

HEARING HEARD IN PUBLIC

STEVENS, Hollie

Registration No: 237333

PROFESSIONAL CONDUCT COMMITTEE

DECEMBER 2017 – JUNE 2020

Most recent outcome: Suspended indefinitely**

**** See page 14 for the latest determination**

Hollie STEVENS, a dental nurse, NVQ L3 Dental Nursing & VRQ L3 Dental Nursing City & Guilds 2012 was summoned to appear before the Professional Conduct Committee on 4 December 2017 for an inquiry into the following charge:

Charge

“That being registered as a dental care professional Hollie Stevens’ (237333) fitness to practise is impaired by reason of misconduct. In that:

1. You failed to protect Person A’s confidentiality on 4 July 2016 including by inappropriately:
 - a. accessing her patient records without permission,
 - b. discussing details of her medical history with a colleague.”

Ms Stevens was not present and was not represented. On 4 December 2017, the Chairman announced the findings of fact to the Counsel for the GDC:

“Miss Stevens is neither present nor represented at the Professional Conduct Committee (PCC) hearing of his case. In her absence, the Committee first considered whether the General Dental Council (GDC) had complied with serving the Notice of Hearing on Miss Stevens in accordance with Rules 13 and 65 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules). In so doing, it has had regard to the documents before it as well as the submissions made by Ms Headley, who represents the GDC. It has accepted the advice of the Legal Adviser.

The Committee has seen a copy of the Notice of Hearing letter dated 25 October 2017 addressed to Miss Stevens’ registered address. The letter sets out the date, time and location of today’s hearing, as well as the particularised facts of the charge, in compliance with Rule 13. The Royal Mail receipt confirms that the letter was delivered to Miss Stevens’s registered address on 26 October 2017, which is more than 28 days in advance of today’s hearing. Furthermore, the Committee has seen a copy of a GDC Secure File Share email dated 25 October 2017 which confirms that the Notice of Hearing letter was sent to Miss Stevens’ email address on that day and was downloaded on 25 October 2017. The Committee’s attention has been drawn to an email dated 13 November 2017 from Miss Stevens to the GDC’s Customer Services Team in which she states that she will not be attending the PCC hearing of her case on 4 December 2017. Having regard to all of these

documents, the Committee is satisfied that the GDC has served the Notice of Hearing on Miss Stevens in accordance with Rules 13 and 65.

Proceeding in absence

The Committee then went on to consider whether to hear this case in the absence of Miss Stevens, in accordance with Rule 54. Ms Headley invited the Committee to do so on the basis that Miss Stevens is aware of today's hearing and she has voluntarily chosen not to attend this hearing, as confirmed in her email to the GDC dated 13 November 2017.

The Committee has considered the submissions made by Ms Headley. It has accepted the advice of the Legal Adviser, during the course of which it was reminded of the relevant factors in deciding whether to proceed in the absence of a Registrant, as outlined in the cases of *R v Jones* and *Adiogba v GMC*. The Committee has borne in mind that the discretion to proceed in the absence of the respondent must be exercised with the utmost care and caution as well as the statutory objectives of the GDC, which include the protection; promotion and the maintenance of the health, safety and well-being of the public, and the maintenance of the reputation of the profession.

The Committee has borne in mind the email dated 13 November 2017 from Miss Stevens to the GDC in which she states clearly that she will not be attending the hearing of her case, although she offers no explanation why she will not be attending. There is nothing before the Committee to suggest that Miss Stevens would attend on a future occasion, were it not to proceed with the hearing. The Committee has concluded that Miss Stevens is aware of today's hearing and that she has voluntarily absented herself from these proceedings. It has received no compelling reasons as to why it should not proceed with today's hearing and indeed Miss Stevens has not sought a postponement of today's hearing. Furthermore, the Committee has had regard to the emails dated 16 November 2017, 28 November 2017 and 30 November 2017 from the GDC to Miss Stevens, which shows the attempts it has made to contact her by telephone in order to assist with her attendance at the hearing via alternative arrangements such as telephone, Skype or video link. She has not responded to those telephone calls.

The Committee considers that it is in the public interest, as well as in Miss Stevens' own interests to deal with this case expeditiously. Having regard to all these factors, the Committee has decided that it is fair and appropriate to proceed in the absence of Miss Stevens in accordance with Rule 54.

Amendment of the charge

At the commencement of the hearing Ms Headley made an application under Rule 18(1) of the GDC (Fitness to Practise) Rules to amend the stem of charge 1 by correcting the spelling of the word "practice" to "practise". The Committee has accepted the advice of the Legal Adviser. It is satisfied that the amendment to the stem of charge 1, which amounts to a correction in the spelling of a word, can be made without any injustice and accordingly has amended the spelling of the word "practice" to read "practise".

The GDC's case

At the time of the events in question Miss Stevens was a dental nurse working at a practice at Thetford. The GDC alleges that Miss Stevens failed to protect Person A's confidentiality on 4 July 2016 by inappropriately accessing her patient records without permission and by discussing details of her medical records with a colleague, who was a colleague at the practice. Person A worked at the practice and was also a patient there.

The evidence considered

In considering whether the charges against Miss Stevens have been found proved, the Committee has taken into account all the evidence presented to it by the GDC. This comprised the witness statement of NP, a dental nurse working at the same practice as Miss Stevens, and who witnessed the event in question. This statement was signed and dated on 27 July 2017. The Committee also had regard to the witness statement of TC, a Practice Manager, who worked at a different practice from that of Miss Stevens and who also carried out an investigation into the incidents in question, during the course of which she had an investigation meeting with Miss Stevens on 30 August 2016. This statement was signed and dated on 23 August 2017. These two witnesses were available to give evidence, but they were not called to do so since the Committee had no questions of clarification arising from the contents of their statements. The Committee agreed to receive the statements of NP and TC in accordance with Rule 57(1). It has accepted the content of their witness statements which it found were consistent and clear.

During the course of Ms Headley's submissions, she referred the Committee to Standard 4.2 of the GDC's "Standards for the Dental Team" (September 2013) which states: "You must protect the confidentiality of patients' information and only use it for the purpose for which it was given."

The Committee has accepted the advice of the Legal Adviser. The Committee has borne in mind that the burden of proof is on the GDC and that it must decide the facts according to the civil standard of proof, on the balance of probabilities. Miss Stevens need not prove anything.

The Committee has considered each charge separately. I will now announce the Committee's findings in relation to each charge:

1.a.	<p>Found proved</p> <p>The Committee is satisfied that Miss Stevens had a duty to protect Person A's confidentiality, in accordance with Standard 4.2. Person A's account was that after her check up on 4 July 2016 she recalled that even before leaving the building that day, the news of her pregnancy was being discussed. The Committee has inferred that 4 July 2016 was the "date of the incident." NP's evidence was that on the day of the incident she had seen Miss Stevens looking at Person A's file in the x-ray cupboard. The handwritten notes of TC's interview with Miss Stevens on 30 August 2016 record that the Registrant admitted that she looked into Person A's medical file and she also accepted that she was aware that NP had seen her looking at Person A's medical file. The Committee accepts the evidence of NP as well as the account given by Miss Stevens in her interview with TC on 30 August 2016 and finds this charge proved.</p>
1.b.	<p>Found proved</p> <p>NP's evidence was that she recollected asking Miss Stevens why she was looking at Person A's file, to which Miss Stevens told her that she had been told by another colleague that someone working at the practice was pregnant and so she (Miss Stevens) was having a look at the day list and worked out that it was Person A. The handwritten notes of TC's interview with Miss Stevens on 30 August 2016 record that the Registrant agreed that she may have mentioned the information to NP as she had seen her looking at Person A's medical file. The Committee accepts the</p>

evidence of NP as well as the account given by Miss Stevens in her interview with TC on 30 August 2016 and finds this charge proved.
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We move to Stage Two.”

On 5 December 2017, the Chairman announced the determination as follows:

“The Committee has had regard to the submissions made by Ms Headley, on behalf of the General Dental Council (GDC), in accordance with Rule 20 of the Fitness to Practise Rules 2006. She confirmed that Miss Stevens has no fitness to practise history since being registered with the GDC in 2012. Ms Headley submitted that the findings against Miss Stevens amount to misconduct, given the breach of patient confidentiality. She invited the Committee to conclude that Miss Stevens’ fitness to practise is currently impaired by reason of that misconduct and asked the Committee to have regard to the wider public interest, including the need to declare and uphold appropriate standards of conduct amongst dental professionals, in reaching its decision. In terms of the disposal of this case, Ms Headley invited the Committee to conclude this case by directing that Miss Stevens’ registration be suspended, with a review hearing to take place before the expiry of that order. During the course of Ms Headley’s submissions, she referred the Committee to relevant parts of the GDC’s “Standards for the Dental Team” (September 2013) and its “Guidance for the Practice Committees, including Indicative Sanctions Guidance” (October 2016). The Committee has considered carefully the submissions made. It has accepted the advice of the Legal Adviser.

Misconduct

The Committee has first considered whether the facts found proved amount to misconduct. In so doing, it has had regard to all the evidence before it, as contained in the GDC’s bundle of documents. This includes the notes of the investigation meeting with Miss Stevens dated 30 August 2016, concerning the incident that took place on 4 July 2016, which was carried out by TC, a Practice Manager, who worked at a different practice from that of Miss Stevens.

The facts found proved in this case are that Miss Stevens failed to protect Person A’s confidentiality on 4 July 2016 in that she inappropriately accessed Person A’s patient records without permission and she discussed details of Person A’s medical history with NP, a dental colleague working at the same practice as Miss Stevens. Person A worked at the same practice as Miss Stevens and NP and she was also a patient there.

The Committee has taken into account Miss Stevens’ comments to TC on 30 August 2016, the notes of which were exhibited as part of TC’s witness statement. The notes of the investigation meeting state that during the interview, Miss Stevens openly admitted that she had looked at Person A’s dental records following a conversation with another colleague from the practice one lunch time. She further accepted that she was “in the wrong by looking at the record and should not have done it and that it was not done to be malicious in any way or to spread rumours.” When Miss Stevens was asked by TC as to her understanding of patient confidentiality, her account is recorded as saying that she thought that as Person A worked at the practice it was “ok to look but not to tell anyone.” The notes further state that Miss Stevens had confirmed that she had completed Information Governance training at some point earlier that year.

Notwithstanding Miss Stevens’ acceptance of her wrong-doing and her expression of remorse during the investigation meeting, the Committee takes a serious view of her failure to protect Person A’s confidentiality. Person A was a colleague and a patient at the practice;

therefore, she was entitled to receive the same considerations regarding patient confidentiality as that of any other patient. The evidence suggests that Miss Stevens had no good reason for accessing Person A's patient records other than to satisfy her own curiosity. She did not seek Person A's permission and the Committee takes a serious view of Miss Stevens' failure to protect Person A's confidentiality. She breached the trust that a patient is entitled to expect of a registered dental care professional.

Having regard to its findings, the Committee considers that Miss Stevens has breached the following paragraphs of the GDC's "Standards for the Dental Team" (September 2013).

- 4.2 You must protect the confidentiality of patients' information and only use it for the purpose for which it was given.
 - 4.2.1 Confidentiality is central to the relationship and trust between you and your patients. You must keep patient information confidential.

This applies to all the information about patients that you have learnt in your professional role including personal details, medical history, what treatment they are having and how much it costs.
- 4.3 You must only release a patient's information without their permission in exceptional circumstances.
 - 4.3.5 In any circumstances when you decide to release confidential information, you must document your reasons and be prepared to explain and justify your decision and actions.
- 9.1 You must ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.

The Committee considers that a failure to protect the confidentiality of a patient's information is a serious breach of trust and amounts to serious departure from the standards expected of a dental nurse. Taking all these matters into account, the Committee has concluded that the findings against Miss Stevens amount to a finding of misconduct.

Current impairment

The Committee next considered whether Miss Stevens' fitness to practise is currently impaired by reason of her misconduct. The Committee has accepted the advice of the Legal Adviser, who reminded them of the relevant cases of *Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant* [2011] EWHC 927 (Admin).

The Committee has considered whether the misconduct is remediable and whether it has been remedied. It is of the view that the misconduct is remediable. The Committee has had regard to the investigation report concerning the incident on 4 July 2016 in which Miss Stevens is reported as having accepted her wrong doing and has apologised for what she had done. The report also states that Miss Stevens believed that she thought that as Person A worked at the practice it was "OK to look but not tell anyone." The Committee considers that Miss Stevens' response on this matter raises concerns about her understanding of the importance of protecting the confidentiality of patients' information, regardless of whether or not they work at the practice. Furthermore, the Committee is particularly concerned about this patient confidentiality breach, given that Miss Stevens had recently completed Information Governance training sometime in 2016, before the incident.

The Committee has no information from Miss Stevens concerning the charges against her, such as her reflections on these matters, what she has learnt from the process and what she would do differently to avoid the risk of repetition. In these circumstances, the Committee can only conclude that the risk of repetition of this misconduct still remains. Furthermore, the Committee cannot be satisfied that Miss Stevens has full insight into her conduct.

The Committee has found that Miss Stevens has failed to protect the confidentiality of a patient's information, which it considers is a serious breach of trust. In the light of the serious nature of the misconduct, the Committee's concerns regarding Miss Stevens' insight into her conduct, and having regard to the need to maintain public confidence in the profession and declare and uphold proper standards of conduct and behaviour, the Committee has determined that Miss Stevens' fitness to practise is currently impaired by reason of her misconduct.

Sanction

The Committee next considered what sanction, if any, to impose on Miss Stevens' registration. It recognises that the purpose of a sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest. The Committee has taken into account the GDC's "Guidance for the Practice Committees, including Indicative Sanctions Guidance" (October 2016). It has applied the principle of proportionality, balancing the public interest with her own interests.

The Committee has had regard to the mitigating and aggravating factors in this case. In mitigation, the Committee has noted that Miss Stevens has no fitness to practise history; that this was an isolated incident involving a breach of confidentiality for one patient and that she expressed remorse for her actions. The aggravating features include the fact that the conduct involved a serious breach of patient confidentiality, particularly given that she had completed the Information Governance training just months before the event in question and having been registered with the GDC since 2012, she should have been aware of her professional obligations. It also had regard to Miss Stevens' lack of engagement in these proceedings and hence could not gauge her level of insight into her misconduct.

The Committee has considered the range of sanctions available to it, starting with the least restrictive. It has determined that in the light of the gravity of the misconduct found, to conclude the case with no further action would not be sufficient for the wider public interest. For the same reasons, the Committee has concluded that a reprimand is inappropriate and insufficient.

The Committee considered whether to impose conditions on Miss Stevens' registration. It took into account that any conditions imposed would have to be clear, workable, measurable and enforceable. The Committee has no information as to Miss Stevens' current employment situation or indeed whether she is still practising as a dental nurse. Furthermore, she has not engaged with the GDC in relation to these proceedings, which, in the Committee's view, raises concerns whether she would or could comply with any conditions imposed on her registration. In addition, the Committee has borne in mind that notwithstanding the fact that months before the incident in question she had completed relevant training she nevertheless breached patient confidentiality. Taking all these factors into account, the Committee has concluded that conditions would not be workable or sufficient.

The Committee therefore considered whether to suspend Miss Stevens' registration. In so doing, the Committee has borne in mind the serious nature of the findings against her, which

involve a breach of patient trust. In all the circumstances, the Committee considers that her behaviour, albeit a one-off event, represents a serious falling short of the standards expected of a registered dental care professional.

Accordingly, the Committee considers it necessary to mark the gravity of Miss Stevens' misconduct, to be seen to maintain public confidence in the profession and to uphold the proper standards of the dental profession. It has therefore determined to suspend Miss Stevens's registration for 6 months with review. This period of time is sufficient to mark the severity with which the Committee views these matters. The Committee considered the sanction of erasure but concluded that given the circumstances of this case, such a course of action would be disproportionate, particularly given that Miss Stevens is of good character, with no previous findings against her by the GDC.

A Committee will review Miss Stevens' case at a resumed hearing to be held shortly before the end of the period of suspension. That Committee will consider what action to take in relation to her registration. She will be informed of the date and time of that resumed hearing. This Committee considers that a Committee reviewing her case would find it very helpful if Miss Stevens attended the hearing.

The Committee reviewing Miss Stevens' case may also find it helpful to receive the following:

- Evidence by reflective piece as to what she has learnt about her behaviour and the issues raised in this case.
- Evidence of her successful completion of additional training on patient confidentiality/Information Governance.
- Testimonials that demonstrate her professionalism and integrity.

Unless Miss Stevens exercises her right of appeal, her registration will be suspended 28 days from the date when notice of this determination is deemed to have been served upon her.

The Committee now invites submissions from you as to whether Miss Stevens' registration should be suspended immediately, pending the taking effect of its substantive determination."

Decision on immediate order

"Having directed that Miss Stevens' registration be suspended for a period of six months, the Committee has considered whether to impose an order for immediate suspension on her registration in accordance with Section 36U(1) of the Dentists Act 1984 (as amended).

Ms Headley, on behalf of the General Dental Council (GDC), has submitted that given that the Committee's grounds for suspending Miss Stevens' registration are based solely on the grounds of the wider public interest, she was not seeking to persuade the Committee to make an immediate order in this case.

The Committee has considered the submissions made. It has accepted the advice of the Legal Adviser as to the statutory test it must apply.

The Committee has borne in mind that its reasons for directing that Miss Stevens' registration be suspended are based solely on the grounds of the wider public interest. There are no issues of concern in relation to patient safety. The Committee has determined that the threshold for the making an immediate order of suspension is not made out.

Unless Miss Stevens exercises her right of appeal, the Committee's substantive direction of suspension for a period of six months will take effect 28 days from the date on which notice of this decision is deemed to have been served upon her.

That concludes this hearing."

On 22 June 2018 at a review hearing, the Chairman announced the determination as follows:

"Miss Stevens was neither present nor represented in this hearing. The Committee received advice from the Legal Adviser, which it has accepted, on the matters addressed in this determination.

Decision on service of notification of hearing

The Committee first considered whether the notification of hearing has been served in accordance with Rules 28 and 65 of the General Dental Council (GDC) (Fitness to Practise) Rules 2006 ('the Rules') and section 50A of the Dentists Act 1984 as amended, ('the Act'). It had before it a copy of the notification of hearing letter dated 10 May 2018 which was sent to the Registrant's registered address by special delivery. It noted that the notification of hearing contained all the requirements for notice to be valid as set out in Rule 28. The Committee also had before it a copy of a Royal Mail track and trace document which showed that the notice of hearing letter was delivered on 23 May 2018 and signed for. The Committee was satisfied that the notification of hearing had been served in accordance with the Rules and the Act.

Decision on proceeding in the Registrant's absence

The Committee was satisfied that all reasonable efforts had been made by the Council to serve the notification of hearing on the Registrant in accordance with in Rule 54. It then considered whether to proceed to review this case in the absence of the registrant. The Committee bore in mind that its discretion to proceed with a hearing in the absence of a registrant should be exercised with the utmost care and caution. In making its decision on whether to proceed in Miss Stevens' absence, the Committee took into account the principles set out in *GMC v Adeogba & Visvardis [2016] EWCA Civ 162*.

The Committee noted from the evidence that Miss Stevens has not engaged with the GDC since the last hearing. It also noted that the GDC has sent a number of items of correspondence to Miss Stevens in order to encourage her to engage with the process. Miss Stevens has not responded to the GDC's correspondence although there is a download receipt within the hearing bundle indicating that the notification of hearing which was sent to Miss Stevens via email on 10 May 2018 was downloaded. In an email dated 22 June 2018 the Council confirmed that no further communication had been received from the Registrant. The Committee concluded that Miss Stevens had voluntarily absented herself from this hearing. There is no request for an adjournment from her and the Committee was not satisfied, given the lack of engagement to date, that an adjournment would be likely to secure her attendance at a future date. The Committee determined that in light of the statutory requirement to review the order currently placed on Miss Stevens' registration, there was a public interest in proceeding with the hearing.

In the circumstances, the Committee concluded that it was fair to proceed with the hearing in the absence of the Registrant and decided to do so.

Application to Review on the Papers

The GDC invited the Committee to review the case based on the papers alone. The Committee was advised by the Legal Adviser that it has the power to do so under Rule 29 of the Rules. The Committee decided to grant the GDC's application and determined to proceed with the review on the basis of the papers alone.

Introduction

This is a resumed hearing pursuant to Section 36Q of the Act to review the order of suspension for 6 months which was imposed on Miss Stevens' registration by the Professional Conduct Committee (PCC) on 5 December 2017.

Findings at the Initial Hearing

At the initial hearing, the PCC found proved that Miss Stevens failed to protect Person A's confidentiality on 4 July 2016 in that she inappropriately accessed Person A's patient records without permission and discussed details of Person A's medical history with NP, a dental colleague working at the same practice as Miss Stevens. Person A worked at the same practice as Miss Stevens and NP and was also a patient there.

The initial PCC found all the charges against Miss Stevens proved. It decided that a failure to protect Person A's confidentiality was a serious breach of trust and amounted to a serious departure from the standards expected of a dental nurse. It determined that the facts found proved amounted to misconduct.

In relation to impairment, the initial PCC decided that the misconduct was remediable and noted that Miss Stevens had apologised to her employer for her actions. However, that PCC was concerned that Miss Stevens' responses contained in an investigation report regarding the incident demonstrated a lack of understanding of the importance of protecting the confidentiality of patients' information. It had no information from Miss Stevens regarding the charges, her reflections, what she had learnt and how she would do things differently to avoid repetition. It concluded that the risk of repetition remained. In addition, it could not be satisfied that Miss Stevens had full insight into her conduct. That Committee determined that Miss Stevens' fitness to practise was impaired by reason of her misconduct. It directed that her registration be suspended for a period of 6 months with a review prior to the expiry of the order.

Review of Order of Suspension

Today this Committee has comprehensively reviewed Miss Stevens' case taking account of all the evidence presented. That evidence consisted of a bundle of documents relied on by the Council. No documents or written submissions have been received from the registrant. The Committee has taken account of the written submissions made on behalf of the Council.

In considering whether Miss Stevens' fitness to practise is currently impaired, the Committee has borne in mind that this is a matter for its own independent judgement. It has also had regard to its duty to protect the public, declare and uphold proper standards of conduct and behaviour and maintain public confidence in the profession.

The Committee bore in mind that it is for Miss Stevens to demonstrate that she has remedied her misconduct: *Abrahaem v GMC* [2008] EWHC 183 (Admin) at [23]. There is no information from Miss Stevens before the Committee on which it can properly assess

whether she has remedied the misconduct found by the initial PCC. The Committee noted that the previous PCC had, within its determination, indicated that Miss Stevens should provide evidence for a reviewing Committee of her reflections on what she had learnt about her behaviour and the issues raised; evidence of her successful completion of additional training on patient confidentiality/Information Governance; and testimonials that demonstrate her professionalism and integrity. As indicated, there is no such evidence from Miss Stevens.

The Committee therefore concluded that, in the absence of any evidence of remediation, there remains a significant risk of repetition of similar failings in the future. The Committee could also not be satisfied that Miss Stevens had developed insight into her failings. The Committee therefore determined that Miss Stevens' fitness to practise remains impaired by reason of her misconduct.

Sanction

The Committee next considered what sanction to impose on Miss Stevens' registration under Section 36Q of the Act. It reminded itself that the purpose of any sanction is not to be punitive although it may have that effect. The Committee bore in mind the principle of proportionality and took into account the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016).

The Committee first considered whether to revoke the suspension order. It concluded that because of the serious breach of trust committed by Miss Stevens, the absence of any evidence of insight and remediation and the likelihood of repetition of similar failings, it would be inappropriate to revoke the suspension order.

The Committee then considered whether to replace the suspension with a direction for conditional registration. In light of Miss Stevens' non-engagement with the Council and the fitness to practise proceedings against her, the Committee concluded that conditions would be neither workable nor appropriate at this stage.

The Committee then considered whether to extend the suspension order. It was satisfied that in the absence of any evidence of remediation, the appropriate order to impose is one of suspension.

In considering the duration of the order, the Committee noted that the Council are seeking an extension for a period of 12 months. Given Miss Stevens' current non-engagement with the Council, the Committee determined to extend the suspension order for the maximum period of 12 months. This period is necessary to give Miss Stevens the maximum period of time to engage with the Council should she choose to do so and to address her misconduct.

Accordingly, the Committee directs that the current order of suspension be extended for a period of 12 months from the date it would otherwise expire pursuant to section 36Q (1)(b) of the Act.

The case will be reviewed prior to the expiry of the 12-month period. A reviewing Committee may be assisted by receiving the following:

- Evidence by a reflective piece as to what she has learnt about her conduct and the issues raised in this case.
- Evidence of her successful completion of additional training on patient confidentiality/Information Governance.

- Testimonials that demonstrate her professionalism and integrity.

That concludes this determination.”

At a review hearing on 10 June 2019 the Chairman announced the determination as follows:

“This is a resumed hearing pursuant to Section 27C of the Dentists Act 1984 (as amended) (‘the Act’) to review the order of suspension imposed on Miss Stevens’ registration by the Professional Conduct Committee (PCC) in June 2018.

Neither party was present at today’s hearing. The Council invited the Committee to review the suspension order on Miss Stevens registration on the basis of the papers alone. Written submissions were received on behalf of the Council.

Service

The Committee noted that neither party was present at today’s hearing following the Council’s request for this hearing to be held on the papers alone. Therefore, the Committee first sought to determine whether notice had been served on Miss Stevens in accordance with Rules 28 and 65 of the General Dental Council (GDC) (Fitness to Practise) Rules 2006 (‘the Rules’) and section 50A of the Dentists Act 1984 as amended, (‘the Act’). It had before it a copy of the notification of hearing letter dated 29 April 2019 which was sent to the Registrant’s registered address by special delivery. It noted that the notification of hearing contained all the requirements for notice to be valid as set out in Rule 28. The Committee also had before it a copy of the Royal Mail track and trace document which showed that the notice of hearing letter was delivered on 30 April 2019 and signed for. The Committee was satisfied that the notification of hearing had been served in accordance with the Rules and the Act.

Proceeding in the absence of Miss Stevens and on the papers alone

As the Committee found that the notice had been properly served, it went on to consider whether to exercise its discretion under Rule 54 to proceed with the hearing in Miss Stevens’ absence and on the papers alone, as requested by the Council. The Committee bore in mind that its discretion to proceed with a hearing in the absence of a registrant should be exercised with the utmost care and caution.

The Committee noted that the notice of hearing dated 29 April 2019 indicated that the GDC proposed the hearing should be considered on the papers. The Committee was satisfied that the GDC had made all reasonable efforts to provide Miss Stevens with the notice of this hearing.

The Committee noted from the evidence that Miss Stevens has not engaged with the GDC process and it was the Committee’s view that in the absence of any request from Miss Stevens for an adjournment, no useful purpose would be gained by adjourning today. The Committee had no information before it to suggest that Miss Stevens would be likely to attend any future listing for this hearing. Further, the Committee determined that in light of the statutory requirement to review the order currently placed on Miss Stevens’ registration, there was a public interest in proceeding with the hearing. Accordingly, the Committee determined to review the interim order on the basis of the papers before it and in the absence of both parties.

Background

Miss Stevens' case was first considered by the PCC at a hearing in December 2017. That Committee found facts proved in relation to Patient A and Miss Stevens' failure to protect Patient A's confidentiality on 4 July 2016 in that she inappropriately accessed Patient A's patient records without permission and discussed details of Patient A's medical history with NP, a dental colleague working at the same practice as Miss Stevens. Patient A worked at the same practice as Miss Stevens and NP and was also a patient there.

The initial PCC found all of the charges against Miss Stevens proved. It decided that a failure to protect Patient A's confidentiality was a serious breach of trust and amounted to a serious departure from the standards expected of a dental nurse. It determined that the facts found proved amounted to misconduct.

In relation to impairment, the initial PCC decided that the misconduct was remediable and noted that Miss Stevens had apologised to her employer for her actions. However, that PCC was concerned that Miss Stevens' responses contained in an investigation report regarding the incident demonstrated a lack of understanding of the importance of protecting the confidentiality of patients' information. It had no information from Miss Stevens regarding the charges, her reflections, what she had learnt and how she would do things differently to avoid repetition. It concluded that the risk of repetition remained. In addition, it could not be satisfied that Miss Stevens had full insight into her conduct. That Committee determined that Miss Stevens' fitness to practise was impaired by reason of her misconduct. It directed that her registration be suspended for a period of 6 months with a review prior to the expiry of the order.

First PCC Review – June 2018

The Committee in June 2018 noted that Miss Stevens had not provided any information on which it could properly assess whether she had remedied the misconduct found by the initial PCC. The Committee noted that the previous PCC had, within its determination, indicated that Miss Stevens should provide evidence for a reviewing Committee of her reflections on what she had learnt about her behaviour and the issues raised; evidence of her successful completion of additional training on patient confidentiality/Information Governance; and testimonials that demonstrate her professionalism and integrity. The Committee in June 2018 concluded that, in the absence of any evidence of remediation, there remained a significant risk of repetition of similar failings in the future. In addition, the Committee could not be satisfied that Miss Stevens had developed insight into her failings. It therefore determined that Miss Stevens' fitness to practise remained impaired by reason of her misconduct.

The Committee in June 2018 concluded that due to the serious breach of trust committed by Miss Stevens, in the absence of any evidence of insight and remediation and the likelihood of repetition of similar failings, the appropriate order was that of suspension for a period of 12 months.

Today's review

Today this Committee has comprehensively reviewed Miss Stevens' case taking account of all the evidence presented. It has also taken account of the written submissions made by the GDC. The Committee accepted the advice of the Legal Adviser.

The Committee has considered whether Miss Stevens' fitness to practise remains impaired. In doing so, the Committee has exercised its independent judgement. Throughout its

deliberations, it has borne in mind that its primary duty is 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.

The Committee noted that the last Committee had suggested a number of documents which a future reviewing Committee might be assisted by. This included a reflective piece, evidence of her attendance on training relating to patient confidentiality/Information Governance and testimonials demonstrating her professionalism and integrity. Miss Stevens has not engaged with the process and she has failed to provide any evidence of insight or remediation or any of the information which was suggested by the last review Committee. The Committee noted that there is a persuasive burden on Miss Stevens to demonstrate that her fitness to practise is no longer impaired.

The Committee considered Miss Stevens' order of suspension and was satisfied that there was no evidence that she had breached the terms of the order. The Committee also had regard to the lack of engagement by her. The Committee noted that the previous Committee identified that Miss Stevens had failed to demonstrate evidence of full insight and remediation and noted that there had been no material change since the last hearing in December 2017.

The Committee had no evidence before it to satisfy itself that the issues identified by the previous Committee would not be repeated. The facts found proved in this case are serious and the Committee considered that Miss Stevens' continued lack of sufficient insight and remediation indicates that there remains a risk of repetition. The Committee is therefore satisfied that Miss Stevens' fitness to practise remains impaired. The Committee also considers that a finding of impairment is required for wider public interest reasons, namely, to declare and uphold proper professional standards of conduct and behaviour and to maintain public trust and confidence in the profession.

Sanction

The Committee then considered what, if any, sanction to impose in this case. The Committee was aware of the range of sanctions available to it and that it must consider the sanctions in order from the least serious.

The Committee notes the GDC submissions that if the Committee were to find that Miss Stevens' fitness to practise remains impaired, the Committee should consider extending the current order of suspension on Miss Stevens' registration for a further period.

The Committee was aware that it should have regard to the principle of proportionality, balancing the public interest against Miss Stevens' own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.

The Committee noted its powers under Section 27C of the Act. The Committee had the power to extend the current order for a maximum period of 12 months. Alternatively, it could revoke the suspension order, or replace the order with a conditions of practice order for up to 3 years.

The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to revoke it with immediate effect.

The Committee determined that given all of the information before it, it would not be appropriate to revoke the current order or to allow it to lapse, as this would not protect the public nor would it be in the public interest.

The Committee then considered whether a conditions of practice order would be an appropriate order in this case. In light of the nature of the misconduct and Miss Stevens' lack of engagement with her regulator, the Committee was of the view that conditions of practice are not practicable. The Committee therefore considered that this would not be an appropriate order.

The Committee considered whether extending the period of suspension was the appropriate and proportionate response in this case. The Committee determined that the only appropriate and proportionate sanction in this case is to extend the suspension order for a further period of 12 months with a review.

The Committee determined that this further period of suspension would give Miss Stevens a further and final opportunity to determine her future in dentistry.

In view of the wider public interest, as well as in the absence of substantial evidence of remediation, the Committee hereby directs that Miss Stevens' registration be suspended for a further period of 12 months. This period of time is required to give Miss Stevens a further opportunity to demonstrate sufficient insight into, and remediation of, the matters that have precipitated these proceedings, and is commensurate with the serious nature of this case and the attendant risks to public confidence.

In accordance with section 27C of the Act, this extended period of suspended registration will take effect from the date on which the existing period of suspension would otherwise expire. The case will be reviewed prior to the expiry of the 12-month period. The Committee wishes to reiterate that a reviewing Committee may be assisted by receiving the following from Miss Stevens:

- Evidence by a reflective piece as to what she has learnt about her conduct and the issues raised in this case.
- Evidence of her successful completion of additional training on patient confidentiality/Information Governance.
- Testimonials that demonstrate her professionalism and integrity.

That concludes this determination.”

At a review hearing on 11 June 2020 the Chairman announced the determination as follows:

“This is a resumed hearing pursuant to section 36Q of the Dentists Act 1984 (as amended) ('the Act'). The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Skype in line with Her Majesty's Government's current advice concerning COVID-19. Ms Stevens is neither present nor represented at this resumed hearing of the Professional Conduct Committee (PCC). Ms Griffiths is the Case Presenter for the General Dental Council (GDC) who also appears via Skype.

Decision on service of the Notification of Hearing

The Committee considered whether notice of the hearing had been served on Ms Stevens in accordance with rules 28 and 65 of the Rules. It received a bundle of documents containing a copy of the Notification of Hearing letter, dated 05 May 2020 including her registered address, and a Royal Mail 'Track and Trace' receipt confirming delivery and that the letter was signed for by the recipient. A copy of the letter was also sent to her by email on the same date.

The Committee was satisfied that the letter contained proper notification of today's review hearing, including its time, date and location (remotely), as well as notification that the Committee had the power to proceed with the hearing in Ms Stevens' absence. On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Stevens in accordance with the Rules.

Decision on proceeding with the hearing in the absence of Ms Stevens

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Ms Stevens. It approached this issue with the utmost care and caution. The Committee took into account the factors to be considered in reaching its decision as set out in the case of *R v Jones [2003] 1 AC 1HL*. It remained mindful of the need to be fair to both Ms Stevens and the GDC, and it had regard to the public interest in the expeditious review of the suspension order in place on Ms Stevens' registration. The Committee took into account that the current order is due to expire on 04 July 2020.

The Committee noted from the Notification of Hearing letter of 05 May 2020 that Ms Stevens was asked to confirm by 19 May 2020, whether she would be attending today's hearing and/or whether she would be represented. The Committee noted the GDC sent a further email to Ms Stevens on 21 May 2020. The Committee noted that the information indicates email notice had been downloaded and accessed. The information before the Committee indicates that there has been no response from Ms Stevens. Ms Stevens has not provided a reason for her non-attendance, nor has she requested an adjournment. The Committee therefore concluded that Ms Stevens had voluntarily absented herself from today's proceedings. The Committee noted there was no information before it to indicate that an adjournment was likely to secure her attendance on a future date. The Committee also noted that Ms Stevens did not attend and was not represented at the initial PCC hearing of her case in December 2017 and the review hearings on 22 June 2018 and 10 June 2019.

In all the circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Ms Stevens and/or any representative on her behalf.

Background matters

This is the third review of a suspension order that was first imposed on Ms Stevens' registration for a period of six months by the PCC in December 2017. Ms Stevens did not attend that hearing and she was not represented. At that hearing the allegations which Ms Stevens faced, and which the Committee subsequently found proved, related Ms Stevens' failure to protect Patient A's confidentiality on 4 July 2016 in that she inappropriately accessed Patient A's patient records without permission and discussed details of Patient A's medical history with NP, a dental colleague working at the same practice as Ms Stevens. Patient A worked at the same practice as Ms Stevens and NP and was also a patient there.

In relation to impairment, the initial PCC decided that the misconduct was remediable and noted that Ms Stevens had apologised to her employer for her actions. However, that PCC was concerned that Ms Stevens' responses contained in an investigation report regarding the incident demonstrated a lack of understanding of the importance of protecting the confidentiality of patients' information. It had no information from Ms Stevens regarding the charges, her reflections, what she had learnt and how she would do things differently to avoid repetition. It concluded that the risk of repetition remained. In addition, it could not be satisfied that Ms Stevens had full insight into her conduct. That Committee determined that Ms Stevens' fitness to practise was impaired by reason of her misconduct. It directed that her registration be suspended for a period of 6 months with a review prior to the expiry of the order.

The Committee considered that the reviewing Committee may find it helpful to have sight of the following:

- *Evidence by reflective piece as to what she has learnt about her behaviour and the issues raised in this case.*
- *Evidence of her successful completion of additional training on patient confidentiality/Information Governance.*
- *Testimonials that demonstrate her professionalism and integrity.*

First PCC review – 22 June 2018

The order was reviewed by the PCC on 22 June 2018. That Committee determined to extend the suspension for a further period of twelve months. That Committee determined that in the absence of any evidence of remediation, there remained a significant risk of repetition of similar failings in the future. It therefore determined that Ms Stevens' fitness to practise remained impaired by reason of her misconduct.

Second PCC review – 10 June 2019

A second review hearing was held on 10 June 2019 when the PCC found that Ms Stevens' fitness to practise continued to be impaired. That Committee considered that there was no evidence provided by Ms Stevens to sufficiently satisfy it that she had addressed all of the concerns identified by the PCC at the initial hearing and at the review hearing. That Committee was also concerned as to Ms Stevens' lack of insight. The PCC directed that Ms Stevens' suspension be extended for a further period of twelve months.

Today's review

In comprehensively reviewing Ms Stevens' case today, the Committee considered all the evidence before it. It took account of the submissions made by Ms Griffiths on behalf of the GDC and accepted the advice of the Legal Adviser. No material or written submissions were received from, or on behalf of, Ms Stevens.

Ms Griffiths submitted that to date, there is no evidence that Ms Stevens has remedied any of the failings identified by the previous Committees. In relation to the matters before the Committee today, she stated that in the circumstances, the GDC invited the Committee to find that Ms Stevens' fitness to practise remains impaired. Ms Griffiths further invited the Committee, if it found current impairment, to indefinitely suspend Ms Stevens' registration.

The Committee first considered whether Ms Stevens' fitness to practise is still impaired. It bore in mind that at a review hearing the onus is on a registrant to demonstrate that their fitness to practise is no longer impaired. There is no evidence before this Committee that Ms

Stevens has addressed her past misconduct or provided any information as recommended to her by the PCC at the initial hearing and the subsequent reviewing Committees. In addition, she has not provided any information to demonstrate any evidence of insight or remediation. In these circumstances, the Committee considers that there remains a risk that Ms Stevens could repeat the misconduct identified and thus she remains a risk to the public, namely by inappropriately accessing and disclosing confidential information. It also notes that Ms Stevens has not engaged with the GDC in relation to these proceedings over a protracted period of time, despite repeated attempts by the GDC to secure her involvement. Accordingly, the Committee has determined that Ms Stevens' fitness to practise remains impaired.

The Committee next considered what direction, if any, to make. It has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (Effective October 2016, revised May 2019).

The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Stevens' own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct and performance within the profession.

The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to terminate it with immediate effect. Given Ms Stevens' lack of engagement with the GDC and the absence of any remediation or insight, the Committee has concluded that it would not be appropriate to terminate the current order or to allow it to lapse.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee is aware that in order for conditions to be appropriate and workable there would need to be some measure of positive engagement from Ms Stevens. To date, she has not engaged with the GDC or provided any evidence of remediation, despite being given ample opportunity to do so. In these circumstances, the Committee has concluded that replacing the suspension order with a conditions of practice order would not be workable or appropriate.

The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It has borne in mind Ms Stevens' lack of engagement with the GDC over a sustained period of time and the absence of any information as to her professional intentions. Ms Stevens has chosen not to attend any of the hearings of her case or to provide any evidence of her remediation. In these circumstances, the Committee has concluded that a further time limited period of suspension is unlikely to achieve her engagement or delivery of material requested to assist any future Committee. In these circumstances an indefinite period of suspension is the appropriate and proportionate outcome and is required in order to maintain public confidence in the profession. It therefore directs that Ms Stevens' registration be suspended indefinitely.

The effect of the foregoing direction is that, unless Ms Stevens exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect; she will not be able to seek a review until at least two years have elapsed since the date of this review.

Service of this determination

In the present circumstances arising out of Her Majesty's Government's COVID-19 measures, service of this determination will be provided by email only.

That concludes this hearing."