

**Hearing heard partly in private
Professional Conduct Committee
Initial Hearing
3 – 5 February 2025**

Name: HENDRY, Johanne
Registration number: 5776
Case number: CAS-207262 – J9D1Q0

General Dental Council: Priya Malhotra, counsel
Instructed by Rashidah Conroy, IHLPS

Registrant: Not Present
Unrepresented

Fitness to practise: Impaired by reason of misconduct
Outcome: Suspended with immediate suspension (with a review)
Duration: 12 months
Immediate order: Immediate suspension order

Committee members: Adrian Smith (Chair, Lay)
Chantelle Moodie (Dental Care Professional)
Anjali Patel (Dentist)
Legal adviser: Lucia Whittle-Martin
Committee Secretary: Jenny Hazell

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

The amended allegations are as follows:

“That being registered as a dental care professional, Johanne Hendry’s (5776) fitness to practise is impaired by reason of misconduct. In that:

- 1. Between 1 January 2021 and 15 November 2021, you inappropriately accessed confidential patient records held by Person A.*
- 2. Between 1 January 2021 and 31 December 2021, you behaved inappropriately upon identifying confidential patient records held by Person A. In that:*
 - a. You made copies of the records.*
 - b. You sought to use your knowledge of the records as leverage against Person A.*
- 3. You provided false information to the NHS regarding your actions in relation to the confidential patient records held by Person A.*
- 4. Your conduct in respect of allegations 2b and/or 3 was:*
 - a. Misleading and/or*
 - b. Dishonest*

Your conduct in respect of allegations 1, 2a, 2b, and/or 3 was intended to cause distress to Person A.”

1. This is an initial hearing before the Professional Conduct Committee, pursuant to section 27B of the Dentists Act 1984 (as amended) (‘the Act’).
2. The hearing is being conducted remotely by Microsoft Teams video-link.
3. Miss Hendry is not present nor represented at these proceedings. Ms Malhotra, Counsel, appears on behalf of the General Dental Council (GDC).

Preliminary Matters

4. The Committee first considered the issues of service and proceeding in the absence of Miss Hendry. In so doing, it had regard to the GDC’s hearing bundle as well as the submissions made by Ms Malhotra on behalf of the GDC. It accepted the advice of the Legal Adviser on these matters.

Decision on service

5. The Committee first considered whether notice of the hearing had been served on Miss Hendry in accordance with Rules 13 and 65 of the GDC (Fitness to Practise) Rules Order of Council 2006 ('the Rules'), and section 50A of the Act.

6. The Committee had regard to the Notice of Hearing ('the notice') dated 10 December 2024, which was sent to Miss Hendry's registered address by Special Delivery and First-Class post. The Committee noted that the address shown on the notice is the same address as that shown on the printout of the GDC's entry of Miss Hendry's contact details. The Royal Mail 'Track and Trace' receipt confirmed that the copy of the notice was delivered to Miss Hendry's registered address and signed for by 'Hendry' on 11 December 2024. The Committee also noted that a copy of the notice was emailed to Miss Hendry's registered email address on 10 December 2024 and was downloaded on the same day.

7. The Committee was satisfied that the notice sent to Miss Hendry complied with the 28-day notice period required by the Rules. It was further satisfied that the notice contained all the required particulars, including the date, time and duration of the hearing, confirmation that it would be held remotely by Microsoft Teams, and that the Committee had the power to proceed with the hearing in the absence of Miss Hendry.

8. Accordingly, the Committee was satisfied that notice of the hearing had been served on Miss Hendry in accordance with the Rules and the Act.

Decision on whether to proceed with the hearing in the absence of the registrant

9. The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Miss Hendry. It had regard to the factors to be considered in reaching its decision, as set out in the case of *R v Jones* [2003] 1 AC 1HL, and as affirmed in the joined regulatory cases of *General Medical Council v Adeogba* and *General Medical Council v Visvardis* [2016] EWCA Civ 162. The Committee also took into account the need to be fair to both Miss Hendry and the GDC, as well as the public interest in the expeditious disposal of this case.

10. The Committee bore in mind that the Notice of Hearing letter dated 10 December 2024 to Miss Hendry advised her that the Committee had the power to proceed in her absence. She was invited to inform the GDC by 18 December 2024 of confirmation of her attendance, but no response was received by the GDC. It was informed that the GDC Hearings Team sent an email to Miss Hendry on 30 January 2025, inviting her to join the Teams link to the hearing but no response had been received.

11. Having regard to all the information before it, the Committee was satisfied that Miss Hendry, in the knowledge of this hearing, has voluntarily absented herself from it. Miss Hendry has not applied for an adjournment, either in response to the Notice of Hearing letter, or in her email correspondence to the GDC in November 2024. In the Committee's judgement, there is no information to suggest that an adjournment would secure her attendance on a future date. Accordingly, the Committee decided that in the absence of any good reason not to proceed, it was fair and in the public interest to proceed with the hearing in the absence of Miss Hendry.

Application to amend the charge

12. Ms Malhotra then made an application under Rule 18 to amend the charge in three aspects, as follows

- 1) Change the reference to the person identified by their initials in allegations 1, 2, 3 and 5, to “Person A”; this was in accordance with the GDC’s standard practice regarding the anonymization of witnesses.
- 2) Change the start date for allegations 1 and 2 from 1 March 2019 to “1 January 2021”; this was in accordance with the evidence set out in the witness statement of Person A and the information provided by Miss Hendry to the GDC.
- 3) Amend allegation 4 so that it makes the GDC’s position clear that the conduct was alleged to have been misleading “and/or” dishonest.

13. Ms Malhotra submitted that the proposed changes were uncontroversial and could be made without injustice to Miss Hendry since they did not change the meaning or the way in which the GDC put its case.

14. The Committee had regard to the submissions made by Ms Malhotra. It accepted the advice of the Legal Adviser.

15. The Committee was satisfied that the proposed amendments as set out at 1) to 3) above could be made without injustice. In respect of 1), the Committee accepted that changing the reference to the person so that it reads “Person A” was in accordance with the GDC’s house style to protect the anonymity of the person; in respect of 2), the Committee noted that the change of the start date was consistent with the evidence of Person A and the information provided by Miss Hendry and in respect of 3), the Committee was satisfied that the addition of the words ‘and/or’ after 4(a) set out the GDC’s case clearly without changing the nature and substance of the allegation. Accordingly, the Committee acceded to the GDC’s application.

Application for hearing to be held partly in private

16. Ms Malhotra then made an application that the hearing be held partly in private under Rule 53(2)(a) since the matters under consideration relate to Miss Hendry’s health and personal life.

17. The Committee accepted the advice of the Legal Adviser.

18. The Committee bore in mind that, as a starting point, hearings should be conducted in public. However, having regard to the nature of the case, the Committee was satisfied that Miss Hendry’s personal interests outweighed the public interest in this case. It therefore determined to move into private session where reference was to be made to Miss Hendry’s health and personal life. Accordingly, it acceded to the GDC’s request under Rule 53(2)(a).

Amended allegations

19. The amended allegations are as follows:

“That being registered as a dental care professional, Johanne Hendry’s (5776) fitness to practise is impaired by reason of misconduct. In that:

1. *Between 1 January 2021 and 15 November 2021, you inappropriately accessed confidential patient records held by Person A.*
2. *Between 1 January 2021 and 31 December 2021, you behaved inappropriately upon identifying confidential patient records held by Person A. In that:*

- a. *You made copies of the records.*
 - b. *You sought to use your knowledge of the records as leverage against Person A.*
3. *You provided false information to the NHS regarding your actions in relation to the confidential patient records held by Person A.*
4. *Your conduct in respect of allegations 2b and/or 3 was:*
 - a. *Misleading and/or*
 - b. *Dishonest*
5. *Your conduct in respect of allegations 1, 2a, 2b, and/or 3 was intended to cause distress to Person A."*

Summary of the case

20. This case concerns Miss Hendry's conduct who allegedly inappropriately accessed the clinical records of Person A's patients, copied those records and used her knowledge of them as leverage against Person A. The GDC alleges that Miss Hendry provided false information to the NHS regarding her actions and that her conduct was misleading and/or dishonest.

21. [IN PRIVATE]

22. On 12 November 2021 Miss Hendry sent an email to Person C (the Director of NHS Health Trust 1), reporting Person A for inappropriately possessing medical records of patients. Miss Hendry confirmed that she had *"the names of those involved and copies."* The email was also sent to Person E, the Medical Director at Trust 2. Trust 2 was Person A's employer. Person A was copied into the emails. Person A confirmed that he would forward the messages to his professional lead, Person D.

23. On 15 November 2021 Miss Hendry confirmed that the files had been removed *"from our home while I was out."*

24. In the early hours of 16 November 2021 Miss Hendry emailed Person C, notifying them that she wished to withdraw the complaint because she was *"now unable to provide any further evidence so will be unable to provide a statement."* Later that same day, Miss Hendry emailed Person C again, stating: *"... can I please reiterate I have never seen any files or have names or copies. It was a locked briefcase."*

25. On 18 November 2021 in response to a request for further information from Person B Miss Hendry stated: *"I do not have any names or copies of files ... I was only made aware by [Person A] that he had such files ... in a briefcase. It was locked so I had no access to it. The briefcase has now been removed."*

26. Due to concerns that there may be patient notes out in the public domain, the Information Commissioner's Office and the Police were notified on 18 November 2021.

27. The files were returned on 20 or 21 November 2021 to Trust 1.

28. On 20 November 2021 Person A emailed Person B recounting a conversation with Miss Hendry who is reported to have confirmed that the case was unlocked, but she had seen nothing

and did not know the names. Person A recounts that he received a message from Miss Hendry saying she saw the first name of one patient and then tried to message someone she believed was the patient. Later that same day Person A emailed Person B stating that he had received a further message from Miss Hendry “*revealing another name from the records but accusing me of telling her this information and asking for further money from me.*”

29. [IN PRIVATE]

30. On 21 November 2021 Miss Hendry sent a text message to Person A, demanding the sum of £3000 in exchange for not contacting his superiors.

31. An internal investigation against Person A concluded in February 2022 with recommendations.

32. On 23 May 2022 Person B contacted the GDC via webform arising from his concerns about Miss Hendry’s conduct.

Findings of Fact

33. The factual evidence provided to the Committee by the GDC comprised the witness statements of Person A, Person B and Person C, along with associated exhibits attached to their statements. The witness statements of Person B and Person C were accepted in full, with the agreement of the Committee and were not called to give evidence.

34. Person A also gave oral evidence before the Committee. He confirmed the contents of his witness statement dated 24 September 2024 and also answered questions put to him by Ms Malhotra and by the Committee.

35. The Committee also had regard to the letter from Miss Hendry to the GDC, received via email dated 28 November 2024. It considered that most of its content related to mitigation and did not address the facts of the case. Accordingly, the Committee considered that it would be of more assistance at the next stage of proceedings, were the Committee to reach any findings against Miss Hendry.

36. The Committee considered all the evidence presented to it, both documentary and oral. It took account of the submissions on the alleged facts made by Ms Malhotra on behalf of the GDC. The Committee has borne in mind that Miss Hendry is of good character in that she has no previous fitness to practise history. It has accepted the advice of the Legal Adviser.

37. The Committee considered the factual allegations 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 proved on the balance of probabilities.

38. In respect of allegation 4, the Committee applied the legal test for dishonesty, as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.

39. The Committee made the following findings:

1	<i>Between 1 January 2021 and 15 November 2021, you inappropriately accessed confidential patient records held by Person A.</i>
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	<p><i>Found proved</i></p> <p>In support of this allegation the GDC relies on the evidence of Person A. His evidence was that Miss Hendry knew that the patient records were being held by Person A inappropriately. In his oral evidence Person A confirmed that he had discussed the matter with Miss Hendry although he did not tell Miss Hendry the names of the patients. The Committee found Person A's evidence to be credible on this point and to be consistent with the documentary evidence contained in the GDC's hearing bundle.</p> <p>The GDC also relies on emails from Miss Hendry to various people in or around November- December 2021.</p> <p>The Committee has had regard to an email dated 12 November 2021 from Miss Hendry to Person C, the Director of NHS Trust 1, reporting Person A for inappropriately possessing medical records of patients. Miss Hendry confirmed that she had <i>"the names of those involved and copies."</i> The email was also sent to Person E, the Medical Director at Trust 2. In her email to Person B dated 26 November 2021 Miss Hendry stated: <i>"I did not read the notes as felt wrong to do so but I did see two first names."</i></p> <p>In Miss Hendry's email to Person B on 27 December 2021 she stated "I did see the two first names. That of [redacted]." She therefore revealed the names of two of the four patients.</p> <p>Person B, as part of the Trust's investigation into these matters, stated: <i>"I can confirm that the names [redacted] match with two of the four records."</i></p> <p>Taking all this evidence into account, the Committee is satisfied, on the balance of probabilities, that Miss Hendry accessed confidential patient records held by Person A. In the Committee's view, there was no clinical justification for her looking at the patients' notes, names or of revealing the names to another and that it was inappropriate for her to have done so.</p> <p>Accordingly, it finds this allegation proved.</p>
2	<p><i>Between 1 January 2021 and 31 December 2021, you behaved inappropriately upon identifying confidential patient records held by Person A. In that:</i></p>
2a	<p><i>You made copies of the records</i></p> <p><i>Found proved</i></p> <p>In reaching its decision, the Committee has had regard to Miss Hendry's email dated 12 November 2021 to Person C, the Director of NHS Health Trust 1 in which she states she had <i>"the names of those involved and copies if you would like to meet. ."</i></p> <p>The Committee considers that this is an unequivocal statement made by Miss Hendry to a director of an NHS HealthTrust which, on the face of it, was likely to result in further investigations, with possible consequences for Person A. Notwithstanding the evidence before it that Miss Hendry changed her position on this point and denied that she had knowledge of the patient records, the Committee is satisfied that at the time when she sent that email, Miss Hendry had made copies of the patient records. In the Committee's view, it seemed very unlikely that Miss Hendry would have made such a</p>

	<p>bold statement if in fact she did not have the information, with the offer of meeting someone senior in an NHS HealthTrust.</p> <p>Accordingly, it finds this allegation proved.</p>
2b	<p><i>You sought to use your knowledge of the records as leverage against Person A.</i> Found proved</p> <p>In reaching its decision, the Committee had regard to a screenshot of a text message from Miss Hendry to Person A which states: “<i>did you put my 3000 in my account? I will retract my email if you do.</i>” Person A’s witness statement refers to Miss Hendry demanding a sum of £3000 from him in exchange for not contacting his superiors. Person A also confirmed in his oral evidence that the date of this message was on 21 November 2021.</p> <p>Person A told the Committee that he felt threatened and that earlier, around October 2021, Miss Hendry threatened to go to his employer and threatened to damage him professionally. The Committee found Person A’s evidence credible on this point.</p> <p>In addition, the Committee has seen an email dated 16 November 2021 from Miss Hendry to Person C in which she accepted that she was “<i>trying to hurt Person A.</i>”</p> <p>The Committee was satisfied that Miss Hendry behaved inappropriately in seeking to use her knowledge of the records as leverage against Person A. The Committee heard from Person A that Miss Hendry had an awareness of professional conduct and that she was using that knowledge to manipulate him.</p> <p>Accordingly, it finds this allegation proved.</p>
3	<p><i>You provided false information to the NHS regarding your actions in relation to the confidential patient records held by Person A.</i> Found proved</p> <p>The Committee has had regard to the varying accounts provided by Miss Hendry in relation to the confidential patient records held by Person A – on the one hand reporting to the NHS on 12 November 2021 that she had copies of the records and on the other hand, advising the NHS on 16 November 2021 that she had no evidence and wished to withdraw her complaint. The Committee considered that both versions cannot be true.</p> <p>For the reasons set out in allegations 1 and 2, the Committee is satisfied that Miss Hendry inappropriately accessed confidential patient records held by Person A sometime between 1 January 2021 and 15 November 2021. It is further satisfied that during that time she made copies of those records and sought to use her knowledge of the records as leverage against Person A.</p> <p>The Committee has seen the email dated 16 November 2021 from Miss Hendry to Person C, notifying them that she wished to withdraw the complaint because she was “<i>now unable to provide any further evidence so will be unable to provide a statement.</i>” Later that same day, Miss Hendry emailed Person C again, stating: “<i>... can I please reiterate I have never seen any files or have names or copies. It was a locked briefcase.... I just knew there was case with stuff in it...</i>”</p>

	<p>The Committee has also had regard to an email dated 18 November 2021 in response to a request for further information from Person B, Miss Hendry stated: <i>“I do not have any names or copies of files ... I was only made aware by [Person A] that he had such files in ... a briefcase. It was locked so I had no access to it. The briefcase has now been removed.”</i></p> <p>In addition, the Committee has had regard to a second email dated 20 November 2021 from Person A to Person B sent later that day stating, that Person A had received a further message from Miss Hendry <i>“revealing another name from the records, but accusing me of telling her this information and asking for further money from me.”</i></p> <p>Further, the Committee saw the email from Miss Hendry to Person B dated 27 December 2021 in which she provided Person B with the names of two patients.</p> <p>The Committee is satisfied that Miss Hendry provided varying accounts to the NHS regarding her actions in relation to the confidential patient records. The accounts given to the NHS on 16 November 2021 was in direct contradiction with the account she provided to the NHS on 12 November 2021, four days earlier.</p> <p>Accordingly, it finds this allegation proved.</p>
4	<p><i>Your conduct in respect of allegations 2b and/or 3 was</i></p> <p><i>Misleading</i> <i>Dishonest</i> <i>Found not proved in respect of allegation 2b</i></p> <p>The Committee is satisfied from the evidence before it that Miss Hendry was seeking to use her knowledge of the records as leverage against Person A. In the Committee's view, her conduct in this regard was clearly unacceptable and likely to engage a breach of some of the GDC's standards, which will be a matter for stage 2 of these proceedings. Whilst the Committee was satisfied that Miss Hendry's conduct was unethical, it was not satisfied she misled Person A or acted dishonestly towards him; to the contrary, she set out her intentions to him with clarity.</p> <p>Accordingly, it finds this charge not proved both in relation to misleading and dishonesty.</p>
	<p><i>Misleading</i> <i>Dishonest</i> <i>Found proved in respect of allegation 3</i></p> <p>The Committee is satisfied that Miss Hendry's conduct in providing false information to the NHS regarding her actions in relation to the confidential patient records held by Person A was clearly misleading. She provided inconsistent accounts to the NHS, having initially stated that she had the names of the patients involved and copies of the records and then resiling from this position. In the Committee's judgement, Miss Hendry changed her position to conceal the extent of her wrongdoing in inappropriately accessing confidential patient records held by Patient A.</p> <p>The Committee concluded that Miss Hendry's acts were purposeful and were designed to cover her tracks and to deceive those to whom she provided the information. It is further satisfied that in applying the objective standards of ordinary, decent people, Miss Hendry's conduct would be judged to be dishonest.</p>

	Accordingly, it finds this charge proved both in relation to misleading and dishonesty.
5	<p><i>Your conduct in respect of allegations 1, 2a, 2b, and/or 3 was intended to cause distress to Person A."</i></p> <p>Found proved</p> <p>The Committee found Person A's evidence compelling on the effects of Miss Hendry's actions towards him. He described feeling emotional, shame, naivety, manipulated, vulnerable, upset and shocked. In his oral evidence he said: "It was an awful situation to be in and it lingers until now." Miss Hendry accepted in her correspondence to the GDC that she caused Person A distress.</p> <p>Accordingly, when looking at the allegations either individually or collectively, the Committee finds this charge proved.</p>

40. The hearing moves to Stage Two.

Stage 2

41. Having announced its decision on the facts, in accordance with Rule 20, the Committee heard submissions from Ms Malhotra in relation to the matters of misconduct, impairment and sanction. In short, Ms Malhotra submitted that the allegations amount to misconduct and that Miss Hendry's fitness to practise is impaired. The GDC's position is that a six-month suspension order is the appropriate and proportionate sanction. The Committee accepted the advice of the Legal Adviser.

42. The Committee reminded itself that its decisions on misconduct, impairment and sanction are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings. It had regard to its duty to protect the public, declare and uphold proper standards of conduct and competence and maintain public confidence in the profession.

43. The Committee took into consideration the GDC's Standards for the Dental Team (September 2013) (updated June 2019) ('the Standards') and the Guidance for the Practice Committees, including Indicative Sanctions Guidance, (October 2016, revised December 2020) ('the Guidance'). The Committee also had regard to relevant case law.

44. Ms Malhotra first addressed the Committee on the matter of misconduct. She referred to the Committee's finding of dishonesty in this case, which is a specific type of misconduct and a breach of one of the fundamental tenets of the profession. This was a serious breach of the standards the public is entitled to expect from professionals, including professions complementary to dentistry. Ms Malhotra contended that this was a case where there was a risk to vulnerable patients where their records had been inappropriately accessed and their names were shared. In addition, she referred to Miss Hendry's conduct in using the inappropriately obtained information for her own gain, by leveraging Person A. The findings amount to a departure from the GDC's Standards and a finding of misconduct should be made.

45. In relation to the matter of impairment, Ms Malhotra submitted that the facts found proved demonstrate repeated and sustained conduct from October 2021 until at least December 2021. They demonstrate an attitudinal problem that shows an inability to remediate and an inability to place patients' interests above Miss Hendry's own self-interest. The GDC's position is that Miss Hendry has not provided any evidence of any real insight or any tangible steps towards remediation.

46. Ms Malhotra invited the Committee to have regard to Miss Hendry's personal circumstances leading up to the incidents in question. [PRIVATE]. There was also evidence that Miss Hendry

apologised for her actions and recognises the distress she caused to Person A. However, the GDC's position is that Miss Hendry has not provided any evidence that she has reflected on her actions or the potential impact or risk. There is reference in the bundle to Miss Hendry's assertion that she does not wish to practise or maintain her registration, compounding her lack of remediation.

47. Ms Malhotra submitted that Miss Hendry has in the past, and is liable in the future, to act so as to put patients at unwarranted risk of harm and has in the past and is liable in the future to bring the dental profession into disrepute. In short, a finding of current impairment is necessary for the protection of patients and public as well as upholding professional standards and confidence in the profession.

48. Lastly, Ms Malhotra addressed the Committee on the matter of sanction. She highlighted the mitigating and aggravating features in this case which must be weighed against the protection of patients and the maintenance of public confidence in the profession. The GDC's position is that given the seriousness of the concerns found proved, the absence of any real insight or remediation by Miss Hendry, the appropriate and proportionate sanction is a six-month suspension order.

Decision on misconduct

49. The Committee first considered whether the facts found proved against Miss Hendry amount to misconduct. The Committee has found that Miss Hendry inappropriately accessed confidential patient records between January and November 2021 held by Person A. There was no clinical justification for her looking at the patient records, which by their very nature would have related to confidential information. The patients in question were particularly vulnerable. Miss Hendry then made copies of those records and sought to use her knowledge of those patient records as leverage against Person A. Miss Hendry's conduct in this regard was intended to cause harm to Person A and indeed did cause harm to them.

50. Miss Hendry's actions were compounded in that she knowingly provided false information to the NHS regarding the confidential patient records in an attempt to cover up her wrongdoing. The Committee found her actions were misleading and dishonest.

51. The Committee considers that Miss Hendry has breached the following GDC's Standards:

1.3: Be honest and act with integrity

1.3.2: You must make sure you do not bring the profession into disrepute.

1.7: You must put patients' interests before your own or those of any colleague, business or organisation.

4.2: You must protect the confidentiality of patients' information and only use it for the purpose for which it was given

9.1: Ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession

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

9.4.2 You must co-operate with Hospital Trusts carrying out any investigation

52. The Committee considers that Miss Hendry's actions fell far below the conduct expected of a registered dental professional and would bring the profession into disrepute. In the Committee's view, Miss Hendry put her own needs ahead of patients and her professional responsibilities. Taking all these factors into account, the Committee is satisfied that the findings are serious and amount to misconduct.

Decision on impairment

53. The Committee then considered whether Ms Hendry's fitness to practise is currently impaired by reason of her misconduct.

54. The Committee was mindful of its role to protect patients from risk of harm and to uphold the public interest, which includes the need to declare and maintain proper standards of conduct and performance.

55. The Committee considered that Miss Hendry's misconduct was serious and was not an isolated incident but was repeated over several months. Her actions have brought the profession into disrepute in that she has breached the fundamental tenets of the profession – namely to be honest and act with integrity. She also inappropriately accessed patients' records and used that information for her own gain. In the Committee's view, Miss Hendry has in the past acted so as to put patients at unwarranted risk of harm and has in the past brought the dental profession into disrepute.

56. The Committee next considered whether the misconduct found proved is remediable. It noted that dishonesty is said to be difficult to remediate, as it is an attitudinal failing. Nonetheless, the Committee went on to consider whether Miss Hendry has in fact remedied her failings.

57. The Committee has borne in mind Miss Hendry's apology to the NHS Trust dated 16 November 2021. It has also had regard to the letter from Miss Hendry to the GDC dated 28 November 2024 in which she acknowledged the distress she caused Person A. She also set out her personal circumstances leading up to the events in question and described how it has impacted upon her.

58. However, the Committee considers that Miss Hendry has not expressed any real insight into her actions or the potential impact or risk. The Committee considered that there is a high risk of repetition of the misconduct it has found proved in the absence of full insight. It therefore concluded that a finding of impairment by reason of Miss Hendry's misconduct is necessary in the interest of public protection.

59. The Committee further considered that public confidence in the profession and in the GDC as its regulator would be severely undermined if a finding of impairment in relation to misconduct was not made given the serious nature of the findings in this case. Accordingly, it determined that a finding of impairment by reason of Miss Hendry's misconduct is in the wider public interest.

Decision and reasons on sanction

60. The Committee next considered what sanction, if any, to impose on Miss Hendry's registration. It recognised that the purpose of a sanction is not to be punitive, although it may have that effect. The Committee applied the principle of proportionality, balancing Miss Hendry's interests with the public interest. It also took into account the Guidance.

61. The Committee considered the mitigating and aggravating factors in this case as outlined in paragraphs 5.17 and 5.18 of the Guidance.

62. The mitigating factors in this case include:
- Circumstances leading up the incidents in question [PRIVATE.]
 - Evidence of good character
 - Apology

The aggravating factors in this case include:

- The vulnerability of the patients, whose records were inappropriately accessed
- Causing distress to Person A
- Dishonesty
- The misconduct took place over several months
- Attempts to cover up wrongdoing
- Lack of insight

63. 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 the misconduct.

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

65. The Committee concluded that misconduct of this nature cannot be adequately addressed by way of a reprimand. It cannot be said to be at the lower end of the spectrum of seriousness. In the Committee's view, the protection of the public and the public interest would not be upheld by the imposition of such a sanction. The Committee therefore determined that a reprimand would be inappropriate and inadequate.

66. The Committee then considered whether a conditions of practice order would be appropriate. The Committee was of the view that there are no appropriate, practical or workable conditions that could be formulated given the nature of the misconduct identified. Further, given Miss Hendry's lack of engagement in these proceedings, there is nothing to reassure the Committee that she would comply with conditions. Moreover, given the seriousness of the Committee's findings, which included a finding of dishonesty, it did not consider that conditions would adequately address the protection of the public or the maintenance of public confidence in the profession.

67. The Committee then went on to consider whether a suspension would be appropriate. It takes a serious view of the findings against Miss Hendry. However, there is no evidence of repetition of similar conduct, either before or since the incident in question. The Committee is satisfied that the misconduct in this case, although serious, is not fundamentally incompatible with Miss Hendry remaining on the register. The Committee considered that a period of suspension would be sufficient for the protection of the public and the maintenance of public confidence in the profession. It further considers that this sanction is sufficient to mark the seriousness of Miss Hendry's misconduct. The Committee considers that it would be appropriate to give Miss Hendry an opportunity to reflect on her misconduct and be able to address the issues in this case.

68. The Committee did go on to consider erasure but having regard to the mitigating and aggravating factors in this case, determined that it would be disproportionate. Whilst there was a serious departure from the Standards, the Committee acknowledged that it would be unduly punitive to direct erasure at this time.

69. Balancing all these factors, the Committee directs that Miss Hendry's registration be suspended for a period of 12 months. The Committee considers that the maximum period of 12 months is necessary to protect patients and to maintain and uphold public confidence in the

profession, whilst sending the public and the profession a clear message about the standards of practice required of a dental care professional.

70. The Committee noted the hardship the suspension may cause Miss Hendry. However, this is outweighed by the public interest in this regard.

71. The Committee directs that this order be reviewed before its expiry, and Miss Hendry will be informed of the date and time in writing. It would be advisable for Miss Hendry to attend the review hearing, should she wish to return to dental practice. The reviewing Committee will consider what action it should take in relation to Miss Hendry's registration.

72. The reviewing Committee may be assisted to receive:

- *A detailed reflective statement demonstrating Miss Hendry's insight into and understanding of the dishonesty and its impact on patients, the dental profession and public confidence.*
- *Information from Miss Hendry regarding any Continuing Professional Development undertaken on data protection and information governance.*

73. The Committee now invites submissions from Ms Malhotra as to whether the suspension should take immediate effect to cover the 28-day appeal period.

Decision and reasons on immediate order

74. Ms Malhotra made an application for an immediate suspension to be imposed on Miss Hendry's registration. She invited the Committee to impose an immediate order of suspension on the grounds of public protection and in the wider public interest.

75. The Committee accepted the advice of the Legal Adviser.

76. Due to the risk of repetition, as identified in its earlier findings, the Committee was satisfied that an immediate order is necessary for the protection of the public and the wider public interest. To do otherwise would be incompatible with the Committee's earlier findings.

77. The Committee therefore determined to make an immediate order of suspension.

78. The immediate suspension will remain in place for at least 28 days from the date on which Miss Hendry is deemed to have been served with the Committee's decision. If an appeal is made, it will remain in place until the appeal has concluded. If no appeal is made, the substantive suspension will replace the immediate suspension after 28 days and will run for the full term of 12 months.

79. The Committee's decision will be confirmed to Miss Hendry in writing, in accordance with the Act.

80. That concludes this determination.