

HEARING HEARD IN PUBLIC
LOCKE, Jennifer Christine
Registration No: 162810
PROFESSIONAL CONDUCT COMMITTEE
JANUARY 2022

Outcome: Erased with immediate suspension

LOCKE, Jennifer Christine, a dental nurse, NVQ L3 Oral Health Care: Dental Nursing & Independent Assessment City & Guilds 2007, was summoned to appear before the Professional Conduct Committee on 6 January 2022 for an inquiry into the following charge:

Charge

“That being a registered dental nurse:

1. On 7th December 2020 in the Conwy Magistrates' Court, you were convicted of committing fraud, contrary to sections 1 and 2 of the Fraud Act 2006.
2. Between 28th October 2020 and 22nd July 2021, you failed to co-operate with a GDC investigation in that you failed to provide employment details and professional indemnity details as requested.

AND that by reason of the matters alleged above, your fitness to practice is impaired by reason of conviction and misconduct.”

Mrs Locke was not present and was not represented. On 6 January 2022 the Chairman announced a statement on proof of service. The Chairman then announced the findings of fact to the Counsel for the GDC:

“This is a Professional Conduct Committee hearing. The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Microsoft Teams in line with current GDC practice. Mrs Locke was not present at the hearing and unrepresented. Ms Sweetland appeared on behalf of the GDC.

Preliminary matters

On 6 January 2022, the Chair made a statement regarding the following preliminary applications:

Decision on service of Notice of Hearing

The Committee was informed at the start of this hearing that Mrs Locke was neither present nor represented at today's hearing.

In her absence, the Committee first considered whether the Notice of Hearing ('the notice') had been served on Mrs Locke in accordance with Rules 13 and 54 of the *'General Dental Council (Fitness to Practise) Rules Order of Council 2006'* ('the Rules').

Ms Sweetland, on behalf of the General Dental Council (GDC) referred the Committee to the indexed hearing bundle of 131 pages, which contained a copy of the notice, dated 9 November 2021. The notice was sent to Mrs Locke's registered address by Special Delivery

on 9 November 2021, in accordance with Section 50A of the *'Dentists Act 1984' (as amended)* ('the Act') and via email on the same date.

Whilst it is not a requirement of the Rules, the Committee had sight of an extract from the Royal Mail 'Track and Trace' service which showed the item was delivered to Mrs Locke's registered address on 10 November 2021. It was signed for against the printed name of 'LOCKE'.

The Committee was satisfied that the notice contained proper and correct information relating to today's hearing. This included the time, date and that it is being conducted remotely via Microsoft Teams, as well as notification that the Committee has the power to proceed with the hearing in Mrs Locke's absence.

In light of the information available, the Committee was satisfied that Mrs Locke has been served with proper notification of this hearing.

Decision on whether to proceed in the absence of Mrs Locke

The Committee next considered whether to exercise its discretion to proceed with the hearing in the absence of Mrs Locke. The Committee was mindful that its decision to proceed in the absence of Mrs Locke must be handled with the utmost care and caution. The Legal Adviser reminded the Committee of the requirement to be fair to both parties, as well as considering the public interest in the expeditious disposal of this case.

The Committee noted that there has not been any engagement by Mrs Locke in relation to today's hearing and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

On the basis of the information before it, the Committee concluded that Mrs Locke had voluntarily absented herself from today's hearing. The Committee took into account that the GDC had made eight separate attempts at contacting Mrs Locke and, in that regard, she has had fair and obvious warning of today's proceedings. It noted the public interest in the expeditious disposal of this case, particularly as it relates to a serious criminal conviction, and any effect a delay in the proceedings may cause.

It noted that no application for an adjournment had been made by Mrs Locke and there was no information before the Committee that adjourning would secure her attendance at a later date.

In the circumstances, the Committee determined that it was fair and in the interests of justice, including the public interest, to proceed with the hearing in the absence of Mrs Locke.

Finding of facts

Background

Between 11 September 2018 and 29 July 2020, whilst working as Practice Manager at BUPA Dental Care [address redacted], Mrs Locke committed fraud in that she dishonestly made a false representation, namely paid numerous false refunds into her own personal bank accounts, a total of £60,267.15. The matter was investigated internally and referred to the police.

Mrs Locke entered a guilty plea and was convicted at Conwy Magistrates' Court on 7 December 2020.

Mrs Locke appeared before the Crown Court at Caernarfon on 15 January 2021 and was sentenced to two years' imprisonment, suspended for two years, 250 hours unpaid work, a six-month curfew order, to pay compensation, and a victim surcharge.

On 20 and 23 July 2020, the GDC received letters from Mrs Locke's previous employer discussing her suspension from work and subsequent dismissal for gross misconduct.

During the course of the GDC investigation, Mrs Locke was contacted via email on 21 October 2020 requesting confirmation of her address. She responded by email on 22 October 2020 to request it be sent to her as a hard copy.

A notice of referral was sent to Mrs Locke on 22 October 2020 which also requested her employment details and proof of indemnity insurance. It also enclosed an Information Request Form which was to be completed and returned by 5 November 2020.

Following an email request from Mrs Locke on 22 October 2020 for the documents to be sent to her in hard copy, which were provided. The GDC made numerous attempts between 26 October 2020 and 22 July 2021 to update her on the progress of her case and chase her for the information requested in the email of 22 October 2020. This information has, to date, not been provided.

Evidence

The Committee received a bundle of 131 pages, which included the following documentary evidence:

- Copy of the certified memorandum of conviction, dated 7 December 2021;
- Copy of the certificate of conviction, dated 20 May 2021;
- Copy of the sentencing remarks of the judge, dated 15 January 2021;
- Details from internal investigation of BUPA Dental Care, [address redacted];
- Witness statement of Ms A, dated 4 August 2021;
- Emails sent to you by GDC, requesting relevant information, dated between 21 October 2020 and 8 July 2021;

Submissions

In relation to Charge 1, Ms Sweetland submitted that the Committee should refer to the GDC document '*Guidance for the Practice Committees including Indicative Sanctions Guidance 2016 (Revised 2020)*'. She invited the Committee to consider the section entitled "Cases arising from criminal proceedings and determinations", which states:

- "8. Where the PCC accepts a certificate of conviction, it must accept the certificate as conclusive proof of the offence having been committed. The only exception is if the PCC receives evidence to the effect that the Registrant is not the person referred to in the certificate."*

Ms Sweetland submitted that the 'Certificate of Conviction', dated and signed by an officer of the court on 20 May 2021, was conclusive proof. She stated that it was clear on the face of the paperwork presented to the Committee today that Mrs Locke has been convicted of committing fraud, contrary to sections 1 and 2 of the Fraud Act 2006, as alleged.

In relation to Charge 2, Ms Sweetland referred the Committee to the GDC document 'Standards for the dental team' (the Standards), as follows:

Standard 9.4: *You must co-operate with any relevant formal or informal inquiry and give full and truthful information*

9.4.1: *If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter. You should also seek advice from your indemnity provider or professional association.*

She submitted that this was clear evidence that Mrs Locke has a professional obligation to provide the information requested by the GDC and that, on the face of the documentation before it, it is evident that Mrs Locke has failed in her requirement to do so. In addition, she submitted that the Committee must also consider the seriousness of the failure when the allegation in this matter relates to a very serious criminal conviction.

Committee's findings

The Committee considered all the evidence presented to it and took account of the closing submissions made by Ms Sweetland on behalf of the GDC. The Committee accepted the advice of the Legal Adviser. It considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged facts are proved on the balance of probabilities.

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

1.	<p><i>"That being a registered dental nurse, on 7th December 2020 in the Conwy Magistrates' Court, you were convicted of committing fraud, contrary to sections 1 and 2 of the Fraud Act 2006."</i></p> <p>PROVED</p> <p>The Committee first considered the Rules which relate to criminal convictions. Rule 57(5) states:</p> <p><i>"Where a respondent has been convicted of a criminal offence—</i></p> <p><i>(a) a copy of the certificate of conviction, certified by a competent officer of a court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and</i></p> <p><i>(b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts."</i></p> <p>The Committee referred to the 'Guidance for the Practice Committees including Indicative Sanctions Guidance', in light of Ms Sweetland's submissions. It was satisfied that there is no evidence before this Committee that Mrs Locke is not the person referred to in the certificate.</p> <p>There is also supporting evidence in the form of the judge's sentencing remarks, the sentencing schedule, and the Memorandum of Conviction.</p> <p>Accordingly, the Committee was satisfied that this presented conclusive proof of Mrs Locke having been convicted of fraud and finds this charge proved.</p>
2.	<p><i>"That being a registered dental nurse, between 28th October 2020 and 22nd</i></p>

July 2021, you failed to co-operate with a GDC investigation in that you failed to provide employment details and professional indemnity details as requested.”

PROVED

The Committee first referred to the Standards and was satisfied that there is a professional requirement for Mrs Locke to cooperate with the GDC investigation and provide the information requested.

Having found there is a requirement, the Committee then referred to the unchallenged witness statement of Ms A, in which she outlines the attempts made by the GDC to contact Mrs Locke and request she provide her employment details and professional indemnity information. The attempts made to obtain this information were as follows:

- 21 October 2020, requesting the information be received by the GDC no later than 5 November 2020. This was downloaded by Mrs Locke on 22 October 2020;
- 26 October 2020. This was signed for against the name ‘LOCKE’ on 28 October 2020;
- 12 November 2020. This was signed for against the name ‘LOCKE’ on 13 November 2020;
- 17 February 2021. This was downloaded by Mrs Locke on 24 February 2021;
- Further contact was made on 15 April, 29 April, 17 May 2021 in relation to case progression updates;
- 20 May 2021, making a final request for information relating to provide her employment details and professional indemnity information. This was downloaded by Mrs Locke on 21 May 2021;
- And a final letter was sent on 8 July 2021. No response has been received to date.

Taking all of this information into account, the Committee was satisfied that Mrs Locke has been informed that she is required to provide employment details and professional indemnity details as her fitness to practice is currently under investigation by the GDC, and that she has failed to provide them.

Accordingly, the Committee accepted the witness statement of Ms A and found that, despite numerous attempts, Mrs Locke has failed in her duty as a regulated health professional to co-operate with a GDC investigation and finds this charge proved.

We now move to Stage 2.”

On 7 January 2022 the Chairman announced the determination as follows:

“Having announced its decision on the facts, the Committee then moved on to consider whether the facts found proved in charge 2 amount to misconduct and, if so, whether Mrs Locke’s fitness to practise is currently impaired by reason of her misconduct and conviction. In accordance with Rule 20 of the Fitness to Practise Rules 2006, the Committee heard submissions from Ms Sweetland, on behalf of the GDC, in relation to the matters of misconduct, impairment and sanction. The Committee accepted the advice of the Legal Adviser.

Submissions

Ms Sweetland first addressed the Committee on the matter of misconduct, in relation to charge 2. Misconduct is described as *‘a serious falling short of the standards reasonably expected of a dental professional’*. She submitted that Mrs Locke has breached fundamental tenets of the profession by failing to co-operate with her regulator, in particular, Standard 9.4. In addition, she invited the Committee to consider Mrs Locke’s behaviour throughout these proceedings and the length of time over which Mrs Locke’s omission to provide the information was carried out. Ms Sweetland submitted that by failing to provide the information required of her, despite numerous attempts on behalf of the GDC, and by not engaging at all with the investigation, there is clear evidence of an attitude of disregard towards her regulator. This, Ms Sweetland submitted, was a serious falling short of the standards expected of a registered dental nurse.

In relation to impairment, Ms Sweetland invited the Committee to find either collectively, or individually, that Mrs Locke’s conviction and misconduct constituted a finding of impairment. She submitted that the collective need to maintain confidence in the profession, as well as declaring and upholding proper standards of conduct and behaviour is undermined by Mrs Locke’s conviction. Ms Sweetland reminded the Committee that Mrs Locke is still subject to a sentence imposed by a criminal court, and it is very hard to see how her fitness to practise is not impaired by the fact she is labouring under that burden. Ms Sweetland also submitted that the behaviour which the conviction relates to also has the impact of impairing her fitness to practise.

Ms Sweetland also referred the Committee to the observations of Dame Janet Smith in the 5th Shipman Report. She submitted it is clear that by committing a serious crime, Mrs Locke has brought the profession into disrepute and, in conjunction with her failure to co-operate with the GDC investigation, she has breached fundamental tenets of the profession. Ms Sweetland submitted that the harm in this case relates to the financial loss of Mrs Locke’s employer and the subsequent harmful effect on colleagues and wider members of the public by the theft of large amounts of money for her personal use. Her conviction relates to prolonged dishonesty and Ms Sweetland stated that Mrs Locke has not provided any evidence of insight or remediation and has nothing to say on why her behaviour was unacceptable, and thus a risk of repetition in the future remains. Therefore, Ms Sweetland invited the Committee to find that Mrs Locke’s fitness to practise is currently impaired.

Moving on to the matter of sanction, Ms Sweetland submitted that the only appropriate sanction in this case is one of erasure and that anything less would simply not be sufficient. She referred the Committee to the GDC’s document *‘Guidance for the Practice Committees, including Indicative Sanctions Guidance 2016 (ISG)’* (revised December 2020) and the regulatory requirement to protect the public, including the wider public interest.

Ms Sweetland reminded the Committee that the conduct took place whilst Mrs Locke was holding a trusted position as Practice Manager and registered dental nurse. She stated that Mrs Locke evaded detection by employing sophisticated methods of undertaking the fraudulent transactions for almost two years and only made full admissions when she was confronted with evidence of her crime. Ms Sweetland acknowledged that should Mrs Locke be removed from the register, this would be felt very heavily but it was important to consider the public interest in this matter. In addition, when referring to the judge's sentencing remarks, Ms Sweetland submitted that it appeared Mrs Locke had already resigned herself to this outcome as there was reference to her already being "struck-off".

Ms Sweetland informed the Committee that Mrs Locke has two closed cases with the GDC. One was investigated and closed with no further action. The other related to the facts on this case but was not pursued.

Finally, Ms Sweetland submitted that an offence of this nature and seriousness, combined with a persistent lack of co-operation with the GDC, is simply fundamentally incompatible with Mrs Locke remaining on the register.

Misconduct

In considering whether Charge 2 amounted to misconduct, the Committee had regard to the following principles from the Standards, in particular:

Standard 9.4: *You must co-operate with any relevant formal or informal inquiry and give full and truthful information*

9.4.1: *If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter. You should also seek advice from your indemnity provider or professional association.*

The Committee had already noted that it is every registrant's responsibility to engage with their regulator and there is a history of recent non-engagement and non-compliance on Mrs Locke's part. Despite eight separate attempts to contact Mrs Locke, and having evidence that she had either downloaded the documents or someone at her property had signed for the documents in the name of 'LOCKE', she has failed to provide the information required of her. By failing to disclose her employment details and indemnity insurance information, the GDC would be unable to ascertain her employment status and advise any employer of the risk she posed. That may have placed patients at a risk of harm. In this regard, the Committee considered Mrs Locke's persistent and prolonged failure to co-operate with the GDC to be a serious falling short of the standards expected.

Therefore, the Committee is satisfied that the facts found proved in Charge 2 are serious and amount to misconduct.

Impairment

The Committee considered whether Mrs Locke's misconduct and conviction meant that her fitness to practise is currently impaired. The Committee had regard to the wider public interest, which includes the need to uphold and declare proper standards of conduct and behaviour to maintain public confidence in the profession and this regulatory process.

The Committee applied the questions highlighted by Dame Janet Smith in the 5th Shipman report as follows:

- a) *Has Mrs Locke in the past acted and/or is she liable in the future to act so as to put a patient or patients at unwarranted risk of harm?*
- b) *Has Mrs Locke in the past brought and/is she likely to bring the dental profession into disrepute?*
- c) *Has Mrs Locke in the past breached and/or is she likely to breach one of the fundamental tenets of the dental profession?*
- d) *Has Mrs Locke in the past acted dishonestly and/or is she likely to act dishonestly in the future?*

Mrs Locke has been convicted of a serious crime of which she is currently still serving a two-year suspended prison sentence. The total of the money that she fraudulently obtained for her personal use amounted to over £60,000. This took place across 96 separate transactions using false patient names and all of which used Mrs Locke's own personal bank accounts. The Committee noted the sophisticated methods that were used and that her conduct went undetected for almost two years.

Mrs Locke had stolen from her employer and, when contacted by the GDC, failed to co-operate with her regulator, which may have placed patients at a risk of harm. The Committee was in no doubt that this behaviour has brought the dental profession into disrepute and breached a number of fundamental tenets of the profession.

In the absence of any information provided for these proceedings, the Committee referred to the notes of the internal investigation and meetings between Mrs Locke and her employer. It noted that when prompted by the investigator for her reasons for committing theft and fraud, Mrs Locke was unable to demonstrate any significant understanding of why she had done so or any insight into her conduct.

The Committee considered that serious dishonesty is inherently difficult to remediate. There is no evidence before it today that Mrs Locke has attempted to remediate her conduct. In the absence of evidence of remediation or insight, the Committee concluded there is a risk of repetition.

Due to the prolonged nature of the dishonesty and the subsequent failure to engage with the GDC, the Committee was satisfied that there remains a risk of repetition in the future. In addition, Mrs Locke has not provided any evidence of remediation, or any insight into her conduct that would alleviate that risk.

The Committee bore in mind the overarching objective of the GDC which is the protection of the public and includes promoting and maintaining public confidence in the professions and promoting and maintaining proper professional standards and conduct for members of those professions. It concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case.

Accordingly, the Committee found Mrs Locke's fitness to practise currently impaired by reason of her conviction and her misconduct.

Sanction

In coming to its decision on sanction, the Committee considered what action, if any, to take in relation to Mrs Locke's registration. It took into account the ISG. The Committee reminded

itself that any sanction imposed must be proportionate and appropriate and, although not intended to be punitive, may have that effect.

The Committee identified which of the aggravating features in the ISG are applied in this case, as well as any additional aggravating features, as follows:

- dishonesty...;
- premeditated misconduct;
- financial gain by Mrs Locke;
- breach of trust;
- misconduct sustained or repeated over a period of time;
- blatant or wilful disregard of the role of the GDC and the systems regulating the profession;
- attempts to cover up wrongdoing;
- lack of insight;
- the amount of money obtained by Mrs Locke; and
- Mrs Locke is still under sentence for her conviction.

The Committee also took into account which of the mitigating features in the ISG are applied in this case, as well as any additional mitigating features, as follows:

- Mrs Locke's apology for her actions in the notes of the disciplinary meeting; and
- the context of financial pressure and state of her personal finances at the relevant time.

The Committee had regard to its previous findings on misconduct and impairment in coming to its decision and considered each sanction in ascending order of severity.

The Committee first considered whether to take no action or to issue a reprimand but concluded that this would be inappropriate in view of the seriousness of the misconduct and conviction in this case. The Committee did not consider the conduct to be at the lower end of the spectrum and therefore it would be neither proportionate nor in the public interest to allow Mrs Locke to return to practice without some form of restriction in place.

The Committee next considered whether placing conditions on Mrs Locke's registration would be a sufficient and appropriate response. However, it was of the view that there are no practical or workable conditions that could be formulated given the nature of the conviction and the misconduct identified. There is no evidence before the Committee that Mrs Locke would be willing to comply with conditions as she has not engaged with the GDC throughout the investigation into these matters. In any event, the Committee determined that conditions were not sufficient to meet the gravity of the seriousness of the conviction and misconduct.

The Committee then went on to consider whether a suspension would be the appropriate sanction. The misconduct in this case was a significant departure from the standards expected of a dental nurse. The theft of money from an employer, the considerable sum of money that it involved, the persistent lack of co-operation with the GDC are serious and considerable breaches of fundamental tenets of the dental profession.

The Committee also took into account that, as a general principle, where a registrant has been convicted of a serious criminal offence or offences, they should not be permitted to resume unrestricted practice until they have completed their sentence.

The Committee was of the view that suspension would not adequately satisfy the public interest in the matter as anything less than removal from the register would not uphold the standards of conduct and behaviour expected of a registered professional.

The Committee determined that Mrs Locke's conviction and misconduct are fundamentally incompatible with a being a dental professional. The Committee determined that the following bullet points from paragraph 6.34 of the ISG apply in this case:

- serious departure(s) from the relevant professional standards;
- the abuse of a position of trust...;
- serious dishonesty, particularly where persistent or covered up;
- a persistent lack of insight into the seriousness of actions or their consequences.

Balancing all these factors, the Committee directs Mrs Locke's name on the register be removed. The Committee was of the view that the findings in this case demonstrate deliberate, persistent, and dishonest conduct and a complete disregard for the regulatory process and that allowing Mrs Locke to remain on the register would seriously undermine public confidence in the profession. Erasure is the only sanction that would appropriately address the misconduct in this case and send the public and the profession a clear message about the standards expected of a dental nurse.

The Committee now invites submissions as to whether a suspension order should be imposed to take immediate effect to cover the 28-day appeal period.

Decision on immediate order

The erasure does not come into effect until the end of the appeal period or, if an appeal is lodged, until it has been disposed of. The appeal period expires 28 days after the date on which the notification of the determination is served on Mrs Locke.

In this regard, Ms Sweetland made an application for an immediate suspension to be imposed on Mrs Locke's registration. She submitted that there is substantial public concern, upon which the Committee made its determination on erasure, which justifies there being immediate action as of today. The Committee also heard and accepted the advice of the Legal Adviser.

The Committee was satisfied that an immediate suspension order is necessary for the protection of the public and is otherwise in the public interest. To do otherwise would be incompatible with the Committee's earlier findings.

In this regard, the Committee revokes the current interim suspension order in accordance with section 36P(10) of the Dentists Act 1984.

The immediate suspension will remain in place until any appeal is disposed of or, if no appeal is lodged, the erasure will replace the immediate order 28 days after Mrs Locke is sent the decision of the Committee in writing.

That concludes this determination.”