Dental Professionals Hearings Service

PRIVATE HEARING

Professional Conduct Committee
Initial Hearing

28 April – 8 May 2025

Name:	AFTAB, Mariam
Registration number:	271650
Case number:	CAS-206538-R5H2F5

General Dental Council:	Alecsandra Manning-Rees, Counsel Instructed by IHLPS
Registrant:	Present Represented by David Morris, Counsel Instructed by Burton Copeland

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Fitness to practise:	Impaired by reason of misconduct
Outcome:	Suspension
Duration:	12 months
Immediate order:	n/a

Committee members:	Jane Everitt	(Chair, lay member)
	Avril Fraser	(Dental Care Professional member)
	Samaneh Nezamivand-Chegini	(Dentist member)
Legal adviser:	Richard Ferry-Swainson	
Committee Secretary:	Sara Page	

At this hearing the Committee made a determination that includes some private information. That information shall be omitted from the public version of the determination and the document marked to show where private material is removed.

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1. This is a Professional Conduct Committee (PCC) 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 General Dental Council (GDC) practice.

2. You were present at the hearing and represented by Mr David Morris, Counsel, instructed by Burton Copeland.

3. Ms Alecsandra Manning Rees, Counsel, appeared as Case Presenter on behalf of the GDC.

Preliminary matters

Applications to conduct the hearing partially in private pursuant to Rule 53

4. At the outset of the hearing, Ms Manning-Rees made an application pursuant to Rule 53 to hear some of the hearing in private session. [PRIVATE]. In this regard, Ms Manning-Rees invited the Committee to have any reference made to this disclosure heard in private session to avoid prejudice [PRIVATE].

5. Ms Manning-Rees confirmed that both parties are aware of the matter and there is no objection to the relevant evidence being included and considered for the purposes of your case.

6. Mr Morris, on your behalf, raised no objection to this proposal.

7. The Committee heard and accepted the advice of the Legal Adviser in this regard.

8. Having considered Rule 53, the Committee was satisfied that part of a hearing may be held in private where the protection of the private and family life of any third party so requires. The Committee bore in mind that, as a starting point, hearings should be conducted in public session. However, it determined that any discussion regarding the disclosure be heard in private session to prevent any potential prejudice to any third-party.

9. Mr Morris, on your behalf, also made an application for parts of the hearing, namely where reference is made to your private and family life, to be held in private session. In this regard, Mr Morris invited the Committee to hear any references [PRIVATE], as per Mr Morris' application, in private session in order to protect your private and family life.

10. Ms Manning-Rees did not oppose the application made by Mr Morris.

11. Again, the Committee heard and accepted the advice of the Legal Adviser.

12. The Committee was satisfied that any references made to specific parts of your private and family life be heard in private session in order to maintain your privacy and that of any third parties.

Charges

13. The charges being considered by the Committee, as detailed in the Notice of Hearing, dated 28 March 2025, are as follows:

'That, being a registered dentist:

1. *Between approximately 19 July 2021 and 21 February 2022, you submitted UDA claims in your name to claim for treatment that had been carried out by your colleagues.*

2. *On or around 28 February 2022, you denied your conduct at allegation 1 to your employer at [the] practice.*

3. *Your conduct in respect of allegation 1 was financially motivated.*

4. *In respect of your conduct at allegation 1 you:*

    a) *inappropriately accessed patient records without clinical justification; and/or*
    b) *created an inaccurate record in respect of approximately 55 patient clinical records; and/or*
    c) *indirectly breached patient confidentiality.*

5. *Your conduct in respect of allegations, 1 and/or 2, and/or 4b was;*

    a) *Misleading; and/or*
    b) *Dishonest.*

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

Finding of facts

Admissions

14. At the outset of the hearing, Mr Morris, on your behalf, informed the Committee that you made full and unequivocal admissions to all charges. However, the Committee was notified that, despite full factual admissions being made by you, there were some matters that required further clarification and therefore the parties proposed that both live witnesses in this case, and the Expert Witness, provide oral evidence to the Committee. Accordingly, the Committee decided to defer making any formal findings of facts based on the admissions, until after it had heard the evidence the parties proposed to call. In order to assist the Committee, an agreed statement of facts was provided, which formed the basis of the admissions.

Background

15. You worked as an Associate Dentist at the Practice between 3 September 2018 and 28 February 2022. At the time of the allegations, you worked only on Mondays and saw a variety of mostly NHS and some private patients.

16. On 30 August 2022, the GDC received an anonymous concern regarding some possible NHS claiming irregularities involving the NHS Units of Dental Activity (UDAs) generated whilst you were working as an Associate Dentist at the Practice. The target number of UDAs was not included in your contract, but each UDA has an approximate value of £11.50.

17. On 21 February 2022, another dentist at the Practice, Dentist A, raised that some of the UDA's he had undertaken that morning were not in the appropriate box, known as a *"filed away box"* on the software used at the Practice, 'iSmile'. During the afternoon, Dentist A raised the issue with the Practice Manager, Witness 1. It was confirmed that some of Dentist A's 'missing' UDAs were found in your box and that some of the claims had already been sent to the NHS Business Services Authority (NHSBSA). Having been made aware of this issue, Witness 1 started an investigation.

18. Witness 1 confirmed that she was not suspicious of you when looking into the matters initially and she believed there was a malfunction with the software, and she contacted 'iSmile' to provide support on the issue.

19. 'iSmile' accessed the Practice's records remotely and was able to show Witness 1 how to "follow the claims". It was identified that most of the claims led directly to your inbox and some to other dentists' inboxes. Witness 1 was shown how to run a 'claims audit trail report' which identified that you had moved Dentists A's UDA claims and that you had also moved some of the claims back into other dentists' inboxes even though those dentists were not working on that day.

20. As a result, Witness 1 contacted the Principal Dentist, Witness 2, and it was agreed that a full investigation would need to be undertaken. On 28 February 2022, an urgent disciplinary meeting was held with you, in the presence of Witness 1 and Witness 2, during which you were provided with the evidence resulting from the claims audit trail report. Despite initially denying the allegations, you admitted that you had moved the UDA claims into your own inbox as alleged.

21. The meeting culminated in your dismissal on the ground of gross misconduct. It was arranged that you would reimburse and apologise to the dentists affected.

Evidence

22. The Committee had regard to a number of documents included within the GDC hearing bundle, referred to as Exhibit 1. This bundle included, but was not limited to, the following documents:

- Witness statements of:
  - Witness 1, dated 18 August 2024; and
  - Witness 2, dated 16 July 2024.
- Expert report of Dr Simon Quelch, dated 13 August 2024, and an updated Audit Report on Claims, received on 29 April 2025
- Patient records
- Defence documentation, including:
  - Admissions statement;
  - UDA payment information;
  - Photographs, text messages, and emails from you; and
  - Reflective statement.

23. The Committee heard oral evidence under affirmation from:

- Witness 1;
- Witness 2; and
- Dr Quelch.

24. The Committee also heard oral evidence from you under affirmation.

Application to make an amendment to Charge 1 pursuant to Rule 18

25. Following the conclusion of the evidence of the GDC's witnesses, Ms Manning-Rees made an application pursuant to Rule 18 to make an amendment to the charges.

26. Ms Manning-Rees made an application to include additional wording to Charge 1, as follows:

> *'Between approximately 19 July 2021 and 21 February 2022, you submitted, or caused to be submitted, UDA claims in your name to claim for treatment that had been carried out by your colleagues.'*

27. Ms Manning-Rees informed the Committee that the application was made out of an abundance of caution, following the evidence of the witnesses regarding the submission of UDA claims at the Practice at the relevant time, to ensure the allegation does not fail on a technicality, notwithstanding your admissions. She submitted that the amendment can be made without injustice as it does not change the nature of the allegation against you.

28. Mr Morris confirmed that he had no objection to the amendment, as proposed.

29. The Committee heard and accepted the advice of the Legal Adviser in relation to Rule 18 including the powers available to it.

30. Having regard to the merits of the case and the fairness of the proceedings, the Committee was satisfied that the proposed amendment can be made without injustice in that Ms Manning-Rees' proposal was a minor change that did not affect the gravity of the charge. In addition, the Committee noted that the amendment would cover both eventualities of you having submitted the claims yourself, or that they were submitted by administration staff at the Practice on behalf of the dental team.

31. Therefore, the Committee accepted the proposal put forward by Ms Manning-Rees and allowed the amendment.

Committee's decision on admissions

32. The Committee carefully considered the admissions made by Mr Morris on your behalf as follows:

Charge 1

> 1. *Between approximately 19 July 2021 and 21 February 2022, you submitted, or caused to be submitted, UDA claims in your name to claim for treatment that had been carried out by your colleagues.*

33. You made a full and unequivocal admission. Mr Morris made it clear that your admission extended to cover Charge 1, as amended. You accepted that the number of UDAs claimed by you for treatment that had been carried out by your colleagues is between 107 and 125.8. Dr Quelch, in his oral evidence, stated that he calculated you had claimed for 116 UDAs. The Committee noted that there was no challenge to the evidence of Dr Quelch and no reason to doubt his testimony. You accepted that on six occasions you accessed the 'iSmile' software and changed your colleague's performer number to your own.

Charge 2

2. *On or around 28 February 2022, you denied your conduct at allegation 1 to your employer at [the] practice.*

34. You made a full and unequivocal admission. Your initial denial was detailed in the minutes of the meeting on 28 February 2022 between you, Witness 1 and Witness 2.

Charge 3

3. *Your conduct in respect of allegation 1 was financially motivated.*

35. You made a full and unequivocal admission. You accepted that one of your motives in submitting the UDAs claims was financial as your absences from work had caused you to fall behind on your UDA target. You accepted that you received payment due to colleagues for their UDAs by replacing their performer number with your own. As you were paid by the UDAs completed, by moving claims away from the other practice dentists and attributing them to your own claims, then you earned more money, as you were paid for each individual UDA claimed.

Charge 4

4. *In respect of your conduct at allegation 1 you:*

   a) *inappropriately accessed patient records without clinical justification; and/or*
   b) *created an inaccurate record in respect of approximately 55 patient clinical records; and/or*
   c) *indirectly breached patient confidentiality.*

36. You made a full and unequivocal admission to Charge 4 in its entirety.

37. In respect of Charge 4a), you accept that you accessed the patients' electronic FP17 NHS claims, after the clinical work had been completed by other practice dentists, with the purpose of changing the claiming data. No legitimate reason or any clinical justification for you to access these records has been provided and you were not involved in those patients' dental care.

38. In respect of Charge 4b), your contract stated, *'In respect of all patients attended by the associate at the premises under either private contract or National Health Service arrangements the Associate shall maintain full and accurate books and records of treatment afforded and fees payable'.* You accepted that you altered the accuracy of at least 50 clinical records and probably a further five, by changing the dentist performer number on the claim.

39. In respect of Charge 4c), you accepted that there is evidence that you altered 50 of the patients' claims and possibly a further five, which would be an indirect breach of patient confidentiality. You had no clinical reason to access these records.

Charge 5

5. Your conduct in respect of allegations, 1 and/or 2, and/or 4b) was;

a) Misleading; and/or
b) Dishonest.

40. You made a full and unequivocal admission to Charge 5 in its entirety.

41. Having carefully considered each of the admissions detailed, the Committee took into account that the evidence has not been challenged, and it acknowledged the supporting evidence provided for each of the admitted allegations. As a result, the Committee did not consider there to be any reason not to accept your unequivocal admissions.

42. Accordingly, the Committee accepted your admissions, including Charge 1 as amended, and **found all charges proved** by way of those admissions.

Fitness to practise and sanction

43. At the outset of this case, you, with the benefit of legal advice, made unequivocal admissions to all the matters alleged. This was supported by an 'Agreed Statement of Facts', signed by both parties. As there were various circumstantial matters that the parties wished to explore, the Committee deferred making its decision on the admissions until after evidence was called at Stage 1. Evidence was duly called, and you also gave oral evidence.

44. The Committee then made its findings of fact and decided to accept the unequivocal admissions and found all the facts proved. That decision was announced in public.

45. An issue subsequently arose with Charge 3 - that your conduct in respect of Charge 1 was financially motivated. As there had been an unequivocal admission, supported by the 'Agreed Statement of Facts' and also your reflective statement where you stated, *'I readily accept there was a financial motivation in taking UDAs from my colleagues …',* Charge 3 was not explored at the factual stage, and you were not asked questions about it.

46. At Stage 2, you gave evidence for a second time. On this occasion you were asked about your motivation, and you said words to the effect that because there was a financial element to the UDA claims, you admitted Charge 3, but in fact you were not motivated at any stage for financial reasons. Your motivation was a desire to not have to speak out about why you were underachieving your UDAs, as that would have meant speaking about what was happening in your personal life at the time.

47. This put the Committee in a difficult position. As things stood, the Committee would have to decide the question of misconduct, impairment and, if that stage were reached, sanction, on the basis that your actions were, at least in part, financially motivated. This had the potential to be unfair and unjust if your actions were not in fact financially motivated, as you now contend, and the Committee pondered what to do about that.

48. Mr Morris indicated that he would make an application to withdraw the admission and for the Committee's decision on Charge 3 to be set aside and the matter considered afresh, in light of the new oral evidence you had then given.

49. Ms Manning-Rees, on behalf of the GDC, indicated that any such application would be opposed.

50. Both Mr Morris and Ms Manning-Rees provided the Legal Adviser with written skeleton arguments.

51. Ms Manning-Rees contended that the Committee had no jurisdiction to revisit its decision on the facts now that they had been publicly announced. She relied in particular on the cases of *TZ v General Medical Council* [2015] EWHC 1001 (Admin) and *Juchi v Nursing and Midwifery Council* [2024] EWHC 2825 (Admin).

52. Those skeleton arguments and authorities were not in fact provided to the Committee because Mr Morris no longer pursued his application, in light of the case law provided.

53. The Legal Adviser informed the Committee that there is nothing within the GDC Rules that permits a committee to revisit a decision it has made on the facts. He went on to say:

> *"That is not, however, necessarily definitive.*
>
> *The rules of natural justice are implicit in all regulatory proceedings.*
>
> *The overriding objective, when managing all cases brought before a tribunal, is to ensure that they are dealt with justly, including dealing fairly with the parties, their representatives, and witnesses, and in accordance with the tribunal's duty to be independent, impartial, and transparent.*
>
> *To that end I have already referred the Committee to the case of R (on the Application of Hill) v Institute of Chartered Accountants in England and Wales [2013] EWCA Civ 555. In that case the Court of Appeal provided guidance in relation to the procedural rules of statutory bodies, stating:*
>
> > '…when one is dealing with bye-laws and regulations of professional disciplinary bodies one cannot expect every contingency to be foreseen and provided for. The right question to ask of any procedure adopted should therefore be not whether it is permitted but whether it is prohibited…It must, of course, still be fair…' *(Paragraph 13).*
>
> *I must confess, I had hoped there was a pragmatic solution to prevent a potential injustice occurring in this case. I considered that since the Committee is not prohibited from revisiting its decision on the facts, it might be legitimate and justifiable for it to consider doing so if new facts emerged that were not explored at the time of the original decision and that cast doubt upon the safety of that decision.*
>
> *To that end I also made reference to the case of re L and another (Children) (Preliminary Finding: Power to Reverse) [2013] UKSC 8, [2013] 1 WLR 634 (SC(E), where a Judge in family Court proceedings, who had announced her findings of fact, was found to be entitled to change her mind before the case had concluded. The Court held that the findings at a fact-finding hearing are not set in stone so as to be incapable of being revisited in the light of subsequent developments, for example if further material emerges*

during the final hearing. It was also said that the Judge should seek to resolve such a problem by doing justice in accordance with the overriding objective to deal with cases justly.

However, in that case the Judge's decision had not been drawn up and perfected and this, it seems, is the crucial factor.

Likewise in the case of TZ, it was decided that there was a discretion to revisit the decision, but only because it had not been publicly announced. Once publicly announced, the Judge held, the Rules (and in that case it was the GMC Rules) did not permit the admission of further evidence. He added, "It is of course right that a line must be drawn somewhere. That line is Rule 17(2)(i)."

The GMC's Rule 17(2)(i) is analogous to the GDC's Rule 19(12), namely, 'A Practice Committee shall announce their findings of fact, by reference to the matters mentioned in the notification of hearing, in the presence of the parties.'

This approach was subsequently endorsed in the more recent case of Juchi in 2024, an NMC case where again the relevant Rule is analogous to Rule 19(12). In that case the Judge said, "I doubt the existence of an implied jurisdiction in (certainly) a fact-finding tribunal of limited jurisdiction to receive later material once their fact-finding task is statutorily complete."

The Judge in the Juchi case did identify some very limited instances where a decision may be revisited, but the parties both agree, and I concur, that they do not apply in this case. Save for those very limited circumstances, the Judge made it clear that no jurisdiction applies to support a disciplinary panel admitting new evidence on matters in dispute in the proceedings where the fact-finding hearing is complete. The discretion to admit evidence in the course of those proceedings no longer applies as they are complete.

Finally, I would just say this. Mr Morris has made helpful reference in his skeleton to what occurs in the criminal jurisdiction, and it can often be of assistance to consider the approach taken in criminal cases, but only where the issue has not been definitively answered within the regulatory arena. Since in this instance the issue has been addressed within the regulatory arena, there is no need to look to the criminal system for assistance.

The Committee is functus officio and does not have jurisdiction to revisit its findings of fact, notwithstanding the fact that this may lead to injustice. If it does, then the caselaw makes it clear the Registrant's remedy lies in an appeal."

54. Therefore, the case continued with the parties making their submissions on Stage 2.

55. Following Stage 2 submissions, the Committee retired to make its decisions on the question of misconduct, impairment and sanction, should that stage be reached.

56. The Committee started with considering whether the facts found proved amounted to misconduct. The Committee's approach was to initially consider each proven fact individually. However, the Committee

faced some difficulty when it reached Charge 3. The Legal Adviser had already advised the Committee that it had no power to revisit its decision whereby it found Charge 3 proved.

57. This meant that the Committee had to decide whether your financially motivated conduct in relation to Charge 1 amounted to misconduct. Ordinarily that is not a question that would have detained the Committee for long; stealing from your colleagues for reasons of avarice undoubtedly would fall far below the standard expected of a registered Dental Practitioner.

58. However, having heard oral evidence from you at Stage 2 of the proceedings, the Committee was no longer persuaded that your conduct was financially motivated and was thus unsure how it should proceed. This was a significant issue as your motivation would have an impact on the question of misconduct, current impairment and, if that stage were to be reached, sanction. It could, for example, potentially be the difference between suspension and erasure.

59. Earlier in the proceedings, when advising the Committee that it had no power to revisit its findings of fact, the Legal Adviser reminded the Committee that the rules of natural justice are implicit in all regulatory proceedings. He added that the overriding objective, when managing all cases brought before a tribunal, is to ensure that they are dealt with justly, including dealing fairly with the parties, their representatives, and witnesses, and in accordance with the tribunal's duty to be independent, impartial, and transparent.

60. The Committee was concerned that it would not be able to deal with this case justly in the circumstances in which it found itself. It was not persuaded, in light of the oral evidence heard at Stage 2, that you were financially motivated and yet it had to make decisions based on the presumption that you were. The Committee considered this would be most unfair on you. The Committee considered this to be a difficult situation and, in the spirit of transparency and fairness, therefore considered the possibility of recusing itself. Before doing so the Committee invited representations from the parties.

61. Both parties submitted that it was not necessary for the Committee to recuse itself and that essentially it was a matter of how much weight it attached to the evidence it had heard. When considering its position, the Committee was assisted by the helpful chronology provided by Mr Morris in his skeleton argument as follows:

> 2. *The basis of the admission was included in an agreed statement of facts as follows:*
>
> 'The Registrant would have received payment due to colleagues for their UDA's [sic] by replacing their performer number with her own.
>
> As the Registrant was paid by the UDAs completed, by moving claims away from the other practice dentists and attributing them to her own claims, then she earned more money, as she was paid for each individual UDA claimed.'
>
> …
>
> 3. *Dr Aftab's written evidence in relation to Charge 3 was set out in her Reflective Statement as follows:*
>
> > 'By Summer of 2021 these absences from work had made me fall behind the UDA target which [the Practice] had set me. In this state of mind, I felt the only way I could deal with this shortfall was to take UDAs from my colleagues. I appreciate it makes no sense now, but at the time I wasn't thinking straight.

While I readily accept there was a financial motivation in taking UDAs from my colleagues, this was not the main reason that made me do it. It was more of a feeling that I had to correct the UDA situation. The amount I would have had to repay [the Practice] for missing my UDA target was never an amount that was unmanageable - it was more the fact I was too scared to ask for help or be questioned about underachieving. [PRIVATE], I wasn't thinking straight and this clouded my judgement.

I know I should have taken the honest approach and raised these issues with my employer, [PRIVATE]. I therefore chose to suffer in silence and resorted to actions I am deeply ashamed of.

I also felt there was a lack of confidentiality at [the Practice], whereby if I confided in [Witness 1], the practice manager, or even [Witness 2], the principal, regarding my circumstances, there was a significant risk it would have spread through the practice and all staff would have quickly become aware of my personal circumstances.

[PRIVATE]. The reason I felt this way is because there were many occasions when the practice manager told me about other people's personal lives after they had confided in her, so I felt it would be no different for me.'

3. *At the fact finding Stage 1 Dr Aftab gave evidence but was not questioned about this allegation and her reasons for admitting it.*

4. *The Committee made their Determination on the Facts and in relation to Charge 3 said:*

'You made a full and unequivocal admission. You accepted that one of your motives in submitting the UDAs claims was financial as your absences from work had caused you to fall behind on your UDA target. You accepted that you received payment due to colleagues for their UDAs by replacing their performer number with your own. As you were paid by the UDAs completed, by moving claims away from the other practice dentists and attributing them to your own claims, then you earned more money, as you were paid for each individual UDA claimed.'

5. *At Stage 2 Dr Aftab gave further oral evidence to the following effect. In her oral evidence Dr Aftab responded to questions from* [the Committee]*:*

Q: Please explain what you mean when you say in your Reflective Statement, 'While I readily accept there was a financial motivation in taking UDAs from my colleagues, this was not the main reason that made me do it'.

A: This wasn't the motive behind what I did. I was brainwashed that if I spoke about anything there would be repercussions for me. It was the fear of being questioned about my underachieving (of UDAs). There

was a financial gain. I acknowledged that there was money involved in it.

[…]

A: I put this in (the Reflective Statement) because I thought that I should accept the allegation (of financial motivation) because I didn't want to be seen to be avoiding my financial theft. It didn't much benefit my finances. Maybe I was wrong to say that in my Statement. I would say that I accept that money was involved but there wasn't a financial motive behind it.

Q: Were you concerned that you might have had to pay money back.

A: Not really. [Person A] had finance. If I had to pay money back it wouldn't hurt me.

…

It was the fear that I might be questioned about clawback. Now looking back it is silly. Shortfall and clawback would be the same thing.

In response to the Chair's question as to why she had admitted financial motivation Dr Aftab answered:

A: It was definitely a financial gain. If I had had a financial motivation I would have done it persistently but I did not move any UDAs between September and December 2021. If I was financially motivated I would have carried on the whole time. I say there was no financial motivation but there was financial gain.

62. It was following this evidence that the Committee concluded that it was not persuaded your conduct was financially motivated.

63. On the issue of recusal, the Legal Adviser gave further legal advice and referred to the case of *Magill v Porter* [2001] UKHL 67 and to the test to be applied in deciding whether the Committee was biased and whether it should recuse itself.

64. Having given the matter very careful consideration, the Committee decided that its concern was not so much that it was biased, but rather that it felt unable to deal with the case justly in light of its conclusion about your evidence in relation to what motivated you to submit your colleagues' UDAs as your own. However, in light of the submissions made by both parties that this Committee should continue and not recuse itself and that both parties agreed the Committee could decide what weight to attach to the evidence heard at Stage 2 and act accordingly, the Committee decided not to recuse itself. In so doing, the Committee, for reasons of justice, fairness and transparency, could only proceed on the basis that it was not persuaded you had any financial motivation when submitting UDA claims in your name that had been carried out by your colleagues. The Committee acknowledged that this was contrary to its findings at Stage 1, but considered any other approach would be unjust in all the circumstances.

65. In accordance with Rule 20 of the Fitness to Practise Rules 2006, the Committee heard submissions from Ms Manning-Rees, on behalf of the GDC, and from Mr Morris, on your behalf, in relation to the

matters of misconduct, impairment and sanction. The Committee accepted the advice of the Legal Adviser, which included reference to relevant case law in relation to the matters of misconduct, impairment and sanction.

Evidence

66. The Committee also had regard to further documentary evidence submitted at this stage, which consisted of the following documents:

- Testimonials and references provided on your behalf; and
- Continuing Professional Development (CPD) certification, dated between 6 and 11 July 2023.

67. You also provided further oral evidence under affirmation.

Submissions

68. Ms Manning-Rees, on behalf of the GDC, submitted that your behaviour is plainly sufficiently serious to cross the line from misconduct to serious misconduct. In this regard, she referred to the GDC document, *'Standards for the Dental Team (2013)'*, referred to hereafter as 'the Standards', and indicated where the GDC considered that you had breached those Standards.

69. On the matter of impairment, Ms Manning-Rees outlined the GDC's submissions and invited the Committee to find that your fitness to practise is currently impaired. When considering your insight, Ms Manning-Rees submitted that you have at this hearing informed the Committee that whilst you initially admitted there was a financial motivation behind your conduct, you have since relied on your personal circumstances at the relevant time as the leading factor and that your actions were not financially motivated, although you accept there was financial gain. In this regard, Ms Manning-Rees submitted that your insight is not fully developed and invited the Committee to find that your fitness to practise is currently impaired and that public confidence in the profession and the GDC as its regulator would be undermined if the conduct in this case were not marked by a finding of current impairment.

70. In relation to sanction, Ms Manning-Rees informed the Committee that the GDC seeks erasure in this case. She stated that your financially motivated and dishonest conduct falls at the highest end of the spectrum of allegations of this kind. She submitted that if the Committee were not with her, 12 months' suspension, with a review, would address the public interest in this case. Ms Manning-Rees confirmed that you have no adverse fitness to practise history.

71. Mr Morris, on your behalf, submitted that you readily accept that your conduct fell far below the Standards and accepted that this amounts to statutory misconduct. He stated that you recognise that dishonesty is amongst the gravest aspects of misconduct.

72. In its consideration of impairment, Mr Morris provided the Committee with a number of mitigating features in order to assist with its decision-making, including your personal circumstances at the material time. He referred the Committee to the positive references and testimonials provided on your behalf that speak to the confidence your employers and colleagues have in you as a practitioner and the steps you have taken to remediate your previous behaviour. Mr Morris informed the Committee that you accept that a finding of impairment on the ground of public interest is required as a result of the seriousness of the misconduct, and not as a result of any absence of insight or failure to remediate your conduct. He submitted that there is no evidence of deep-seated personal or professional attitudinal problems and that the risk of repetition in a professional context is now insignificant.

73. On the matter of sanction, Mr Morris informed the Committee that you accept that a non-restrictive sanction is inadequate in the circumstances of this case. Similarly, he stated that you accept that conditional registration is inappropriate and that a more serious sanction is required.

74. Therefore, Mr Morris submitted that a period of suspension is appropriate, and this would meet the requirement the Committee has to discharge its public duty to protect the public and meet any public interest concerns. Mr Morris submitted that you have taken effective remedial action, that you have engaged fully with the GDC's investigation and with this hearing. He reminded the Committee of the need to return clinically good and competent dentists to practice as soon as possible and therefore there was no need to impose the maximum period of 12 months and no need for a review, given the level and effectiveness of the remedial action taken and the insignificant risk of repetition of this behaviour.

Decision and reasons on misconduct

75. The Committee acknowledged that misconduct was defined, in the case of *Roylance (No. 2) v General Medical Council [2000] AC 311* as, '*…a word of general effect, involving some act or omission, which falls short of what would be proper in the circumstances with the standard of propriety often being found by reference to the rules and standards ordinarily required to be followed by a [registrant] in the particular circumstances*.' It also bore in mind that, in the case of *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), misconduct has also been referred to as '*conduct which would be regarded as deplorable by fellow practitioners*.'

76. In considering whether the admitted facts amount to misconduct, the Committee had regard to the following principles from the Standards, in particular:

Principle 1
Put patients' interests first

Standard 1.3: *You must be honest and act with integrity*

Principle 4
Maintain and protect patients' information

Standard 4.2: *Protect the confidentiality of patients' information and only use it for the purpose for which it was given.*

Principle 9
Make sure your personal behaviour maintains patients' confidence in you and the dental profession

Standard 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*

Standard 9.2: *Protect patients and colleagues from risks posed by your health, conduct or performance*

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

77. The Committee was mindful of the principle that not every departure from required standards will be sufficiently serious to amount to misconduct. The Committee bore in mind that in order to meet that threshold, the failure ought to be of a kind likely to be regarded as 'deplorable' by fellow members of the profession and therefore looked at the conduct in each of the admitted charges individually in this context.

78. In respect of Charge 1, the Committee bore in mind that for a period of eight months, between July 2021 and February 2022, on six occasions, you submitted approximately 116 UDA claims in your name to claim for treatment that had been carried out by your colleagues. The Committee noted that this resulted in a financial gain of approximately £1447. Your conduct directly affected your colleagues and resulted in a financial loss to them. In this regard, the Committee determined that you had breached Standard 1.3, Standard 9.1 and Standard 9.2. The Committee noted that Dr Quelch, the GDC's expert, stated:

> *'…in my opinion, the Registrant's conduct has fallen short of the standards which the public and profession are reasonably entitled to expect from a dental practitioner. This failure is a gross or significant departure from the standard expected and represents a standard that is far below.'*

79. The Committee agreed with Dr Quelch and found this behaviour amounted to misconduct.

80. In respect of Charge 2, the Committee noted that when this matter was raised with you at a meeting on 28 February 2022, you were dishonest in that you denied that you had moved the UDAs until Witness 2 explained as you had worked for him for a few years and knew he is *'a lenient man'*, that you could talk to him and that he wanted to give you the opportunity to tell him the truth. At this point you admitted that you had purposely moved the UDA claims. Notwithstanding that your denial was temporary and short-lived, the Committee considered that lying to your employer about having moved UDAs from your colleagues to yourself breached Standard 1.3 and Standard 9.4 and was sufficiently serious to amount to misconduct.

81. In respect of Charge 3, as set out above, the Committee noted that in your reflective statement, you stated, *'While I readily accept there was a financial motivation in taking UDAs from my colleagues, this was not the main reason that made me do it. It was more of a feeling that I had to correct the UDA situation.'* However, in your oral evidence, you stated that money was not a concern to you and that your motivation for your actions was because you had concerns that you would be questioned about clawback and failing to meet your targets. This would have required you to explain the reasons why you had been taking time off work and thereby fallen behind on your UDAs. The Committee believed the reasons you gave for taking time off work [PRIVATE]. Having seen you and heard your oral evidence at Stage 2 and having explored your motivation in some detail, the Committee accepted your explanation for your conduct and not that you were motivated by financial gain. As a result, it would be unfair to make a finding of misconduct in respect of this charge as there is further evidence before the Committee that has dissuaded it that there was financial motivation and it would be contrary to natural justice to make such a finding.

82. In respect of Charge 4a) and 4b), you accessed patients records without a clinical justification to do so and created inaccurate records for approximately 55 patients which the Committee considered to be a serious breach of patient confidentiality and professional ethics. The Committee noted Dr Quelch's evidence that:

'Dental professionals have a responsibility to maintain and protect patient confidentiality. GDC standards set out requirement for dental professionals including their duty to maintain patient confidentiality: -

'Maintain and protect patients' information'

Dentists are also expected to comply with laws such as the UK Data Protection Act 2018 and the General Data Protection Regulations (GDPR) which mandate the protection of personal data and patient information.

The investigation carried out by the practice established that the Registrant accessed the patients electronic FP17 NHS claims, after the clinical work had been completed by other practice dentists, with the purpose of changing the claiming data. No reason or any clinical justification for the Registrant to access these records has been provided and she was not involved in those patients' dental care. Accessing records without a valid clinical reason is a breach of confidentiality and professional standards.

…

If there was no clinical justification for the Registrant to access the records, the only purpose of accessing the records was to change the claiming data. This is a breach of the regulations and GDC standards covering patient confidentiality and represents a failure that is far below that what is expected of a registered dental professional.'

83. The Committee was therefore satisfied that having no clinical justification for accessing and amending patients' records, you had breached Standard 4.2 and GDPR regulations for the sole purpose of amending the UDA claiming data and agreed with Dr Quelch that this fell far below the standard expected of a registered dentist.

84. In respect of Charge 4c), the Committee accepted Dr Quelch's evidence that:

'An indirect breach of patient confidentiality occurs when information is accessed and breached but not with the direct intention of disclosing personal or medical information about that patient. In this case, the patient's medical or personal information has not been shared with another body or person, however the record has been accessed without a viable reason.

…

There is evidence that the Registrant altered 50 of the patient's claims and possibly a further 5, which would be an indirect breach of patient confidentiality. If the Registrant had no clinical reason to access these records, this represents a failure that is far below that of what is expected of a reasonable registered dental professional.'

85. The Committee determined that a breach of patient confidentiality, whether direct or indirect, without any clinical justification for doing so breached Standard 4.2 and agreed with Dr Quelch that such conduct fell far below what is expected of a reasonable and competent dentist and therefore Charge 4, in its entirety, amounted to misconduct.

86. In respect of Charge 5a), the Committee took into account that there are three distinct aspects of your conduct: submitting your colleagues' UDAs as your own; denying your involvement when questioned by

the Practice; and creating inappropriate records. The Committee considered that these actions would have misled a number of people, including your colleagues, the Practice, the NHSBA, and potentially patients should they ever request access to their clinical records. The Committee conclude that you breached Principle 1 and failed to put patient interests first. It also considered that you had breached Principle 9 in that you did not ensure that your personal behaviour maintained patients' confidence in you and the dental profession.

87. In respect of Charge 5b), the Committee assessed the seriousness of your dishonest conduct. It noted that patients, employers, colleagues and the public should be able to rely on a dental professional's honesty and trustworthiness. Dishonesty, particularly when associated with professional practice, is highly damaging to the dental professional's fitness to practise and to public confidence in the profession. The Committee determined that whilst the treatment for the UDAs had been carried out, they were paid to the wrong practitioner and that you falsified patient records to reflect that you had undertaken treatment that you had not. It also took into account that you attempted to cover-up your wrongdoing by moving claims back to colleagues and that, when questioned, you initially denied any knowledge of the allegations. Therefore, the Committee concluded that this was sufficiently serious to amount to serious misconduct.

88. Accordingly, the Committee was satisfied that the facts found proved, individually (save for Charge 3) as well as collectively, were sufficiently serious departures from the relevant standards and amounted to serious professional misconduct.

Decision and reasons on impairment

89. In its consideration of impairment, the Committee bore in mind the advice of the Legal Adviser who reminded the Committee that it is concerned with current impairment of fitness to practise. It took into account that it is not sufficient to find that your fitness to practise was impaired at the time that the matters found proved took place, but that it must be found that your fitness to practise is impaired as of today.

90. The Committee noted that risk to the public is not the only consideration and there are public interest factors to be considered as well, as made clear by the observations of Cox J in Council for *Healthcare Regulatory Excellence v (1) NMC & (2) Grant* [2011] EWHC 927, who, at paragraph 74, stated:

> *'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

91. In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/their fitness to practise is impaired in the sense that (s)he:*
>
> *a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
> *b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
d) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

92. The Committee first considered whether your conduct was likely to be repeated in the future and was assisted by the guidance provided by Silber J in *Cohen v General Medical Council* [2008] EWHC 581:

> *'It must be highly relevant in determining if a [registrant's] fitness to practise is impaired that first, his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated.'*

93. The Committee accepted that dishonest conduct, whilst difficult to remediate, is capable of remediation. The Committee noted that it must determine where on the spectrum of seriousness your dishonesty lies and this decision can be assisted by the consideration of a number of factors, including the context, the particular circumstances of the misconduct, and your conduct before and since.

94. The Committee acknowledged that you have fully engaged and cooperated with the GDC process, have paid all money back to those affected by your conduct in full and made a formal apology by way of email to your colleagues and to the Practice. The Committee noted that you have made full admissions to the allegations at the outset of the hearing.

95. In its consideration of remediative steps, the Committee acknowledged that you have made attempts to remediate your conduct by way of participation in a number of online Continuing Professional Development (CPD) courses covering topics including *'Being Open / Duty of Candour'*, *'Legal and Ethical (Course 2): Philosophical and Sociological Principles of Dental Ethics'*, *'Legal and Ethical (Course 3): Ethical Codes for Trusting Professional Relationships with Patients'*, *'Legal and Ethical (Course 4): Ethical Codes for Social Responsibilities of Dental Professionals'*, *'Legal and Ethical (Course 5): Ethical Values for Relationships with Colleagues'*, and '*Teamwork'* in July 2023. Whilst the Committee commended you for your attempt to address your conduct by way of CPD, it did not consider that dishonesty, unlike clinical failings, could be sufficiently addressed by way of CPD learning.

96. The Committee took account of the positive references and testimonials provided by your employers and colleagues, in particular from the owner of the dental practice where you currently work. Those references confirmed that you are a good practitioner who has acted honestly and with integrity during your employment since these allegations arose. The Committee also considered your documentary and oral evidence that, when faced with a similar situation in 2024, where you said you had underachieved your UDA target by a significant amount but that you had worked with your employer to ensure that all underachieved UDAs were paid back in full over a period of time and working extra shifts where possible to address the shortcomings. In other words, when faced with a similar situation, subsequent to your conduct at Practice, you did not resort to dishonest means but instead felt able to speak with your employer to seek a solution. This demonstrated to the Committee that you can now respond appropriately in such a situation and avoid repeating your dishonest conduct. The Committee further considered your assertions that on a separate occasion in 2024, you had contacted your employer regarding your UDA target as you felt it was unrealistic and unachievable and spoke with your employer about reducing your target, without having to disclose any personal circumstances. You subsequently resigned when a sufficient reduction could not be agreed. This again demonstrated to the Committee that, when faced with a similar situation in future, you would act differently.

97. In its consideration of insight, the Committee carefully considered the details provided regarding your personal circumstances between July 2021 and February 2022. The Committee accepted your

explanation, which was supported by documentary evidence [PRIVATE] which demonstrated the reason requiring you to take time off work. You were concerned you would not meet your UDA targets and did not wish to disclose the reasons to your employer or colleagues. You stated in your reflective statement that:

> [PRIVATE] *'… I wasn't thinking straight and this clouded my judgement.*
>
> *I know I should have taken the honest approach and raised these issues with my employer [PRIVATE].*
> …
>
> *'In hindsight, I understand that the mature approach would have been to address my concerns with [Witness 2] or [Witness 1] without necessarily disclosing my personal circumstances and going forward this is what I have and will do, whenever I have an issue regarding targets or UDA.*
> …
>
> *I can assure the Committee I deeply regret what I did and wish to further assure you that I am committed to taking the honest course in the future.*
> …
>
> *I understand that my actions were wrong, caused distress to my colleagues involved and reflected negatively on myself, personally and professionally.*
>
> *I agree with the GDC guidance on sanction which says that* 'patients, employers, colleagues and the public should be able to rely on a dental professional's honesty and trustworthiness. Dishonesty, particularly when associated with professional practice, is highly damaging to the dental professional's fitness to practise and to public confidence in the profession.'
>
> *I take full responsibility for what happened and hope the Committee can accept how remorseful I am.*
>
> *I would like to assure the Committee that I have learnt from my serious mistakes and am committed to not repeating them in the future.*
>
> *When I meet problems and difficulties in the future I will not try to solve them on my own. I will tell colleagues, friends and family about them and ask their advice. Finally, in any event I will always, at whatever cost and however painful, always deal with them honestly, and I can assure the Committee I have been doing this.'*

98. The Committee was satisfied that you have not sought to minimise your actions and have since demonstrated sufficient insight and remorse that demonstrates your understanding of the impact your actions had, not only on your colleagues, but also for the wider profession and on the public perception of you as a practitioner.

99. The Committee noted what remediative steps you have taken to negate the risk of repetition in the future. You stated that you would not repeat your misconduct as your family and friends are fully aware of your previous personal circumstances. [PRIVATE], you assured the Committee that you would speak directly with your employer and would engage the support of your friends and family in dealing with any absences from work or any shortfall in your UDA target, as evident in 2024.

100. In the Committee's judgement, you have remediated as fully as you are able and there is a low risk of repetition of similar conduct in the future. Therefore, a finding of impairment is not necessary on the ground of public protection.

101. The Committee bore in mind its overarching objective to maintain public confidence in the profession and to uphold standards. It concluded that your actions had brought the profession into disrepute and breached a fundamental tenet of the profession, to act with honesty and integrity. In this regard, the Committee considered that a fair-minded and fully informed member of the public would expect a finding of impairment, notwithstanding the steps you have taken to remediate your previous actions, [PRIVATE]. It concluded that public confidence would be undermined in the profession, and in the GDC as its regulator, if a finding of impairment were not made in a case where a registrant deliberately and dishonestly moved UDAs from other colleagues to themselves six times over a period of eight months, concealed their actions and then initially denied the allegation.

102. In this regard, the Committee determined that your fitness to practise is impaired on the ground of public interest.

Decision and reasons on sanction

103. In coming to its decision on sanction, the Committee considered what action, if any, to take in relation to your registration. It took into account the GDC's document *'Guidance for the Practice Committees, including Indicative Sanctions Guidance 2016*' (revised December 2020), referred to hereafter as 'the ISG'. The Committee acknowledged its purpose to protect the public interest, which includes amongst other things maintaining public confidence in the dental profession; upholding the reputation of the dental professions; and declaring and upholding appropriate standards of conduct and competence among dental professionals. The Committee reminded itself that any sanction imposed must be proportionate, weighing the interests of the public with your interests, and appropriate. The Committee bore in mind that although not intended to be punitive, sanctions may have that effect.

104. The Committee took into account the following mitigating features:

- *Evidence of the circumstances leading up to the incident in question, [PRIVATE];*
- *Evidence of good conduct following the incident in question, as evidenced by the positive references from your current employer;*
- *Evidence of previous good character with no previous adverse fitness to practise;*
- *Evidence of remorse shown and apologies to your colleagues and to the Practice and a full repayment of financial losses to colleagues;*
- *Evidence of considerable insight, including your full admissions to the GDC;*
- *Evidence of steps taken to avoid a repetition, notably the similar situation you faced in 2024; and*
- *Time elapsed since the incident.*

105. The Committee also took into account the following aggravating features:

- *Premeditated misconduct that included accessing patients' records and*
- *Financial gain to the sum of approximately £1447;*
- *Breach of trust between patients, colleagues and your employer;*
- *Dishonest misconduct repeated six times over a period of eight months; and*
- *Attempts to cover up wrongdoing in moving UDAs to other colleagues.*

106. 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.

107. 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 in this case. The Committee did not consider your dishonest conduct to be at the lower end of the spectrum and therefore it would be neither proportionate nor in the public interest to allow you to practise without some form of restriction in place.

108. The Committee next considered whether placing conditions on your registration would be a sufficient and appropriate response. The Committee considered the ISG, which states conditions may be suitable where most of the following factors are present:

- *There are discrete aspects of your practice that are problematic;*
- *Any deficiencies are not so significant that patients will be put at risk directly or indirectly as a result of continued – albeit restricted – registration;*
- *You have shown evidence of insight and willingness to respond positively to conditions;*
- *It is possible to formulate conditions that will protect the public during the period they are in force.*

109. The Committee was of the view that this is not a clinical case and there are no practical or workable conditions that could be formulated given the nature of the misconduct identified, namely your dishonesty. It took into account that it has found that there is a low risk of repetition, and it did not make a finding of impairment on the ground of public protection. Having carefully considered the public interest concerns already identified, it did not consider that conditional registration would adequately address the public interest in this case.

110. The Committee then went on to consider whether a suspension would be the appropriate sanction. The ISG states suspension may be suitable where most of the following factors are present:

- *There is evidence of repetition of the behaviour;*
- *You have not shown insight and/or poses a significant risk of repeating the behaviour;*
- *Patients' interests would be insufficiently protected by a lesser sanction;*
- *Public confidence in the profession would be insufficiently protected by a lesser sanction;*
- *There is no evidence of harmful deep-seated personality or professional attitudinal problems.*

111. The Committee found that there is no evidence of repetition of the dishonest conduct since February 2022 and you have demonstrated sufficient insight to mitigate against repetition in the future. It was satisfied that your misconduct was in the context of your difficult personal circumstances at that time and that there is no evidence that your misconduct resulted from a deep-seated personality or professional attitudinal problem. The Committee has not identified any ongoing public protection concerns but was satisfied that the public interest in this case would be insufficiently addressed by a less restrictive sanction and that public confidence in the profession, and in the GDC as its regulator, would be negatively impacted by a lesser sanction.

112. The Committee did go on to consider erasure, taking into account all of the information before it, including the mitigation provided. It acknowledged that there was a serious departure from the relevant professional standards that included serious dishonesty, that occurred on six occasions extending over a period of eight months. It noted that your initial short-lived denials were followed by full admissions, a formal apology to your colleagues, and a full repayment to those concerned. The Committee was satisfied

that you have demonstrated sufficient insight into your conduct and have fully acknowledged the seriousness of your misconduct.

113. The Committee was therefore satisfied that the misconduct in this case was not fundamentally incompatible with remaining on the register. It determined that to remove you from the Register would be disproportionate in the specific circumstances of this case. Whilst the Committee acknowledged that a suspension may have a punitive effect, it would be unduly punitive to direct erasure at this time.

114. Balancing all these factors, the Committee directs your registration be suspended for the maximum period of 12 months. This is necessary in order to mark the seriousness of the misconduct and to maintain and uphold public confidence in the profession, whilst sending the public and the profession a clear message about the standards of conduct required of a dentist.

115. The Committee noted the hardship the suspension may cause you, however this is outweighed by the public interest in this regard.

116. The Committee directed that, as your fitness to practise is impaired on the ground of public interest alone, there is no requirement for a review of the suspension before its expiry and that the suspension order is sufficient to mark the seriousness of the misconduct and to make it clear to fellow professionals and the public that such conduct is unacceptable and must not be repeated.

Immediate order

117. The substantive suspension order 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 you.

Submissions

118. In this regard, Ms Manning-Rees, on behalf of the GDC, made an application for an immediate suspension to be imposed on your registration. She submitted that public confidence would be seriously undermined in the profession and the GDC as its regulator if you were permitted to practise without restriction until the substantive suspension order comes into effect.

119. Mr Morris, on your behalf, submitted that an immediate order is not necessary in this case and referred the Committee to the ISG, in particular paragraph 6.38. He stated that, in line with the Committee's findings on impairment, an immediate order is not necessary to protect the public. He referred the Committee to its reasons for imposing the substantive order and submitted that it would be unnecessary and disproportionate to extend the 12 month suspension order imposed by the Committee for a period of at least one month to cover the appeal period.

Committee's decision

120. Having carefully considered the submissions made by both parties, the Committee concluded that an immediate order is not required in this case. It was satisfied that there is a low risk of repetition of previous conduct and there are no residual public protection concerns. In having imposed a 12 month suspension order, the Committee noted that to impose an immediate order would effectively extend the order by a period of at least one further month which would be disproportionate and unnecessarily punitive in this case and does not meet the necessity test outlined in the ISG. The Committee is satisfied that the 12 month suspension order addresses the public interest in this case.

121. Therefore, the Committee determined that an immediate order is not necessary for the protection of the public and there is no requirement for an immediate order in the public interest.

122. This will be confirmed to you in writing in accordance with the Act.

123. That concludes this determination.