that your previous period of erasure was approaching its end. In May 2016, you attended a GDC hearing regarding your restoration application; your application was successful. You told the Committee that you “wrongfully and ashamedly” chose not to inform the PCC Committee about your offences in January 2016 as you feared that you would never be allowed back on the register if you disclosed this information. You stated that it was your decision not to disclose this to the GDC and, looking back, your behaviour was unacceptable.

Regarding the reprimand you received from QCAT on 18 December 2020 as a consequence of the July 2016 offences, you told the Committee that you again failed to inform the GDC about this incident as you were worried you would have your registration taken away again. You stated that you were finally “getting the ball rolling” with work and were rebuilding a good reputation which you did not want to forfeit.

[IN PRIVATE...] You stated that you have not sought to make excuses for your behaviour and you acknowledge that you “took stupid measures” during desperate times to provide for your family.

Finally, you told the Committee that you thoroughly enjoy being a dentist, you like helping people and you are always striving to improve. You told the Committee that, in addition to improving on your professional behaviour, you also work hard to play a positive role in your wider community.

Ms Stockdale, on behalf of the GDC, submitted that the facts found proved go to the most serious type of dishonesty and the threshold for misconduct is clearly met in this case. Ms Stockdale submitted that the dishonesty charges in this case relate to failure to inform the PCC of your criminal offences at the restoration hearing and failure to inform the GDC of your criminal conduct and the findings of QCAT after your registration was restored. She further submitted that after your registration was restored, you were subject to the GDC’s *Standards for the Dental Team* (September 2013) and your conduct was a clear breach of standards 9.1 and 9.3:

“9.1 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.”

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

Ms Stockdale submitted that your fitness to practise is currently impaired by reason of your misconduct, your conviction and the determination by QCAT.

In addressing the Committee on sanction, Ms Stockdale also invited the Committee to take into account the GDC's '*Guidance for the Practice Committees including Indicative Sanctions Guidance*' (Effective from October 2016; last revised in December 2020). It was Ms Stockdale's submission that your misconduct and the nature of the dishonesty found proved are so serious that the only appropriate and proportionate sanction in this case was one of erasure.

Ms Furley, on your behalf, submitted that you recognise your previous conduct was unacceptable and you therefore accept that it amounts to misconduct. She submitted that you are pragmatic and realistic in this regard and at no point have you sought to minimise or excuse your behaviour. Ms Furley submitted that you acknowledge you alone must be held accountable for your behaviour.

Ms Furley told the Committee that you also do not deny that your fitness to practise is impaired. However, she asked the Committee to consider the man you are now and reiterated that sanction should not be a punishment for past behaviour. Ms Furley submitted that the Committee should take a proportionate and appropriate response to the facts found proved and the personal circumstances that led to these circumstances. Ms Furley submitted that you have genuine insight into your behaviour and genuine remorse for what you have done. She submitted that you are not fundamentally and unchangeably dishonest. Ms Furley submitted that you recognise that erasure is a very real possibility and asked the Committee to take a nuanced approach and consider imposing suspension rather than erasure.

The Committee accepted the advice of the Legal Adviser. It noted that there is no burden or standard of proof at this stage of the proceedings. The Committee reminded itself that its decisions were for its independent judgement.

The Committee had regard to the *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, last revised December 2020).

Misconduct

The Committee first considered whether any or all of the facts found proved amount to misconduct. The Committee noted Ms Furley's submissions, that you accept your actions amount to misconduct.

Misconduct is a serious departure from the standards reasonably expected of a dental professional.

The Committee bore in mind that you failed to inform the PCC of any criminal events during the restoration hearing on 26 May 2016. The Committee considered that this omission misled your regulator and also misled the restoration Committee itself. The

result of you omitting this information was that the PCC was unaware of crucial information when considering whether to restore you to the register. The Committee considered this dishonesty to be for personal gain to allow you to practice as a dentist and demonstrated a flagrant disregard for your regulator. Further, the Committee considered this to be an abuse of the trust placed on you by the restoration Committee to be open and honest.

The Committee also considered that you were under a professional duty to have immediately informed the GDC of the criminal proceedings as well as the reprimand issued by QCAT. The Committee noted that you were aware of these professional duties at the time but you were afraid that you would lose your registration if you disclosed this information. These are basic professional standards to which you were subject. Your breaches of those standards were sustained and repeated over a lengthy period and, in the Committee's judgment, were serious and fall far below the standards expected of you. Therefore, the Committee determined that the breaches meet the threshold for misconduct.

Accordingly, the Committee determined that the facts found proved amount to misconduct.

Impairment

The Committee next considered whether your fitness to practise is currently impaired by reason of your misconduct, conviction and determination by QCAT. In so doing, it has borne in mind that its duty is to consider the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour. The Committee bore in mind Ms Furley's submissions, that you accept that your fitness to practise is impaired.

The Committee considered that, given the serious nature of your misconduct, it would be very difficult to provide any evidence of remediation that could address the ongoing dishonesty in this case. The Committee took particular note of the transcript of the GDC restoration hearing that took place on 27 May 2016, in which your statement states:

"Upon reflection, I can say that I have learnt a very hard lesson and fully realise now the importance of putting the public's interest first and making sure they are protected at all times. I so very much wish that I could turn the clock back, but this is not possible. All I can do from this point on is to make sure that the interests of the public is of utmost importance and that I communicate better with the regulatory bodies of my profession."

The Committee bore in mind that this statement was not reflected in your subsequent conduct. Given this, the Committee was unable to place much weight on the remediation presented by you, given the repeated nature of your behaviour. In these circumstances, the Committee considered there to be a risk of repetition.

Owing to the seriousness of the misconduct and it being a breach of fundamental requirements of professional regulation, to inform the GDC of relevant matters such as criminal and regulatory proceedings in order for the GDC to fulfil its regulatory functions and for public confidence to be maintained in the regulation of the profession, the Committee determined that your fitness to practise as a dentist is currently impaired by reason of your misconduct.

The Committee next considered whether your fitness to practise is currently impaired by reason of your conviction. The Committee considered the nature and the seriousness of the offences. The theft you pleaded guilty to in January 2016 occurred in your place of work as a dentist and involved a patient in your care. The Committee considered that your actions in relation to all of the offences were deplorable and have the potential to bring the profession into disrepute. Public confidence in the profession and this regulatory process would be undermined if no finding of impairment were to be made to mark the seriousness of your criminal conduct.

The Committee therefore determined that your fitness to practise as a dentist is currently impaired by reason of your conviction.

The Committee also considered that your fitness to practise is currently impaired by reason of the reprimand received by QCAT after a hearing found that allegations against you amounted to misconduct.

Given the nature of your misconduct, conviction and reprimand, the Committee was also satisfied that public confidence in the dental profession would be seriously undermined if a finding of impairment were not made in the circumstances of this case. Your behaviour significantly impacts on the public's perception of the dental profession, and the trust placed in it, as well as the trust placed in you as a member of the profession. Accordingly, a finding of impaired fitness to practise is required to maintain public confidence in the profession, and to declare and uphold proper standards of conduct and behaviour.

In all the circumstances, the Committee determined that your fitness to practise is currently impaired by reason of your misconduct.

Sanction

The Committee next considered what sanction, if any, to impose on your registration. It noted that the purpose of any sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest. In reaching its decision, the Committee had regard to the GDC's '*Guidance for the Practice Committees including Indicative Sanctions Guidance*' (Effective from October 2016; last revised in December 2020). It applied the principle of proportionality, balancing the public interest with your own interest.

In deciding on the appropriate sanction, the Committee first considered the issue of mitigating and aggravating factors.

The Committee identified the following mitigating features:

- The circumstances leading up to the events of 2016 – the Committee bore in mind that you were experiencing financial difficulties at the time and you were responsible for providing financial support to your family. However, the Committee noted that this financial difficulty arose from being erased by the GDC in 2009 and a subsequent failed business venture in Norway;
- You have taken steps to identify courses in an attempt to remediate your actions;
- **[IN PRIVATE]**
- The positive clinically related testimonials provided, either from professional colleagues or patients;
- You pleaded guilty at the first opportunity to both offences and paid the money back immediately to the surgery in January 2016;

The Committee identified the following aggravating features:

- The pattern of behaviour was sustained during a lengthy period of time;
- The misconduct was premeditated in that,
 - o regarding the theft of money, you texted the patient your bank details in order for them to make payment directly to you;
 - o regarding the attempted fraud, you arranged for a friend to hide your motorcycle when you submitted the insurance claim;
 - o you willingly misled both the UK and Australian regulators in that you did not declare the offences;
- Your actions involved a breach of the trust placed in the dental profession and in you as a dental professional;
- The pattern of behaviour was lengthy and sustained or repeated over a period of time;
- The Committee considered your insight to be limited. In your evidence, you repeatedly referred to your difficult financial situation at the time of the offences. The Committee did not consider this justified your actions;
- You attempted theft and fraud for financial gain;
- You knowingly gave misleading oral evidence to the May 2016 Committee who consequently restored you to the GDC's register. This deception enabled you to make a living through dentistry in the UK;
- Your misconduct only came to light through the intervention of police, the surgery owner and the Australian regulator – at no point did you disclose your misconduct of your own volition;

Taking all these factors into account, the Committee considered the available sanctions, starting with the least restrictive, as it is required to do. The Committee first considered whether to conclude this case without taking any action in relation to your registration. It decided, however, that such a course would be wholly inappropriate and would not satisfy the wider public interest.

The Committee considered whether to issue you with a reprimand. However, it similarly concluded that a reprimand would be insufficient to address the wider public interest, and would be disproportionate in all the circumstances. A reprimand is the lowest sanction which can be applied, and it would not impose any restriction on your practice. A reprimand is usually considered to be appropriate where the misconduct is at the lower end of the spectrum. This is not such a case.

The Committee next considered whether to impose conditions on your registration. However, it decided that conditional registration could not meet the impairment found. Your behaviour was dishonest and some instances occurred outside your work as a dentist. Therefore, conditions of practice would not address all the concerns raised by the Committee. The Committee also considered that conditional registration would be insufficient to manage the wider public interest, particularly public confidence in the dental profession.

The Committee went on to consider whether to suspend your registration for a specified period. The Committee noted that there is evidence of repetition of the behaviour, in that your misconduct was sustained and repeated over the material time. It considered this to be evidence of deep-seated personality or professional attitudinal problems. The Committee therefore considered that suspension of your registration would not safeguard the wider public interest in this case. The Committee considered the wider public interest to be fundamental in a case such as this, involving the serious issues of repeated misconduct and dishonesty. The Committee bore in mind that you have been erased previously and were restored to the register in 2016, based on incomplete information. Given the Committee's concerns about your repeated dishonesty over a significant period of time and given the Committee's duty to promote and maintain public confidence and proper standards in the dental profession, it considered whether the highest sanction of erasure would be an appropriate and proportionate outcome.

The Committee had regard to paragraph 6.34 of the Guidance which deals with erasure. This paragraph states that, "*Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion:*

- *serious departure(s) from the relevant professional standards;*
- *...*
- *...*
- *the abuse of a position of trust or violation of the rights of patients...*

- ...
- *serious dishonesty, particularly where persistent or covered up*
- *a persistent lack of insight into the seriousness of actions or their consequences.”*

The Committee was satisfied that your behaviour is conduct that is fundamentally incompatible with continued registration as a dental professional. The Committee considered that there would be a real loss of public confidence in the dental profession, and in the GDC as a regulator, if a lesser sanction than erasure was imposed in this case. The Committee was satisfied that a reasonable and informed member of the public would expect an outcome of erasure.

In all the circumstances, the Committee determined to erase your name from the Dentists Register.

Unless you exercise your right of appeal, your name will be erased from the Register, 28 days from the date when notice of this Committee’s direction is deemed to have been served upon you.

The Committee now invites submissions from Ms Stockdale as to whether an immediate order of suspension should be imposed on your registration to cover the appeal period, pending this substantive determination taking effect.”

“Mr Kootval,

In reaching its decision on whether to impose an immediate order of suspension on your registration, the Committee took account of the submissions made by both parties. It accepted the advice of the Legal Adviser.

Ms Stockdale submitted that such an order should be imposed. She highlighted that the Committee’s finding of impairment was in the wider public interest grounds, and she referred the Committee to the relevant paragraphs on immediate orders within the Guidance. Ms Stockdale submitted that in circumstances where public interest issues are so fundamentally engaged, an immediate order is necessary to protect the public confidence in the profession.

Ms Furley informed the Committee that you have been working successfully under an interim conditions of practice order since January 2021 and submitted that there would be no risk to the public interest if you were allowed to continue working on that basis until the start of your erasure in 28 days.

The Committee determined that an immediate order of suspension on your registration is necessary. It has found your fitness to practise to be impaired on wider public interest grounds. The Committee considered that not imposing an immediate order in these circumstances would be inconsistent with its findings in its substantive determination.

The Committee bore in mind that you are currently subject to an interim order of conditions but noted that the role of the Interim Orders Committee was to undertake a risk assessment and not to make findings of fact. This Committee has found misconduct of a very serious nature, involving dishonesty and attitudinal issues. The Committee acknowledged that there has been no recent criticism of your abilities as a clinician. However, given the serious findings of dishonesty that have been made in this case, the Committee considered that public confidence in the dental profession and this regulatory process would be undermined in the absence of an immediate order.

In all the circumstances, the Committee was satisfied that the immediate suspension of your registration is in the wider public interest.

The effect of the foregoing determination and this immediate order is that your registration will be suspended from the date on which notice is deemed to have been served upon you. Unless you exercise your right of appeal, the substantive direction for erasure, as already announced, will take effect 28 days from the date of deemed service.

Should you exercise your right of appeal, this immediate order of suspension will remain in place until the resolution of any appeal.

Any IOC orders connected to this case are revoked.

That concludes this determination.”