

HEARING HEARD IN PUBLIC

SHARMA, AJESH RAJIN

Registration No: 85846

PROFESSIONAL CONDUCT COMMITTEE

MARCH 2021

Outcome: Erased with Immediate Suspension

SHARMA, Rajesh Rajni, a dentist, BDS University of Sheffield 2005, was summoned to appear before the Professional Conduct Committee on 22 February 2021 for an inquiry into the following charge:

Charge

"That, being a registered dentist,

1. Between January 2008 and May 2015 you were practising in general dentistry as the owner and principal of the dental practice described in Schedule C¹.
2. You provided care and treatment to the child patients set out in Schedule A.

Clinical Care Concerns

Caries Detection

3. You failed to adequately monitor or record monitoring of caries by way of bitewing radiographs as set out in Schedule 1 in respect of the following patients:
 - (a) Patient 4;
 - (b) Patient 8;
 - (c) Patient 9;
 - (d) Patient 10;
 - (e) Patient 11;
 - (f) Patient 14;
 - (g) Patient 16;
 - (h) Patient 19;
 - (i) Patient 21;
 - (j) Patient 23;
 - (k) Patient 24.

¹ All Schedules are private documents which cannot be disclosed

Preventative Care

4. You failed to provide or record the provision of appropriate caries preventative care including the provision of topical fluoride as set out in Schedule 2 in respect of the following patients:
- (a) Patient 1;
 - (b) Patient 2;
 - (c) Patient 4;
 - (d) Patient 8;
 - (e) Patient 9;
 - (f) Patient 10;
 - (g) Patient 11;
 - (h) Patient 14;
 - (i) Patient 15;
 - (j) Patient 16;
 - (k) Patient 17;
 - (l) Patient 19;
 - (m) Patient 20;
 - (n) Patient 21;
 - (o) Patient 23;
 - (p) Patient 24.

Substandard Restorations

5. You failed to provide an adequate standard of restoration as set out in Schedule 4 to the following patients:
- (a) Patient 1;
 - (b) Patient 2;
 - (c) Patient 4;
 - (d) Patient 9;
 - (e) Patient 10;
 - (f) Patient 11;
 - (g) Patient 14;
 - (h) Patient 15;
 - (i) Patient 16;
 - (j) Patient 17;
 - (k) Patient 19;

- (l) Patient 21;
- (m) Patient 23;
- (n) Patient 24.

Record Keeping – Local Anaesthetic

6. You failed to maintain complete and accurate patient records in that you did not record the use or refusal of Local Anaesthetic as set out in Schedule 5 for the following patients
- (a) Patient 8;
 - (b) Patient 9;
 - (c) Patient 10;
 - (d) Patient 11;
 - (e) Patient 14;
 - (f) Patient 16;
 - (g) Patient 19;
 - (h) Patient 21;
 - (i) Patient 23.

Record Keeping - Dates Treatment Provided

7. You failed to maintain complete and accurate patient records in that you did not clearly and/or accurately record the dates upon which treatment was completed as set out in Schedule 6 for the following patients:
- (a) Patient 1;
 - (b) Patient 2;
 - (c) Patient 4;
 - (d) Patient 8;
 - (e) Patient 9;
 - (f) Patient 10;
 - (g) Patient 11;
 - (h) Patient 14;
 - (i) Patient 15;
 - (j) Patient 16
 - (k) Patient 17;
 - (l) Patient 19;
 - (m) Patient 20
 - (n) Patient 21;
 - (o) Patient 23;

- (p) Patient 24.

Probity Concerns

8. Between February 2012 and January 2014 you caused or permitted claims to be made in your name for Units of Dental Activity (“UDAs”) under Band 3 of the National Health Service General Dental Services Contract as set out in Schedule B.

Composite “Veneers”

9. In respect of the following claims you caused or permitted a Band 3 claim to be made when the treatment provided was a non-laboratory fabricated veneer and a Band 2 treatment:
- (a) Patient 2 and Claim 7;
 - (b) Patient 15 and Claim 31;
 - (c) Patient 20 and Claim 45;
 - (d) Patient 21 and Claim 49.
10. Your conduct as set out above at 9:
- (a) was inappropriate;
 - (b) lacked integrity, in that you failed to ensure your claims complied with the relevant regulations;
 - (c) was dishonest, in that you sought to obtain additional UDAs to which you knew you were not entitled.

Composite “Inlays”

11. In respect of the following claims you caused or permitted a Band 3 claim to be made when the treatment provided was a chairside fabricated (non-laboratory) composite restoration and a Band 2 treatment:
- (a) Patient 1 and Claim 2;
 - (b) Patient 4 and Claim 9;
 - (c) Patient 4 and Claim 10;
 - (d) Patient 8 and Claim 11;
 - (e) Patient 9 and Claim 16;
 - (f) Patient 9 and Claim 17;
 - (g) Patient 9 and Claim 18;
 - (h) Patient 10 and Claim 20;
 - (i) Patient 10 and Claim 22;
 - (j) Patient 11 and Claim 24;
 - (k) Patient 11 and Claim 25;
 - (l) Patient 14 and Claim 28;
 - (m) Patient 14 and Claim 29;

- (n) Patient 16 and Claim 34;
 - (o) Patient 16 and Claim 35;
 - (p) Patient 16 and Claim 36;
 - (q) Patient 17 and Claim 37;
 - (r) Patient 17 and Claim 38;
 - (s) Patient 17 and Claim 39;
 - (t) Patient 19 and Claim 40;
 - (u) Patient 19 and Claim 42;
 - (v) Patient 23 and Claim 52;
 - (w) Patient 23 and Claim 53;
 - (x) Patient 24 and Claim 56;
 - (y) Patient 24 and Claim 57.
12. Your conduct as set out above at 11:
- (a) was inappropriate;
 - (b) lacked integrity, in that you failed to ensure your claims complied with the relevant regulations;
 - (c) was dishonest, in that you sought to obtain additional UDAs to which you knew you were not entitled.

Failures to Co-operate

NHS

13. From about March 2013 to about May 2015 you failed to adequately co-operate with an NHS Swindon Primary Care Trust investigation into your claiming in that you behaved in a way that was difficult and obstructive including in your communications with Person A (identified in Schedule C).
14. From about May 2015 to December 2015 you failed to adequately co-operate with NHS Counter Fraud (formerly NHS Protect) in that:
- (a) on 5 May 2015 when representatives of NHS Counter Fraud attended your practice you initially denied being Dr Sharma;
 - (b) between September 2015 and December 2015 you failed to facilitate a meeting with NHS Counter Fraud;
 - (c) from about November 2015 you ceased to respond to communications from NHS Counter Fraud.

GDC

15. From about May 2016 in respect of the General Dental Council ('GDC'):
- (a) you failed to keep your registration details, including your registered address, up to date;

- (b) you repeatedly failed to respond to communications sent by or on behalf of the GDC;
- (c) you failed to provide evidence of indemnity cover when requested to do so by email dated:
 - 1. 26 June 2018;
 - 2. 14 November 2018;
- (d) you failed to respond to a request for patient records sent by email on 14 November 2018.

Practising whilst Suspended

- 16. You knew or ought to have known you were suspended from practice by the Interim Orders Committee ("IOC") of the General Dental Council ("GDC") at an IOC hearing on 7 November 2018.
- 17. You worked as a dentist whilst suspended between 12 November 2018 and 15 November 2018 at Dental Practice B identified in Schedule C of the charge.

And that, by reason of the facts alleged, your fitness to practise is impaired by reason of your misconduct."

As Mr Sharma did not attend and was not represented at the hearing, on 22 February 2021 the Chairman made the following statements regarding preliminary matters. He addressed this to the Counsel for the GDC.

Preliminary Matter - Decision on Adjournment (22 February 2021)

"This is the Professional Conduct Committee's inquiry into the facts which form the basis of the allegation against Mr Sharma that his fitness to practise is impaired by reason of his misconduct. Mr Sharma did not attend the hearing and was not represented. Ms Lydia Barnfather of Counsel presented the General Dental Council's (GDC) case. All parties attended remotely via Microsoft Teams video-link in line with the GDC's current guidance.

At the outset of the hearing, Ms Barnfather informed the Committee that Mr Sharma had sent several emails to the GDC since 19 February 2021 and had requested that the hearing be adjourned. On 19 February 2021, Mr Sharma emailed the GDC and stated, "*I have already contacted a Solicitor before, and will do so again if I believe I have been unfairly treated*". On 20 February 2021, Mr Sharma emailed the GDC and wrote, "*if the GDC give me more time to respond, I will participate in a PCC hearing and contact my Dental Indemnity Provider about this, and I would also like to participate in this Case. I do not wish to be unfairly treated*". On 21 February 2021, Mr Sharma emailed the GDC again asking for confirmation of receipt of, "*my request for adjournment of this case to allow my participation with representation*". On 22 February 2021, before the hearing was due to commence, Mr Sharma received the Microsoft Teams link and was invited to participate in the hearing but stated in response that, "*due to prior commitments I am not available to do that*".

Ms Barnfather, on behalf of the GDC, robustly opposed the application. She provided the Committee with the background to the case and submitted that Mr Sharma has previously engaged in a pattern of behaviour of not co-operating with investigations into his conduct by

the NHS Primary Care Trust (PCT) and NHS Counter Fraud Services (NHS CFS). This included Mr Sharma's failure to attend an interview under caution with NHS CFS. She submitted that the GDC has encountered similar difficulties and that Mr Sharma has only communicated sporadically during its investigation. She further submitted that until Mr Sharma's recent communications with the GDC, which began on 19 February 2021, he had previously stated that he did not want to participate in the hearing. She also submitted that it seems Mr Sharma has only been provoked into communicating with the GDC recently after an Inquiry Agent, employed by the GDC, had tracked him down at a new residential address. Ms Barnfather informed the Committee that Mr Sharma has been aware of these matters for a number of years and the GDC has repeatedly advised him to contact his indemnity providers. She submitted that Mr Sharma has given no indication previously that he wished to contact his indemnity providers with regard to this matter.

Ms Barnfather submitted that Mr Sharma has been provided with the Microsoft Teams link to join the hearing but has stated that he was unavailable to join owing to prior commitments. She further submitted that the GDC had attempted to contact Mr Sharma at his registered postal address, at four email addresses and by calling him using two telephone numbers, but it received no response. However, she informed the Committee that Mr Sharma had no difficulty in communicating with the GDC in relation to his four applications for voluntary removal from the dentists register. Ms Barnfather also stated that Mr Sharma would have been aware of the interim order being imposed on his registration in November 2018. Therefore, she submitted, it was inexplicable that he has failed to communicate with the GDC in relation to this hearing and failed to contact his indemnity providers.

In conclusion, Ms Barnfather submitted that Mr Sharma has deliberately failed to co-operate with the GDC's investigation and has failed to contact his indemnity providers despite being repeatedly advised by the GDC to do so. She submitted that the Committee should bear in mind the issue of fairness to Mr Sharma, but this should be considered against the background of his failure to co-operate with the GDC previously. She informed the Committee that Mr Sharma can attend this hearing if he wishes to and produce evidence. She also stated that matters are already stale and five witnesses are scheduled to attend. She concluded by stating that in all the circumstances it is overwhelmingly in the public interest to proceed with the hearing today.

Decision

The Committee took into account the emails provided by Mr Sharma and the submissions made by Ms Barnfather on behalf of the GDC. It has accepted the advice of the Legal Adviser and has considered the relevant case law.

The relevant statutory provisions for the Committee to consider are:

Rule 58 of the General Dental Council (Fitness to Practise) Rules 2006 (the Rules) provides:

"Postponement and adjournments

(4) In considering whether or not to grant a request for postponement or adjournment, a Committee shall, amongst other matters, have regard to—

(a) the public interest in the expeditious disposal of the case;

(b) the potential inconvenience caused to a party or any witness to be called by that party; and

(c) fairness to the respondent.”

In making its decision, the Committee noted the reasons provided by Mr Sharma for requesting an adjournment, which essentially were that he needed more time to obtain legal representation and to consult with his indemnity providers. However, the Committee also considered the background to this case and noted that Mr Sharma has been aware of these matters for several years, that he has been aware of the date of this hearing for some time and has been given the statutory 28 days’ notice of this hearing. The GDC case was fully disclosed to him by November 2019. The Committee also noted that Mr Sharma has previously not co-operated with investigations into his conduct by NHS CFS and the PCT. The Committee further noted that Mr Sharma has not engaged with the GDC until very recently and he had previously informed the GDC that he did not wish to attend this hearing. It considered that Mr Sharma has continually displayed a pattern of behaviour that was evasive with regard to investigations into his conduct. The Committee also had regard to Mr Sharma’s email in which he stated he could not attend the hearing owing to a previous commitment, but noted that he has provided no further information or evidence about this commitment or how long it is for given that this is a two week listing. He has also provided no reasons why this commitment could not be changed.

The Committee had regard to the public interest and the expeditious disposal of this hearing. It noted that the GDC’s case involved a lot of documentation and had taken time to prepare. It also noted that witnesses, on behalf of the GDC, were ready to attend and give evidence. The Committee also considered the consequences of adjourning the hearing. It noted that there could be no guarantee that the hearing would be listed for an early date and this could impact on the witnesses’ availability and their ability to recall the events in question. The Committee was further aware of the potential stress that witnesses could experience when giving evidence at a PCC hearing and the potential inconvenience to them if the hearing were to be adjourned. The Committee was also satisfied that an adjournment was not likely to guarantee Mr Sharma’s future attendance owing to his previous behaviour of not co-operating with investigations into his conduct.

The Committee therefore decided not to adjourn the hearing.”

Preliminary Matter - Decision on Service of the Notice of Hearing and on Proceeding in the Registrant’s Absence (22 February 2021)

“Following the Committee’s decision not to grant Mr Sharma’s application for adjournment, it then proceeded to consider whether notice of the hearing had been served on Mr Sharma in accordance with the General Dental Council (Fitness to Practise) Rules 2006 (the Rules) and whether to proceed with the hearing in Mr Sharma’s absence.

Decision on Service of the Notice of Hearing

The Committee received from the GDC an indexed hearing bundle, titled ‘Proceed in Absence Bundle’, of 116 pages, which contained a copy of the Notice of Hearing (‘the notice’), dated 21 January 2021, thereby complying with the 28-day notice period. The notice was sent to Mr Sharma’s registered address by Special Delivery. The notice was also sent by first class post to Mr Sharma’s registered address and to three email addresses that the GDC held for Mr Sharma. Furthermore, the notice was sent to Mr Sharma on 25 January 2021 at an additional postal address, which an Inquiry Agent employed by the GDC, had

uncovered.

The Committee was satisfied that the notice sent to Mr Sharma contained proper notification of today's hearing. This included the hearing's time, date and that it will be taking place remotely on Microsoft Teams, and the other prescribed information including notification that the Committee had the power to proceed with the hearing in Mr Sharma's absence.

On the basis of the information provided, the Committee was satisfied that the notice of the hearing had been served on Mr Sharma in accordance with Rules 13 and 65.

Decision on Proceeding in the Registrant's Absence

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Mr Sharma. The Committee approached the issue of proceeding in absence with the utmost care and caution. It took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones (Anthony)* [2002] UKHL 5 and *GMC v Adeogba & Visvardis* [2016] EWCA Civ 162. It remained mindful of the need to be fair to both Mr Sharma and the GDC, taking into account the public interest and Mr Sharma's own interests.

The Committee noted that the GDC had taken all possible steps to notify Mr Sharma of the hearing. The Committee also noted that Mr Sharma had initially responded to the notice by email dated 27 January 2021 and stated that he, "*will not be participating in the hearing, or communicating further*". The Committee further noted that in response to his emails to the GDC between 19 and 21 February 2021, the Hearings Team emailed him with the Microsoft Teams link to join the hearing on 22 February 2021. However, Mr Sharma stated in an email dated 22 February 2021 in response that he was unable to attend "*due to prior commitments*". The Committee noted that Mr Sharma had provided no further details about this prior commitment and had made no request to join the hearing at a later date. The Committee also had regard to its reasons for not granting Mr Sharma's application to adjourn the hearing.

The Committee concluded therefore that it was clear that Mr Sharma had waived his right to attend the hearing. Given that Mr Sharma had voluntarily absented himself, the Committee determined that it should proceed in his absence having regard to the public interest in the expeditious disposal of cases. It concluded that no useful purpose would be served by an adjournment of this hearing as it was unlikely that he would attend any future hearing given his previous history of not co-operating with investigations into his conduct. The Committee further noted that witnesses were ready and available to give their evidence at this hearing if required.

In those circumstances, the Committee determined that it was fair and appropriate to proceed with the hearing in the absence of Mr Sharma."

Preliminary Matter - GDC Application for Joinder (22 February 2021)

"Following the Committee's decision to proceed with the hearing in Mr Sharma's absence, Ms Barnfather subsequently made an application under Rule 25 (2) of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules') to join additional allegations to this hearing that Mr Sharma had worked as a dentist whilst suspended by the Interim Orders Committee (IOC). The main grounds of the application were that the additional allegations

were of a similar kind and founded on the same set of facts as the allegations that had already been referred to this hearing.

The GDC's application was for the following additional allegations to be joined in respect of this matter:

Practising whilst Suspended

1. *You knew or ought to have known you were suspended from practice by the Interim Orders Committee ("IOC") of the General Dental Council ("GDC") at an IOC hearing on 7 November 2018.*
2. *You worked as a dentist whilst suspended between 12 November 2018 and 15 November 2018 at Dental Practice B identified in Schedule C of the charge.*

Ms Barnfather submitted that Mr Sharma already faces charges at this hearing regarding his failure to co-operate with the GDC's investigation and this led to his referral to an IOC hearing and his interim suspension. She submitted that the new charges are regarding Mr Sharma's conduct during this same period. Ms Barnfather also submitted that Mr Sharma's conduct is of a similar type and it should be looked at as a continuation of his failures to co-operate and adequately engage with his professional regulator.

Decision

In deciding on the application, the Committee accepted the advice of the Legal Adviser. The Committee noted that the additional allegations arose from the GDC's investigation into allegations regarding Mr Sharma's failure to co-operate with the GDC's investigation. It also noted that they were of a similar kind to this existing allegation. The Committee further noted that Mr Sharma has commented on these additional allegations but has not objected to them being joined to the allegations considered at this hearing. The Committee also considered that there would be no advantage to Mr Sharma having these additional charges being heard separately at another hearing.

The Committee therefore acceded to the Rule 25(2) application for joinder made by the GDC and directed that the new allegations be heard at this hearing."

On 3 March 2021, the Chairman made the following statement regarding the finding of facts:

"Mr Sharma

Background

Between January 2008 and May 2015, Mr Sharma was the owner and principal of a general dental practice in Swindon. Mr Sharma had a contract to provide services to the NHS and therefore had agreed to provide an annual number of Units of Dental Activity (UDAs). During this time, it was noted that he had made a disproportionately high number of claims to the NHS for complex treatments provided to children. The Primary Care Trust and then NHS Counter Fraud Services (NHS CFS) looked into these claims and reviewed the clinical records of a sample group of his child patients.

Following the review of these records, concerns were also raised about his clinical care of these patients and his record keeping, in addition to the probity concerns. The concerns related to Mr Sharma's treatment of 16 child patients between February 2012 and January 2014. They included allegations that he had failed to adequately monitor caries in these

patients, failed to provide or record the provision of appropriate caries preventative advice, failed to provide an adequate standard of restoration, failed to record the use or refusal of local anaesthetic and failed to record the completion of treatments accurately.

With regard to the probity allegations, it is alleged that Mr Sharma made 29 claims for Band 3 treatments, which attracted 12 Units of Dental Activity (UDAs), when the treatments provided were Band 2 treatments which should have attracted 3 UDAs.

Mr Sharma had been the subject of a previous investigation by NHS CFS between 2011 and 2012 into similar concerns for different treatments that he been claiming under Band 3 which should have been claimed as Band 2 treatments. He was arrested in relation to this previous investigation and interviewed on three occasions, but no further action was taken against him. The GDC's case was that this showed that issues relating to claiming for Band 3 treatments had previously been discussed with Mr Sharma and was relevant to his state of mind in relation to the current allegations.

With regard to the new allegations, the PCT referred its concerns to NHS CFS to look into. Both the PCT and NHS CFS had raised concerns about Mr Sharma's lack of co-operation with their investigations and his behaviour towards them, which they regarded as obstructive and difficult. NHS CFS had informed Mr Sharma of their intentions to interview him but were unable to arrange this owing to Mr Sharma's non co-operation with them including his failure to respond to their communications. In light of this, NHS CFS concluded its investigation. The GDC, who originally received a referral about Mr Sharma from the PCT in March 2014, then commenced its investigation into these allegations.

Concerns were then subsequently raised by the GDC that Mr Sharma had failed to keep his registered address up-to-date and had not responded to its communications. This resulted in the GDC referring Mr Sharma to an Interim Orders Committee (IOC) hearing on 7 November 2018. Mr Sharma did not attend the hearing and the IOC determined to impose an interim order of suspension on his registration. At this time, Mr Sharma was practising in a different dental surgery and it is alleged that he had practised whilst suspended between 12 November 2018 and 15 November 2018.

Evidence Received

By way of factual evidence from the GDC, the Committee was provided with signed witness statements and heard oral evidence from the following witnesses:

- Mr Jason Croft, Fraud Investigation Lead for NHS Counter Fraud Authority, dated 15 November 2019;
- Person A dated 28 October 2019;
- Mr Michael Goodchild, Specialist Counter Fraud Investigator at NHS Counter Fraud Advisory, dated 8 October 2019;
- Witness 1, dated 2 August 2019;
- Mr Adam Wilson, Clinical Advisor for NHS England, dated 2 October 2019;

It also received signed statements from further witnesses, which were admitted as evidence without the need for them to attend the hearing. These were as follows:

- Mr Gareth Ballance, a Forensic Computing Unit Technical lead within the NHS Counter Fraud Authority, dated 15 October 2019;

- Witness 2, dated 30 January 2019;
- Ms Mei Chong, GDC employee, dated 13 December 2018;
- Mr Paul Wells, GDC employee, dated 8 October 2019;
- Ms Joanne Ward, GDC employee, dated 30 October 2019;
- Ms Holly Dominguez, GDC employee, dated 29 October 2019;
- Ms Anna Holdsworth, solicitor acting on behalf of the GDC, dated 8 November 2019;
- Witness 3, dated 29 January 2019; and
- Ms Sharon Greaves, Assistant Contract Manager for NHS England, dated 7 October 2020.

In addition, the Committee received an expert report dated 8 November 2019 from Mr Julian Scott, who is a specialist in the field of probity in general dental practice, and an expert report from Ms Jane Ford, dated 10 November 2019, in relation to the clinical and record keeping concerns. The Committee also heard oral evidence from Mr Scott and Ms Ford.

The Committee was also provided with copies of emails sent to the GDC by Mr Sharma dated between 27 January 2021 and 3 March 2021 which included his comments on the allegations. As a matter of fairness in Mr Sharma's absence the Committee took his email comments into account. However, the Committee bore in mind that Mr Sharma did not give sworn oral evidence to the Committee and was not cross-examined or questioned. The Committee therefore gave limited weight to Mr Sharma's representations.

The Committee's Findings of Fact

The Committee has considered all the evidence presented to it, both oral and documentary. It took account of the submissions made by Ms Barnfather on behalf of the GDC and the emails submitted by Mr Sharma. The Committee heard and accepted the advice of the Legal Adviser. In accordance with that advice it has considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged matters are found proved on the balance of probabilities.

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

1.	<p>Between January 2008 and May 2015 you were practising in general dentistry as the owner and principal of the dental practice described in Schedule C.</p> <p>Found Proved</p> <p>The Committee had sight of the screenshot of Mr Sharma's entry on the dentists register which showed that the address described in Schedule C of this head of charge was Mr Sharma's registered address. Furthermore, the Committee had sight of the letters sent by the GDC to Mr Sharma at this address.</p> <p>Accordingly, it found this head of charge proved.</p>
2.	<p>You provided care and treatment to the child patients set out in Schedule A.</p> <p>Found Proved</p>

	<p>The Committee had noted that the records for these patients had been obtained as part of the investigations into Mr Sharma’s practice and that there is no real dispute that Mr Sharma treated these patients.</p> <p>Accordingly, it found this head of charge proved.</p>
<u>Clinical Care Concerns</u>	
Caries Detection	
3.	You failed to adequately monitor or record monitoring of caries by way of bitewing radiographs as set out in Schedule 1 in respect of the following patients:
	a. Patient 4
	b. Patient 8
	c. Patient 9
	d. Patient 10
	e. Patient 11
	f. Patient 14
	g. Patient 16
	h. Patient 19
	i. Patient 21
	j. Patient 23
	k. Patient 24
	Found Proved in its Entirety
<p>When considering this head of charge, the Committee noted Ms Jane Ford’s expert report and oral evidence, and Mr Goodchild’s witness statement and oral evidence. It also noted the written representations provided by Mr Sharma.</p> <p>Mr Sharma stated that no harm was caused to these patients and also stated that he “<i>did take dental x-rays to help with my diagnosis whenever appropriate, even those these may not have been documented on my notes</i>”. He also stated that, “<i>I also made use of other available aids to diagnosis, especially if there was a lack of tolerance to x-ray procedure with young children, which also may not have been documented on my notes</i>”. In correspondence Mr Sharma referred to his use of a CarieScan Pro machine for diagnosis of caries. Mr Sharma also stated that he performed an overall caries check for these patients and this was shown by the abbreviation, OCC, in the dental records.</p> <p>The Committee noted from Ms Ford’s expert report, that she examined the records for these patients in detail and stated that she did not find a single mention of radiographs which she found unusual. She also expressed doubts that the radiographs were stored in a separate system as mentioned</p>	

	<p>by Mr Sharma. She also had doubts as to whether sufficient research had been carried out to support the use of the CarieScan Pro machine in lieu of radiographs. She observed that its use was only recorded in a small number of the records.</p> <p>With regard to Mr Sharma's use of the abbreviation OCC to mean overall caries check, Ms Ford doubted this explanation and stated in her report that, <i>"it is highly likely in my view that 'occ checked' means that the occlusion was checked and not that a caries check was performed"</i>. Ms Ford then goes on to state that if it did mean overall caries check then this was not effective as caries was subsequently diagnosed for these patients in multiple teeth.</p> <p>The Committee also noted Mr Goodchild's oral and written evidence in which he stated that he believed that Mr Sharma used OCC to mean occlusal check rather than overall caries check.</p> <p>The Committee were aware that OCC was the standard abbreviation for an occlusal check and it would be unusual and confusing if this was also to be used for an overall caries check. The Committee also reviewed the patient records and noted when the abbreviation OCC was used and was satisfied that Mr Sharma had meant this to mean an occlusal check and not an overall caries check.</p> <p>When considering Ms Ford as a witness, the Committee was of the opinion that she was very credible throughout, especially on this point. It was also of the view that Ms Ford provided very clear answers in relation to this head of charge.</p> <p>The Committee therefore accepted her evidence on the necessity for radiographs to be taken for these types of patients and noted Schedule 1 of her report which indicated that no radiographs were taken and caries was diagnosed in all these patients.</p> <p>The Committee found it unusual that there was no reference to radiographs in the records as there is a legal requirement to report on them when they are taken. The Committee found Mr Sharma's account not to be an adequate or credible explanation for why there was no mention of any radiographs for these particular patients.</p> <p>The Committee concluded therefore that it was more likely than not that radiographs were not taken for these patients and therefore Mr Sharma had failed to adequately monitor caries in these patients.</p> <p>Accordingly, it found heads of charge 3a to 3k proved in its entirety.</p>				
Preventative Care					
4.	<p>You failed to provide or record the provision of appropriate caries preventative care including the provision of topical fluoride as set out in Schedule 2 in respect of the following patients:</p> <table border="1"> <tr> <td>a.</td><td>Patient 1</td></tr> <tr> <td>b.</td><td>Patient 2</td></tr> </table>	a.	Patient 1	b.	Patient 2
a.	Patient 1				
b.	Patient 2				

c. Patient 4
d. Patient 8
e. Patient 9
f. Patient 10
g. Patient 11
h. Patient 14
i. Patient 15
j. Patient 16
k. Patient 17
l. Patient 19
m. Patient 20
n. Patient 21
o. Patient 23
p. Patient 24
<p>Found Proved in its Entirety</p> <p>When considering this head of charge, the Committee reviewed the patient records and Ms Ford's report, in particular Schedule 2 of her report, in which she specifically deals with this head of charge.</p> <p>The Committee noted from Ms Ford's report that the edition of <i>Delivering Better Oral Health</i> (DBOH) was in force at the time and this sets out the prevention regimes that should be adopted for all children aged seven years and above and for young adults to prevent caries disease.</p> <p>The Committee also noted the following conclusion in Schedule 2 of Ms Ford's report following her analysis of the records: <i>"There is no recorded evidence to support any patient reviewed was provided with adequate preventative care that is detailed in DBOH. Failure to comply with these guidelines put children, and especially high risk caries patients at increased risk of developing caries"</i>.</p> <p>When viewing the patient records, the Committee noted that Mr Sharma had provided dietary advice and advice on oral hygiene, for example in relation to toothbrushing and flossing. With regard to the application of fluoride, Ms Ford's Schedule 2 showed that the application of fluoride only commenced in 2014. Ms Ford's schedule shows that each patient only received the one application instead of the three or four per year recommended in the guidance. The Committee also noted that these were patients were deemed as being of high caries risk.</p> <p>The Committee therefore concluded that although Mr Sharma had made some efforts in addressing patients with regard to preventative care he had not complied with the Delivering Better Oral Health guidelines.</p>

	Accordingly, it found heads of charge 4a to 4p proved in its entirety in that Mr Sharma did not record the provision of topical fluoride.
Substandard Restorations	
5.	<p>You failed to provide an adequate standard of restoration as set out in Schedule 4 to the following patients:</p> <ul style="list-style-type: none"> a. Patient 1; b. Patient 2; c. Patient 4; d. Patient 9; e. Patient 10; f. Patient 11; g. Patient 14; h. Patient 15; i. Patient 16; j. Patient 17; k. Patient 19; l. Patient 21; m. Patient 23; n. Patient 24.
<p>Found Proved in its Entirety</p> <p>When considering this head of charge, the Committee had sight of Mr Sharma's comments, Ms Ford's expert report and the patient records.</p> <p>It noted that Mr Sharma stated that he had received no complaints from these patients about his clinical work and he always provided the best service to patients. He also stated that, <i>"there are multiple reasons why restorations require replacement in this child age group, such as traumatic dental restoration injury, inability to use dental rubber dam due to lack of tolerance, sticky gummy foods, etc"</i>. Mr Sharma also commented that there had been <i>"many years of supervised neglect of patient's dental health at the Dental Practice, prior to my arrival"</i>, which had resulted in <i>"much poorer dental maintenance and dental health"</i>.</p> <p>The Committee noted from Ms Ford's expert report that she also stated that failed restorations can be due to many factors including, <i>"poor technique, inappropriate filling material choice, incomplete caries removal prior to placing a restoration, occlusion and poor moisture control at time of placement"</i>.</p> <p>The Committee considered Mr Sharma's comments and Ms Ford's expert report and oral evidence. It found it could rely on Ms Ford's evidence as it</p>	

	<p>was more compelling, detailed and reasoned. It noted that Ms Ford commented on the frequency of the restoration failures, the poor choice of material used and had speculated whether caries had been removed prior to the restoration. Ms Ford had clearly stated that the restorations for the patients in this head of charge had been sub-standard.</p> <p>The Committee also noted Schedule 4 of Ms Ford’s report in which she lists the patients in this head of charge and the dates when the restorations failed. The Committee accepted the view that glass ionomers were not suitable to be used on load bearing surfaces and could see from Schedule 4 that this had been used in a number of the failed restorations and therefore could have been the reason for the failure. The Committee also noted that the restorations in these patients had failed quite soon after they had been placed, in some cases within a year.</p> <p>The Committee concluded therefore, on the balance of probabilities that Mr Sharma had provided an inadequate standard of restoration to these patients.</p> <p>Accordingly, it found heads of charge 5a to 5n proved in its entirety.</p>									
Record Keeping – Local Anaesthetic										
6.	<p>You failed to maintain complete and accurate patient records in that you did not record the use or refusal of Local Anaesthetic as set out in Schedule 5 for the following patients:</p> <table><tr><td>a. Patient 8;</td></tr><tr><td>b. Patient 9;</td></tr><tr><td>c. Patient 10;</td></tr><tr><td>d. Patient 11;</td></tr><tr><td>e. Patient 14;</td></tr><tr><td>f. Patient 16;</td></tr><tr><td>g. Patient 19;</td></tr><tr><td>h. Patient 21;</td></tr><tr><td>i. Patient 23.</td></tr></table>	a. Patient 8;	b. Patient 9;	c. Patient 10;	d. Patient 11;	e. Patient 14;	f. Patient 16;	g. Patient 19;	h. Patient 21;	i. Patient 23.
a. Patient 8;										
b. Patient 9;										
c. Patient 10;										
d. Patient 11;										
e. Patient 14;										
f. Patient 16;										
g. Patient 19;										
h. Patient 21;										
i. Patient 23.										
Found Proved in its Entirety										
<p>The Committee considered Mr Sharma’s comments, Ms Ford’s expert report and the patient records.</p> <p>It noted that Mr Sharma had stated, “<i>I accept my dental note and record taking was not of the standards required, but this does not mean that you can assume that I never used Local Anaesthetic on my patients</i>”.</p> <p>It noted from the patient records and Schedule 5 of Ms Ford’s report that an anaesthetic was not recorded as being used when the restorations were placed. It noted that the treatments provided by Mr Sharma included vital pulpotomy and Ms Ford’s view that it would be highly unlikely that an</p>										

	<p>anaesthetic was not used by Mr Sharma. It further noted that Mr Sharma had a duty of care to his patients and was required to record in the records whether an anesthetic was used.</p> <p>Accordingly, it found heads of charge 6a to 6i proved in its entirety.</p>
Record Keeping - Dates Treatment Provided	
7.	<p>You failed to maintain complete and accurate patient records in that you did not clearly and/or accurately record the dates upon which treatment was completed as set out in Schedule 6 for the following patients:</p>
	a. Patient 1;
	b. Patient 2;
	c. Patient 4;
	d. Patient 8;
	e. Patient 9;
	f. Patient 10;
	g. Patient 11;
	h. Patient 14;
	i. Patient 15;
	j. Patient 16
	k. Patient 17;
	l. Patient 19;
	m. Patient 20
	n. Patient 21;
	o. Patient 23;
	p. Patient 24.
Found Proved in its Entirety	
<p>When deciding on this head of charge, the Committee had considered the patient records, Mr Sharma's comments, Ms Ford's report and oral evidence, and Mr Wilson's witness statement and evidence.</p> <p>The Committee noted that Mr Sharma had stated that he had created a second appointment in order to check the restoration he had completed at the first appointment.</p> <p>In her evidence, however, Ms Ford stated that there was very little information contained in the records for the second appointment, during which Mr Sharma claimed that treatment had been completed for all these patients. She stated that she would have expected some mention of possible issues in the patient records which would confirm that Mr Sharma was checking the restoration but this was not recorded. Ms Ford also stated that</p>	

	<p>she would not routinely recall patients in this way.</p> <p>When viewing the patient records, the Committee noted that in one instance an entry for a second appointment had been created in the records on the same day as the first appointment and a note made as if the appointment had taken place. The entry had been subsequently voided and recreated on a later date. The Committee regarded this as unusual as it could see no justification in the records for the second appointment being made and there was no recording of any review findings on that day.</p> <p>The Committee also noted Mr Wilson's evidence, in which he expressed concerns about the pattern of second appointments and stated that it appeared that the records were being manipulated so that it would make Mr Sharma's NHS claims less suspicious. Band 3 treatments typically took more than one appointment and claims for Band 3 treatments on one day would draw attention.</p> <p>In conclusion, the Committee determined that it could see no reason in the patient records that would justify this second appointment. It noted Mr Sharma's reasons for creating this second appointment, but considered that even if he was checking the restoration this has not been clearly recorded in the records. The Committee accepted Ms Ford's evidence that the treatment for these patients must have been completed on an earlier date. It concluded therefore that it was not clear from the records the date on which treatment was completed for these patients.</p> <p>Accordingly, it found heads of charge 7a to 7p proved in its entirety.</p>
<u>Probity Concerns</u>	
8.	<p>Between February 2012 and January 2014 you caused or permitted claims to be made in your name for Units of Dental Activity ("UDAs") under Band 3 of the National Health Service General Dental Services Contract as set out in Schedule B.</p> <p>Found Proved</p> <p>The Committee noted Mr Julian Scott's oral evidence and expert report with regard to this head of charge. It noted from Mr Scott's report that he had received an "<i>excel spreadsheet which contained all the NHS claims data sent to Dental Services Division, NHS Business Services Authority (DSD), for contract holder Mr AR Sharma</i>" and had "<i>reviewed all the claims data for the GDS contract (for all patients treated by Mr Sharma during the period in question)...</i>". It further noted Mr Scott's analysis of the claims in his report. Although, the Committee has not seen the source documents with regard to these claims, it accepted Mr Scott's evidence and further noted that Mr Sharma has not denied making these claims.</p> <p>Accordingly, it found this head of charge proved.</p>
Composite "Veneers"	
9.	<p>In respect of the following claims you caused or permitted a Band 3 claim to be made when the treatment provided was a non-laboratory fabricated</p>

	<p>veneer and a Band 2 treatment:</p> <ul style="list-style-type: none"> a. Patient 2 and Claim 7; b. Patient 15 and Claim 31; c. Patient 20 and Claim 45; d. Patient 21 and Claim 49. <p>Found Proved in its Entirety</p> <p>The Committee considered the patient records and Mr Scott's expert evidence when deciding on this head of charge.</p> <p>The Committee noted that it did not have the original claim documents but accepted Mr Scott's evidence that Mr Sharma made Band 3 claims for these patients. It also had sight of the patient records in which it was clear that the treatment which was provided was a non-laboratory fabricated veneer. The Committee further noted that Mr Scott had stated in his oral evidence that these claims should have unequivocally been Band 2 claims.</p> <p>Accordingly, the Committee found heads of charge 9a to 9d proved in its entirety.</p>
10.	<p>Your conduct as set out above at 9:</p> <ul style="list-style-type: none"> a. was inappropriate; <p>Found Proved</p> <p>The Committee considered the expert report of Mr Scott and the witness statements of Mr Goodchild, Mr Wilson, Person A, Mr Croft and Ms Greaves. The Committee accepted this evidence and concluded that Mr Sharma's conduct was inappropriate when he claimed for Band 3 treatment which clearly fell under Band 2.</p> <p>Accordingly, it found this head of charge proved.</p> <ul style="list-style-type: none"> b. lacked integrity, in that you failed to ensure your claims complied with the relevant regulations; <p>Found Proved</p> <p>When determining this head of charge, the Committee had considered the case of <i>Wingate and Evans v SRA [2018] EWCA Civ 366</i>, which set out guidance on the meaning of integrity for professional people. The Committee noted that being a dental professional, Mr Sharma was in a position of trust and was expected to behave with integrity as specified in the GDC publication <i>Standards for the Dental Team (2013)</i>.</p> <p>The Committee concluded that Mr Sharma had a professional duty to ensure that his claims were appropriately made and he had failed to comply with the NHS regulations. The Committee also noted that Mr Sharma had previously been arrested and interviewed by NHS CFS with regard to inappropriate claiming and he had accepted that direct restorations should be claimed as Band 2 and not Band 3. The Committee determined that Mr Sharma had a duty when claiming significant amounts of public money to act properly and</p>

appropriately.

Accordingly, it found this head of charge proved.

- c. was dishonest, in that you sought to obtain additional UDAs to which you knew you were not entitled.

Found Proved

When considering this head of charge, the Committee referred to the test set out in the case of *Ivey v Genting Casinos (UK) Ltd. t/a Crockfords* [2017] UKSC 67. It firstly considered what Mr Sharma's state of mind was when he made the Band 3 claims and whether he held a genuine belief that he was entitled to submit these claims under Band 3 rather than Band 2. Secondly, it considered whether Mr Sharma's conduct would be viewed as dishonest by the objective standards of ordinary and decent people.

When considering Mr Sharma's state of mind at the time, the Committee noted that he had stated that he had been confused about what band the treatments fell under and that he had received no assistance from the PCT. However, the Committee was of the view that it was more likely than not that Mr Sharma would have been aware that these treatments should have been submitted as a Band 2 claim as he had already been investigated by NHS CFS in relation to similar matters. The Committee noted that he had admitted during the first NHS CFS investigation that he knew the difference between Band 2 and Band 3 claims. The Committee therefore found it implausible that he would have been confused about this issue. The Committee also considered that if he was confused about this then a careful and honest person would have sought advice on how to claim correctly and appropriately.

The Committee further noted Ms Ford and Mr Scott's evidence that Mr Sharma had claimed for a disproportionately high number of child patients as opposed to fee-paying patients who may have queried the payments. The Committee also noted that veneers of this type had never been permissible under Band 3 treatment and Mr Sharma would have been aware of that as he had operated under the NHS contract since 2008. This rule was clarified in that year.

Both experts expressed surprise at the pattern of appointments and doubted whether any treatment had taken place on the second appointment. Mr Wilson also expressed scepticism about the purpose of a second appointment. A second appointment could be used to mask the fact that the treatment took place on a single day and was only eligible for a Band 2 claim.

The Committee was satisfied therefore that Mr Sharma would have been aware at the time that his conduct was dishonest. The Committee also considered that Mr Sharma's conduct would be viewed as dishonest by the objective standards of ordinary and decent people as he was claiming for significantly more money than he was entitled to.

Accordingly, it found this head of charge proved.

11.	In respect of the following claims you caused or permitted a Band 3 claim to be made when the treatment provided was a chairside fabricated (non-laboratory) composite restoration and a Band 2 treatment:
	a. Patient 1 and Claim 2;
	b. Patient 4 and Claim 9;
	c. Patient 4 and Claim 10;
	d. Patient 8 and Claim 11;
	e. Patient 9 and Claim 16;
	f. Patient 9 and Claim 17;
	g. Patient 9 and Claim 18;
	h. Patient 10 and Claim 20;
	i. Patient 10 and Claim 22;
	j. Patient 11 and Claim 24;
	k. Patient 11 and Claim 25;
	l. Patient 14 and Claim 28;
	m. Patient 14 and Claim 29;
	n. Patient 16 and Claim 34;
	o. Patient 16 and Claim 35;
	p. Patient 16 and Claim 36;
	q. Patient 17 and Claim 37;
	r. Patient 17 and Claim 38;
	s. Patient 17 and Claim 39;
	t. Patient 19 and Claim 40;
	u. Patient 19 and Claim 42;
	v. Patient 23 and Claim 52;
	w. Patient 23 and Claim 53;
	x. Patient 24 and Claim 56;
	y. Patient 24 and Claim 57.
	Found Proved in its Entirety
	The Committee considered the patient records and Mr Scott's expert evidence when deciding on this head of charge.
	The Committee noted that it did not have the original claim documents but accepted Mr Scott's evidence that Mr Sharma made Band 3 claims for these patients. It also had sight of the patient records in which it was clear that the treatment which was provided was a chairside fabricated (non-laboratory)

	<p>composite restoration.</p> <p>Accordingly, the Committee found heads of charge 11a to 11y proved in its entirety.</p>
12.	<p>Your conduct as set out above at 11:</p> <p>a. was inappropriate;</p> <p>Found Proved</p> <p>The Committee considered the expert report of Mr Scott and the witness statements of Mr Goodchild, Mr Wilson, Person A, Mr Croft and Ms Greaves. The Committee accepted this evidence and concluded that Mr Sharma's conduct was inappropriate when he claimed for Band 3 treatment which clearly fell under Band 2.</p> <p>Accordingly, it found this head of charge proved.</p> <p>b. lacked integrity, in that you failed to ensure your claims complied with the relevant regulations;</p> <p>Found Proved</p> <p>When determining this head of charge, the Committee had considered the case of <i>Wingate and Evans v SRA [2018] EWCA Civ 366</i>, which set out guidance on the meaning of integrity for professional people. The Committee noted that being a dental professional, Mr Sharma was in a position of trust and was expected to behave with integrity as specified in the GDC publication <i>Standards for the Dental Team (2013)</i>.</p> <p>The Committee concluded that Mr Sharma had a professional duty to ensure that his claims were appropriately made and he had failed to comply with the NHS regulations. The Committee also noted that Mr Sharma had previously been arrested and interviewed by NHS CFS with regard to inappropriate claiming and he had accepted that direct restorations should be claimed as Band 2 and not Band 3. The Committee determined that Mr Sharma had a duty when claiming significant amounts of public money to act properly and appropriately.</p> <p>Accordingly, it found this head of charge proved.</p> <p>c. was dishonest, in that you sought to obtain additional UDAs to which you knew you were not entitled.</p> <p>Found Proved</p> <p>When considering this head of charge, the Committee referred to the test set out in the case of <i>Ivey v Genting Casinos (UK) Ltd. t/a Crockfords [2017] UKSC 67</i>. It firstly considered what Mr Sharma's state of mind was when he made the Band 3 claims and whether he held a genuine belief that he was entitled to submit these claims under Band 3 rather than Band 2. Secondly, it considered whether Mr Sharma's conduct would be viewed as dishonest by the objective standards of ordinary and decent people.</p> <p>When considering Mr Sharma's state of mind at the time, the Committee noted that he had stated that he had been misled by a leaflet that Witness 1</p>

	<p>had left for him at the practice which had indicated that he was entitled to claim for 12 UDAs under this treatment. Mr Sharma should have been aware of the regulations that govern claiming for NHS treatment and was not entitled to rely on advice from a sales representative or a leaflet.</p> <p>The Committee also noted that Mr Sharma had stated that he had been confused about what band the treatments fell under and that he had received no assistance from the PCT. However, the Committee was of the view that it was more likely than not that Mr Sharma would have been aware that these treatments should have been submitted as a Band 2 claim as he had already been investigated by NHS CFS in relation to similar matters including inlays. The Committee noted that he had admitted during the first NHS CFS investigation that he knew the difference between Band 2 and Band 3 claims. The Committee therefore found it implausible that he would have been confused about this issue. The Committee also considered that if he was confused about this then a careful and honest person would have sought advice on how to claim correctly and appropriately.</p> <p>The Committee further noted Ms Ford and Mr Scott's evidence that Mr Sharma had claimed for a disproportionately high number of child patients as opposed to fee-paying patients who may have queried the payments.</p> <p>Both experts expressed surprise at the pattern of appointments and doubted whether any treatment had taken place on the second appointment. Mr Wilson also expressed scepticism about the purpose of a second appointment. A second appointment could be used to mask the fact that the treatment took place on a single day and was only eligible for a Band 2 claim.</p> <p>The Committee was satisfied therefore that Mr Sharma would have been aware at the time that his conduct was dishonest. The Committee also considered that Mr Sharma's conduct would be viewed as dishonest by the objective standards of ordinary and decent people as he was claiming for significantly more money than he was entitled to.</p> <p>Accordingly, it found this head of charge proved.</p>
<p><u>Failures to Co-operate</u></p>	
<p>NHS</p>	
13.	<p>From about March 2013 to about May 2015 you failed to adequately co-operate with an NHS Swindon Primary Care Trust investigation into your claiming in that you behaved in a way that was difficult and obstructive including in your communications with Person A (identified in Schedule C).</p> <p>Found Proved</p> <p>The Committee considered Person A's oral and written evidence with regard to this head of charge.</p> <p>The Committee noted from Person A's evidence that she found him difficult, obstructive and incredibly defensive. Person A further stated that obtaining dental records from Mr Sharma was difficult and time consuming.</p>

	<p>When communicating with Person A, the Committee noted that Mr Sharma overstepped professional boundaries and sent aggressive and sometimes threatening emails aimed directly at her. Mr Sharma also accused her of bullying and made threats to take civil action against her. In her evidence, Person A stated that she felt personally threatened and that she found it hugely distressing.</p> <p>The Committee also noted that in his response to the allegations against him by the PCT, Mr Sharma would constantly reference historical issues that were irrelevant to the matters in hand and would not answer questions directly.</p> <p>The Committee considered Person A's evidence to be credible and noted that NHS CFS had also experienced Mr Sharma to be difficult during its investigation. The Committee concluded therefore that this seemed to fit with a pattern of behaviour displayed by Mr Sharma when investigations are being made into his conduct.</p> <p>Accordingly, the Committee found this head of charge proved.</p>
14.	<p>From about May 2015 to December 2015 you failed to adequately co-operate with NHS Counter Fraud (formerly NHS Protect) in that:</p> <ol style="list-style-type: none"> on 5 May 2015 when representatives of NHS Counter Fraud attended your practice you initially denied being Dr Sharma; between September 2015 and December 2015 you failed to facilitate a meeting with NHS Counter Fraud; from about November 2015 you ceased to respond to communications from NHS Counter Fraud. <p>Found Proved Overall</p> <p>With regard to head of charge 14 a, the Committee noted that Mr Sharma stated that the NHS CFS representatives had not introduced themselves properly and were not courteous when they had attended his practice. It also noted Mr Ballance's witness statement. The Committee preferred the account of the GDC's witnesses regarding these events. The Committee noted that Mr Sharma did eventually admit that he was Mr Sharma and although this had caused a slight delay to NHS CFS's visit the Committee did not view this as being obstructive.</p> <p>However, with regard to heads of charge 14b and 14c the Committee did conclude that Mr Sharma had failed to co-operate with NHS CFS's investigation. It noted that despite being offered several dates, Mr Sharma did not attend an interview with NHS CFS and had not communicated with them after November 2015. The Committee had sight of the emails sent to Mr Sharma from NHS CFS and found the evidence from Mr Goodchild, Mr Ballance and Mr Croft to be credible and reliable. The Committee were satisfied that Mr Sharma's actions had caused delay to NHS CFS's investigation and had made their job more difficult. Furthermore, Mr Sharma had a professional duty to comply with investigations into his conduct by NHS CFS and he had failed in this regard.</p>

	Accordingly, the Committee found this charge proved overall.
GDC	
15.	<p>From about May 2016 in respect of the General Dental Council ('GDC'):</p> <p>a. you failed to keep your registration details, including your registered address, up to date;</p> <p>Found Proved</p> <p>The Committee noted that Mr Sharma had a professional duty to keep his registered address with the GDC up-to-date. It considered the evidence from the GDC members of staff, which included the witness statements of Ms Chong, Mr Wells, Ms Ward, Ms Dominguez, in addition to the witness statement from Ms Holdsworth. It also noted that the letter to his registered address confirming the outcome of the IOC hearing was returned undelivered.</p> <p>The Committee further noted that Mr Sharma has admitted and apologised for not keeping his registered address up-to-date.</p> <p>Accordingly, it found this head of charge proved.</p> <p>b. you repeatedly failed to respond to communications sent by or on behalf of the GDC;</p> <p>Found Proved</p> <p>The Committee has had regard to the witness statements from Ms Chong, Mr Wells, Ms Ward and Ms Holdsworth and noted that the GDC had written to Mr Sharma on a number of occasions but had received no response. In particular, the Committee noted from Ms Holdsworth's statement that the GDC had employed an Inquiry Agent to locate Mr Sharma as he had failed to respond to the GDC's communications. The Committee also noted the various email addresses used by Mr Sharma to which the GDC sent its emails to but these could not be delivered.</p> <p>The Committee concluded that Mr Sharma had a professional duty to respond to communications from the GDC and he had failed to do so.</p> <p>Accordingly, it found this head of charge proved.</p> <p>c. you failed to provide evidence of indemnity cover when requested to do so by email dated:</p> <p>i. 26 June 2018;</p> <p>Found Proved</p> <p>The Committee had sight of Ms Ward's witness statement in which it was stated that the GDC emailed Mr Sharma and requested evidence of his indemnity cover but he did not comply with this request. The Committee concluded that Mr Sharma had a duty to comply with requests from his professional regulator and he failed in this regard.</p> <p>Accordingly, the Committee found this head of charge proved.</p>

	<p>ii. 14 November 2018;</p> <p>Found Proved</p> <p>The Committee had sight of Ms Holdsworth's witness statement in which it was stated that the GDC had sent a letter by email to Mr Sharma and requested evidence of his indemnity cover but this information was not received. The Committee concluded that Mr Sharma had a duty to comply with requests from his professional regulator and he failed in this regard.</p> <p>Accordingly, the Committee found this head of charge proved.</p>
	<p>d. you failed to respond to a request for patient records sent by email on 14 November 2018.</p> <p>Found Proved</p> <p>The Committee had sight of Ms Holdsworth's witness statement in which it was stated that the GDC had sent a letter by email to Mr Sharma and requested patient records but this information was not received. The Committee concluded that Mr Sharma had a duty to comply with requests from his professional regulator and he failed in this regard.</p>
16.	<p>You knew or ought to have known you were suspended from practice on 7 November 2018 by the Interim Orders Committee of the General Dental Council.</p> <p>Found Proved</p> <p>The Committee had sight of Ms Chong's witness statement and Mr Wells' witness statement when considering this head of charge.</p> <p>It noted from Ms Chong's witness statement that she wrote to Mr Sharma on 8 November 2018 to inform him of the outcome of the IOC hearing on 7 November 2018. This letter was sent by first class post and by recorded delivery to Mr Sharma's registered address. However, the letter was returned undelivered to the GDC's offices.</p> <p>The Committee also noted from Mr Wells's witness statement that on 9 November 2018 the GDC also emailed Mr Sharma to inform him of the decision of the IOC on 7 November 2018. Mr Wells goes on to state that the email was delivered as the GDC had received a delivery receipt but there was no evidence that the letter had been downloaded. The Committee has had sight of the body of the email, however, and noted that it refers to Mr Sharma's suspended registration.</p> <p>The Committee concluded that although it was unclear whether Mr Sharma knew of the outcome of the IOC hearing he ought to have known that this was the case as he had a duty to comply with the GDC's investigation into his fitness to practice and keep his contact details, including his registered postal and email addresses, up to date.</p> <p>Accordingly, the Committee found this head of charge proved.</p>

17.	<p>You worked as a dentist whilst suspended between 12 November 2018 and 15 November 2018 at Dental Practice B identified in Schedule C.</p> <p>Found Proved</p> <p>The Committee had regard to Witness 2's statement when considering this head of charge. It also noted Mr Sharma's comments that he was not working on those dates and that it must have been a substitute dentist.</p> <p>The Committee has seen a copy of Witness 2's email to the GDC dated 21 November 2018 in which he informs the GDC about Mr Sharma practising on the dates in question. The Committee noted that it is clear from this email that Witness 2 was obviously concerned about this and the Committee was satisfied that he would not have written to the GDC without first being sure of the dates that Mr Sharma practised on. The Committee further noted that Witness 2 sent his email soon after the IOC hearing and has provided a list of the patients seen by Mr Sharma on these dates.</p> <p>The Committee has found that Mr Sharma ought to have known that he was suspended. In relation to this head of charge, the Committee concluded that it was more likely than not that Mr Sharma did as a matter of fact practise on the dates in question.</p> <p>Accordingly, it found this head of charge proved.</p>
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We move to Stage Two."

On 4 March 2021, the Chairman announced the determination as follows:

Submissions

"In accordance with Rule 20 (1) (a) Ms Barnfather informed the Committee that Mr Sharma has no fitness to practise history.

When addressing the Committee on misconduct, Ms Barnfather submitted that the clinical failings found proved in this case were repeated and included basic aspects of dental care and treatment. With regard to Mr Sharma's non co-operation with investigations into his conduct, Ms Barnfather submitted that these were very serious. She stated that Mr Sharma had engaged in obstructive and threatening behaviour towards the PCT and had effectively absconded from the NHS CFS investigation. She submitted that this conduct was mirrored in his non co-operation with the GDC's investigation and could not have been a simple oversight on Mr Sharma's part. With regard to the allegations relating to Mr Sharma's probity, Ms Barnfather submitted that his conduct was sustained and repeated, and amounted to very serious dishonesty. She informed the Committee that there has been no candour or openness from Mr Sharma, and no insight to reassure the Committee going forward. Ms Barnfather concluded that Mr Sharma's conduct amounted to a very serious failing over a protracted period which covered a broad spectrum, including an abuse of trust in respect of his dishonest claiming from the NHS. She submitted that this clearly amounted to misconduct.

Ms Barnfather then moved on to the issue of current impairment. She submitted that given the gravity of the misconduct and the absence of insight from Mr Sharma, this amounted to

current impairment. She referred the Committee to the test of impairment mentioned in Dame Janet Smith's Fifth Shipman Report of The Shipman Inquiry and submitted that there was no evidence to suggest that Mr Sharma perceived the need for any remedial training and that he may have an attitudinal problem that prevents him from doing so. In relation to the probity charges, Ms Barnfather submitted that nothing gave cause for re-assurance that Mr Sharma's conduct will not be repeated. She stated that there was every indication that Mr Sharma's absence of insight will continue and it was clear that Mr Sharma had behaved in a manner that put self-interest above patients and the wider public interest. She further submitted that confidence in the dental profession would be seriously undermined if a finding of impairment was not made in this case.

Ms Barnfather next addressed the Committee on the matter of sanction. She made reference to the GDC's Guidance. She submitted that the most appropriate and proportionate sanction in this case was one of erasure as Mr Sharma was unsuitable for continued membership of the dental profession.

Misconduct

The Committee first considered whether the facts found proved against Mr Sharma amounted to misconduct. In doing so it had regard to the GDC publication *Standards for Dental Professionals (2005)* which was applicable at the time. It looked at the following sections in particular:

- 1.1 Put patients' interests before your own or those of any colleague, organisation or business.*
- 1.4 Make and keep accurate and complete patient records, including a medical history, at the time you treat them. Make sure that patients have easy access to their records.*
- 5.1 Recognise that your qualification was the first stage in your professional education. Develop and update your knowledge and skills throughout your working life.*
- 5.4 Find out about laws and regulations which affect your work, premises, equipment and business, and follow them.*
- 6.1 Justify the trust that your patients, the public and your colleagues have in you by always acting honestly and fairly.*
- 6.2 Apply these principles to clinical and professional relationships, and any business or educational activities you are involved in.*
- 6.3 Maintain appropriate standards of behaviour in all walks of life so that patients have confidence in you and the public have confidence in the dental profession.*

With regard to the clinical concerns, the Committee noted that these involved multiple patients who were children. The Committee considered the failings to be serious, sustained and wide-ranging. The Committee also noted that the view of Ms Ford upon review of the patient records was that it was likely that some of these patients had suffered harm, had unnecessary treatment or lost teeth as a result of Mr Sharma's clinical failings.

With regard to the probity matters, the Committee has found Mr Sharma to be dishonest and lack integrity. It noted the NHS remuneration system relies on trust. However, Mr Sharma had breached this trust and also the trust of the patients, their parents and the dental profession. Furthermore, this was aggravated by the fact that Mr Sharma had already been the subject of an NHS CFS investigation for similar matters.

The Committee considered Mr Sharma's lack of co-operation with the investigations conducted by the PCT, NHS CFS and the GDC to be also serious. In particular, it noted that his non-co-operation with the GDC's investigation had a real consequence as it led to him working whilst suspended and putting patients at real risk of harm.

The Committee noted that Mr Sharma's actions were a serious departure from, and a clear breach of, the recognised standards and they brought the profession into disrepute. The Committee was satisfied that his behaviour would be considered deplorable by fellow dental professionals and the public alike.

The Committee therefore concluded that Mr Sharma's behaviour had fallen far short of the standards of conduct that were proper in these circumstances and amounted to misconduct.

Impairment

The Committee then considered whether Mr Sharma's fitness to practise was currently impaired by reason of his misconduct.

The Committee was mindful of its statutory over-arching objective to protect the public and of the public interest, which included the need to maintain proper standards of conduct and competence among dental professionals, and to protect patients from risk of harm.

In reaching its decision on impairment, the Committee had regard to the GDC Guidance section on impairment and the relevant case law, including the cases of *Cohen v General Medical Council* [2008] EWCH 581 (Admin) and *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant* [2011] EWHC 927 (Admin). In addition, it reviewed the Fifth Shipman report by Dame Janet Smith which set out the following four potential grounds to consider when determining current impairment:

1. *He/she 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;*
2. *He/she has in the past brought and/or is liable in the future to bring the medical profession into disrepute;*
3. *He/she has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession;*
4. *He/she has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

The Committee considered that all the grounds were engaged in this case.

The Committee next considered whether Mr Sharma's misconduct was remediable. It noted that dishonesty was very difficult to remediate but the clinical failings could be remedied with the correct attitude. However, although Mr Sharma has admitted that the standard of his record keeping was not acceptable, he has argued that that he provided a high standard of care to these patients and relied on the fact that he received no clinical complaints from these patients. As a result, Mr Sharma has provided no evidence of remediation or insight into his clinical failings. The Committee has also seen very little evidence of Continuing

Professional Development (CPD). It noted from the documentary evidence a printout showing that Mr Sharma was booked onto a course in 2016 titled 'Introduction to the NHS' and noted that this involved learning about the NHS rules and regulations and training in the best practice for record keeping. The Committee concluded therefore that in the absence of any meaningful remediation or insight, it was very likely that Mr Sharma will repeat his clinical failings and that this will put patients at risk.

The Committee further noted that although Mr Sharma has apologised for not keeping his registered address with the GDC up-to-date, he seems to downplay the seriousness of this by mentioning that it was "*unfortunate*" and an "*oversight*" on his behalf. The Committee noted that this was a recurring theme in Mr Sharma's comments throughout this case. He appeared not to have understood the process and seems to have been in denial about a lot of his behaviour. It noted that Mr Sharma had stated that he felt that he was "*deserving*" of the Band 3 claims owing to the quality of his clinical work. The Committee also considered the pattern of his behaviour during the investigations by the PCT, NHS CFS and the GDC. This included sending constant emails containing information not relevant to the matters in hand and blaming others for his misconduct. Furthermore, Mr Sharma was previously arrested and interviewed by NHS CFS but nevertheless still continued making inappropriate claims. For these reasons, the Committee considered that there is a high risk that Mr Sharma could repeat the misconduct it has found. It therefore concluded that a finding of impairment is necessary in the interest of public protection.

The Committee also determined that a finding of impairment was necessary in the wider public interest to maintain public confidence and uphold proper standards of conduct and behaviour. Mr Sharma has breached fundamental standards of probity and co-operation required by the GDC and other organisations, and has to date shown no insight into this serious matter. The Committee considered that public confidence in the dental profession and in the GDC as regulator would be severely undermined if a finding of impairment in relation to misconduct was not made in the circumstances of this case.

Sanction

The Committee next considered what sanction, if any, to impose on Mr Sharma's registration. It recognised that the purpose of a sanction was not to be punitive although it may have that effect. The Committee applied the principle of proportionality balancing Mr Sharma's interest with the public interest.

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

The mitigating factors in this case include:

- Evidence of previous good character (the Committee noted that Mr Sharma had no previous fitness to practise history with the GDC);
- The Committee noted Mr Sharma's email dated 28 February 2021, after the first week of the hearing, in which he stated, "*I will also admit to all of the allegations raised against me which the PCC consider fair and just. I express remorse for any of the inconvenience that I am causing/caused the GDC*". The Committee acknowledged this admission, however, it was received very late in the day and after persistent denials from Mr Sharma.

The aggravating factors in this case include:

- Risk of harm to patients;

- Serious dishonesty;
- Financial gain by Mr Sharma;
- Premeditated misconduct;
- Breach of trust at all levels, including patients, the wider community, the NHS and GDC;
- The involvement of vulnerable patients;
- Misconduct sustained and repeated over a period of time;
- Blatant and wilful disregard of the role of the GDC and the systems regulating the profession;
- Attempts to cover up wrongdoing (the creation of a second appointment in the patient records to avoid detection of his inappropriate claiming and evading investigations);
- No meaningful insight regarding misconduct.

The Committee decided that it would be inappropriate to conclude this case with no further action. It would not satisfy the public interest given the serious nature of Mr Sharma's misconduct.

The Committee then considered the available sanctions in ascending order starting with the least serious.

The Committee concluded that misconduct of this nature could not be adequately addressed by way of a reprimand. It cannot be said to be at the lower end of the spectrum. The public interest would not be sufficiently protected by the imposition of such a sanction. The Committee therefore determined that a reprimand would be inappropriate and inadequate.

The Committee then considered whether a conditions of practice order would be appropriate. However, it noted that it would be difficult if not impossible to formulate conditions to address the issue of Mr Sharma's dishonesty. Furthermore, Mr Sharma has not attended this hearing and has failed to co-operate with the GDC's investigation and has a history of not engaging with investigations into his conduct by other organisations. The Committee also noted Mr Sharma's stated intention that he no longer wishes to practise dentistry. The Committee was of the view that conditions would not therefore be workable, and were neither sufficient nor appropriate to address the seriousness of the misconduct and safeguard the wider public interest.

The Committee next considered whether to suspend Mr Sharma's registration for a specified period. It questioned whether a suspension would be sufficient in all the circumstances regarding the misconduct that it had found. In reaching its decision, the Committee had regard to the factors listed under paragraph 6.28 of the Guidance, which dealt with the sanction of suspension, and considered that most of the factors listed applied. However, this paragraph made clear that a suspension may be appropriate where there is "*no evidence of harmful deep-seated personality or professional attitudinal problems*". The Committee considered that there was evidence that Mr Sharma did have a professional attitudinal problem. The Committee noted that Mr Sharma has shown no meaningful remorse or insight into his misconduct. Furthermore, he continues to blame other people for his failings and had engaged in obstructive and threatening behaviour towards Person A during the PCT's enquiries into his conduct. This non co-operative behaviour has been sustained over a

lengthy period and his non-engagement with the GDC's investigation ultimately resulted in him working whilst suspended. In these circumstances, the Committee concluded that the suspension of Mr Sharma's registration would not be sufficient or proportionate to protect the public and maintain the public's confidence in the dental profession.

In considering whether the sanction of erasure was proportionate and appropriate, the Committee had regard to paragraph 6.34 of the Guidance, which states:

"Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion."

The Committee considered the following factors applied in this case:

- *"serious departure(s) from the relevant professional standards;*
- *Where a continuing risk of serious harm to patients or other persons is identified;*
- *the abuse of a position of trust or violation of the rights of patients, particularly if involving vulnerable persons;*
- *serious dishonesty, particularly where persistent or covered up;*
- *a persistent lack of insight into the seriousness of actions or their consequences."*

It noted that Mr Sharma had shown a persistent lack of insight into his behaviour and his conduct was a serious departure from the standards expected of dental professionals. Given these reasons, the Committee concluded that his behaviour was fundamentally incompatible with being a dental professional.

In all the circumstances, the Committee has determined to erase Mr Sharma's name from the Dentists' Register.

The Committee will now consider whether an immediate order should be imposed on Mr Sharma's registration, pending the taking effect of its determination for erasure."

Decision on Immediate Order

"The Committee has considered whether to make an order for the immediate suspension of Mr Sharma's registration in accordance with Section 30(1) of the Dentists Act 1984 (as amended).

Ms Barnfather, on behalf of the GDC, submitted that such an order is necessary for the protection of the public and is otherwise in the public interest.

The Committee has considered the submission made. It has accepted the advice of the Legal Adviser.

The Committee was satisfied that an immediate order of suspension was necessary for the protection of the public and was otherwise in the public interest. The Committee concluded that given the seriousness and the nature of its findings and its reasons for the substantive order of erasure, it was necessary to direct that an immediate order of suspension be imposed on both of these grounds. The Committee considered that, given its findings, if an immediate order was not made in the circumstances, there would be a risk to public safety and public confidence in the profession and in the GDC as its regulator would be undermined.

The effect of this direction is that Mr Sharma's registration will be suspended immediately. Unless Mr Sharma exercises his right of appeal, the substantive order of erasure will come into effect 28 days from the date on which notice of this decision is deemed to have been served on him. Should Mr Sharma exercise his right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

The Committee also directs that the interim order currently in place on Mr Sharma's registration should be revoked.

That concludes today's hearing."