

**Professional Conduct Committee
Initial Hearing****22 – 29 August 2023****Name:** RADEVA, Eugeniya Stefanova**Registration number:** 182908**Case number:** CAS-195361-P0B4Y8

General Dental Council: Natalie Bird, Counsel
Instructed by IHLPS**Registrant:** Not present and unrepresented

Fitness to practise: Impaired by reason of misconduct**Outcome:** Erased**Immediate order:** Immediate suspension order

Committee members: Margaret Elsey (Chair, dentist member)
Louise Gilbert (Dental care professional member)
Clive Powell (Lay member)**Legal adviser:** Alastair McFarlane**Committee Secretary:** Sara Page

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

1. This substantive hearing had previously been listed to take place between 24 and 27 October 2022. On 27 October 2022, the Committee made the decision to adjourn the hearing and made a number of directions.

Preliminary matters

2. At the commencement of the resumed hearing on 22 August 2023, the Committee was informed that Miss Radeva was neither present nor represented. As a result, Ms Bird, on behalf of the General Dental Council (GDC), made the following applications:

Application for the hearing to be heard partly in private

3. Ms Bird made an application under Rule 53 of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006*' ('the Rules') that this hearing be held partly in private where there is reference to Miss Radeva's health. Rule 53 states:

53.—(1) *A hearing before a Committee shall be conducted in public, except where paragraph (2) applies.*

(2) *All or part of a hearing may be held in private—*

(a) where the interests of the parties or the protection of the private and family life of the respondent or any other person so requires...

4. In addition, Ms Bird submitted that the expert witness who is present for today's proceedings could remain where the Committee move into private session.
5. The Committee bore in mind that, as a starting point, hearings should be conducted in public session. However, having regard to Ms Bird's submissions that reference may be made to Miss Radeva's health, the Committee was satisfied that the personal interests of Miss Radeva outweighed the public interest in this case.
6. The Committee was satisfied that the hearing should be held in private when discussing matters relating to Miss Radeva's health and therefore acceded to Ms Bird's application, with the exception that the Expert Witness would not be permitted to remain at that time.

Decision on service of Notice of Hearing

7. In Miss Radeva's absence, the Committee first considered whether the Notice of Hearing ('the Notice') had been served on her in accordance with Rules 13 and 65.
8. The Committee had regard to the indexed hearing bundle of 642 pages, which contained a copy of the Notice, dated 6 July 2023. The Notice was sent to Miss Radeva's registered address by International Signed For delivery on 6 July 2023, in accordance with Section 50A of the '*Dentists Act 1984*' (as amended) ('the Act') and to two of Miss Radeva's previously used email addresses on the same date.
9. The Committee was satisfied that the Notice contained proper and correct information relating to today's hearing. This included the time, date, charges, and that it is being conducted remotely via Microsoft Teams, as well as notification that the Committee has the power to proceed with the hearing in Miss Radeva's absence.

10. The Committee was provided with information that demonstrated that the Notice had been received in the country of Ms Radeva's residence. However, it noted that it is a requirement of the Rules that the Notice is served, not received.
11. In light of the information available, the Committee was satisfied that Miss Radeva has been served with proper notification of this hearing, at least 28 days before its commencement, in accordance with the Rules.

Decision on whether to proceed in the absence of Miss Radeva

12. The Committee next considered whether to exercise its discretion to proceed with the hearing in the absence of Miss Radeva and any representative on her behalf. The Committee was mindful that its decision to proceed in the absence of Miss Radeva must be handled with the utmost care and caution. The Legal Adviser reminded the Committee of the requirement to be fair to both parties, as well as considering the public interest in the expeditious disposal of this case.
13. Ms Bird invited the Committee to proceed in Miss Radeva's absence. She made comprehensive submissions in this regard and referred the Committee to the relevant case law.
14. The Committee noted that no application for an adjournment had been made by Miss Radeva and, in the light of her non-attendance at the first listing of this case in October 2022 and her non-engagement with the GDC since August 2022, there was no information before the Committee that adjourning these matters would secure her attendance at a later date. The Committee also bore in mind that a number of witnesses have been scheduled to attend and give evidence at this listing and that to adjourn these matters may cause inconvenience to them and have an impact on their memory of events.
15. In all these circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Miss Radeva.

Decision and reasons on application to amend the charges

16. During the course of her submissions and prior to hearing from the witnesses, Ms Bird made an application under Rule 18 to amend Charge 5, namely "*On 10 September 2019 the Performers List Decision Panel imposed the condition that "You must restrict your provision of General Dental Services to a practice/a number of named practices approved in advance by NHS England" on your inclusion in the National Dental Performers List.*"
17. Ms Bird submitted that the current date of 10 September 2019 in the charge corresponds with the date on the letter from NHS to Miss Radeva, in which it states:

"I am writing to advise you of the outcome of the Performers List Decision Panel (PLDP) discussion about your cases ... held on 10th September 2019.

The PLDP considered the relevant action appropriate to your cases and have agreed that you may continue to work but subject formal conditions.

As a result of this discussion, the PLDP decided to serve you with formal notice in accordance with Regulation 10 (2) of an intention to consider the imposition of conditions on your continued inclusion in the performers list.

18. In a subsequent letter from the NHS, it confirmed that the proposed conditions only came into effect from the date of the letter, dated 29 October 2019. In that regard, Ms Bird submitted that it would be more accurate to amend the charge to reflect that the PLDP imposed conditions as of 29 October 2019. She stated that the nature of amendment sought does not "move the goalposts" in any material

way; indeed, she submitted that it makes the date more accurate, shortening the charge period, and therefore no injustice could be caused to Miss Radeva.

19. The Committee accepted the advice of the Legal Adviser.
20. The Committee considered the information before it and had regard to the merits of the case and the fairness of the proceedings, and it was content that the proposed amendment could be made without causing injustice to Miss Radeva. The Committee was satisfied that the suggested amendment was appropriate given the evidence before it that the conditions were imposed as of the date of the letter, dated 29 October 2019, and more accurately reflected the evidence before it.
21. Therefore, the Committee acceded to Ms Bird's application and amended Charge 5, as follows:

"On ~~10 September 2019~~ 29 October 2019 the Performers List Decision Panel imposed the condition that "You must restrict your provision of General Dental Services to a practice/a number of named practices approved in advance by NHS England" on your inclusion in the National Dental Performers List."

Decision and reason on Rule 57 hearsay application

22. At 10:30 on Day 2 of the hearing, the Committee was informed that, despite attempts to contact Patient A since the afternoon of Day 1, contact had not been made with her and she has not attended to give evidence today. As a result, Ms Bird invited the Committee to rule on the admissibility of Patient A's witness statement and the adjoining exhibits, in accordance with Rule 57. Rule 57 states:

'57.— Evidence

A Practice Committee may in the course of the proceedings receive oral, documentary or other evidence that is admissible in civil proceedings in the appropriate court in that part of the United Kingdom in which the hearing takes place.

A Practice Committee may also, at their discretion, treat other evidence as admissible if, after consultation with the legal adviser, they consider that it would be helpful to the Practice Committee, and in the interests of justice, for that evidence to be heard.'

The Council seeks to adduce the statements as hearsay evidence, that being 'a statement made, otherwise than by a person while giving oral evidence in proceedings, which is tendered as evidence of the matters stated.'

23. Ms Bird referred the Committee to the case of *Thorneycroft v Nursing Midwifery Council* [2014] EWHC 1565 (Admin) and took it through the criteria in detail, as follows:
 - 1) *Whether the statements were the sole and decisive evidence in support of the charges;*
 - 2) *The nature and extent of the challenge to the contents of the statements;*
 - 3) *Whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
 - 4) *The seriousness of the charge, taking into account the impact which adverse findings might have on [the Registrant's] career;*
 - 5) *Whether there was a good reason for the non-attendance of the witnesses;*
 - 6) *Whether [the GDC] had taken reasonable steps to secure the attendance of the witness;*
 - 7) *The fact that [the Registrant] did not have prior notice that the witness statements were to be read.*
24. Ms Bird confirmed that as recently as Thursday 17 August 2023, Patient A confirmed that she would be available to give evidence at this hearing. She stated that there was no information relating to

Patient A's absence and the GDC has not been able to contact her by any of the channels through which it had recently been corresponding with her. She confirmed that the GDC had dutifully kept Patient A informed of when she was likely to be giving evidence, namely Days 1 and 2 and submitted it had taken all reasonable steps to secure her attendance and had no reason to anticipate her absence. As of Day 2, there was no good reason advanced for Patient A's absence at these proceedings; she stated that the GDC has no information at all regarding the whereabouts of Patient A or the reason for her absence.

25. Ms Bird informed the Committee that it is the GDC's position that Patient A's statement is the sole and decisive evidence regarding Charges 1 – 3 and accepted that Miss Radeva has previously denied the allegations made against her by Patient A. Ms Bird submitted that there was no reason to believe that Patient A had fabricated the allegations and, until last week, had been content to attend the hearing and provide oral evidence before the Committee. She invited the Committee to consider the seriousness and the nature of the allegations made by Patient A.
26. The Committee heard and accepted the advice of the Legal Adviser, who referred the Committee to further case law including *El Karout v Nursing Midwifery Council* [2019] EWHC 28 (Admin).
27. In coming to its decision, the Committee was mindful that issues of admissibility and weight are separate issues, and for this application, consideration was only given to whether or not it was fair to admit the hearsay evidence.
28. The Committee was satisfied that the information contained within Patient A's statement is the sole and decisive evidence relating to Charges 1 – 3. It noted that there were conflicting accounts and/or contradictions between a number of the documents provided in the GDC bundle, including Patient A's written statement, the record of her complaint made by telephone in 2018 to NHS England, and the NHS England Clinical Review Form, dated 19 August 2018. As a result, the Committee would consider it necessary for fairness to test the reliability of Patient A's account.
29. The Committee bore in mind the evidence of the Expert Witness, who provided the Committee with a framework upon which it could define the departure from the relevant standards. In the absence of Patient A's attendance, the Committee determined that there would not be sufficient information relating to the nuances of *how* Patient A was alleged to have been spoken to by Miss Radeva.
30. The Committee noted that Miss Radeva has challenged Patient A's account and has denied the allegations made against her. It was not satisfied in the circumstances that without testing Patient A's evidence that it was demonstrably reliable. Further, it was satisfied that there was no other means of testing her reliability.
31. There was no evidence before the Committee to indicate that Patient A had reason to fabricate her evidence and there was no suggestion that she had done so.
32. The Committee noted the attempts made by the GDC to contact Patient A since the afternoon of Day 1, but none of those attempts have been successful. As the GDC has been unable to contact Patient A, no good reason has been provided for her non-attendance.
33. If the allegations in Charges 1 – 3 were found to be proved, the Committee was satisfied that such serious adverse findings could have a negative impact on Miss Radeva's registration. Accordingly, the Committee determined that it would be unfair to Miss Radeva and would not be in the interest of justice to admit Patient A's written statement without any means to test such evidence that requires numerous areas of clarification.
34. Therefore, the Committee denied the application made by Ms Bird on behalf of the GDC.

Decision and reasons on the facts

35. Having been notified of the Committee's decision regarding the Rule 57 application, Ms Bird confirmed that the GDC wished to withdraw Charges 1 – 3. In withdrawing Charges 1 – 3, the GDC also released the Expert Witness and confirmed his written and oral evidence was no longer required.
36. In coming to its decision on Charges 4 – 12, the Committee considered all the evidence presented to it and took account of the closing submissions made by Ms Bird on behalf of the GDC. The Committee accepted the advice of the Legal Adviser. It considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged facts are proved on the balance of probabilities. The Committee noted Miss Radeva was of good character and put this into the balance in her favour.

Evidence

37. The Committee had regard to a number of documents which included, but were not limited to, the following:
- Written statements of witnesses of fact and accompanying exhibits.
38. The Committee also took into account the documents from Miss Radeva, including her email responses to the GDC, NHS England, and her practice manager.

Witnesses

39. The Committee heard oral evidence from the following GDC witnesses:
- Witness 1 (Programme Manager within the NHS England, South West Professional Performance Team);
 - Witness 2 (Senior Commissioning Support Officer for NHS England and NHS Improvement South West); and
 - David Fisher (GDC Fitness to Practise Caseworker).

Background

40. In her written submissions, Ms Bird provided the Committee with the following information regarding the background to the allegations:

“Miss Radeva first registered with the GDC as a dental care professional on 20 January 2010.

On 30 October 2019, the GDC was informed by NHS England and Improvement (South West) that conditions had been applied to Miss Radeva's inclusion on the dental performers list. On 12 November 2019, the GDC received further information from NHS England relating to a complaint against Miss Radeva by Patient A. The complaint was made to the NHS by telephone in 2018 and focused on clinical treatment provided by Miss Radeva to Patient A, and specifically to a refusal to provide root canal treatment, in late 2017.

Patient A's complaint was reviewed by the NHS Clinical Reviewer on 19 August 2018 who determined that Miss Radeva had poorly managed Patient A's case. The NHS Clinical Reviewer specified that radiographs should have been taken and there should have been better treatment planning actioned. It was recommended that Miss Radeva's clinical practice in relation to endodontic treatment and professional behaviours be reviewed.

Following the Clinical Review, Miss Radeva met with the Performance Advisory Group (PAG) and underwent training courses. However, Miss Radeva received further

complaints about her clinical treatment and the PAG referred her to the Performers List Decision Panel ("PLDP") on 20 August 2019.

On 29 October 2019, Miss Radeva was informed by the NHS that conditions that had been proposed at the PLDP meeting on 10 September 2019 had been confirmed, imposing on her inclusion of the National Dental Performers List ("the NDPL"). As part of the conditions, Miss Radeva had to restrict her provision of dental services to practices approved by NHS England. On 7 November 2019, Miss Radeva informed her case manager that she was working at [Redacted] and this was approved by the case manager. On 17 December 2019, Miss Radeva informed her case manager that she was out of the country and would notify her case manager when she was back in the UK. Miss Radeva informed her case manager on 7 January 2020, that she was planning on returning to the UK at some point to provide dental services.

In early 2020, NHS England reviewed further concerns involving Miss Radeva and during its enquiries it was confirmed that Miss Radeva had last worked at [Redacted] on 17 March 2020 and was subsequently working at two other practices in Devon and Torquay between February and April 2020. Miss Radeva had not informed the NHS of her providing dental services at these other dental practices nor had she been in any contact with her case manager since 7 January 2020.

On 18 May 2020, Miss Radeva was informed as to the outcome of the PAG meeting held on 13 May 2020, which was to refer her case to the PLDP to consider imposing further conditions or sanctions. On 26 May 2020, the PLDP determined that Miss Radeva should be removed from the NDPL and be immediately suspended. The decision was made due to Miss Radeva's failure to comply with the conditions imposed and on the grounds of efficiency.

On 26 June 2020, the GDC and other organisations were notified of Miss Radeva's removal from the NDPL with immediate effect.

Given the information received mentioning ongoing [PRIVATE] treatment, the GDC requested that Miss Radeva undergo a health assessment. Miss Radeva agreed to this by email on 7 September 2020, however, despite a number of appointments being arranged for her with third-party occupational health providers Heales Medical, Miss Radeva has failed to comply with the requested assessment."

Committee's findings

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

Charge 1

"You failed to provide an adequate standard of care to Patient A on 29 November 2017, in that you failed to appropriately treat swelling at Patient A's UL2 by only advising that Patient A should continue to take antibiotics."

WITHDRAWN

Charge 2

"You failed to treat Patient A with kindness and compassion in that:

- a) On 29 November 2017 you:*

- i. refused to carry out root canal treatment and/or dismissed Patient A's concerns;*



ii. *told Patient A that she should go to the hospital to have her tooth taken out as you did not have time;*

b) *On 1 December 2017 you:*

- i. *Asked Patient A why she “was being a wussy”;*
- ii. *Threw a clipboard across the surgery;*
- iii. *Said to Patient A “You were right, clever girl”;*
- iv. *Said to Patient A “Well you wanted a root canal treatment and you got it.”*

WITHDRAWN

Charge 3

“Your conduct in respect of the following charges was unprofessional:

- a) *Charge 2(a)(i);*
- b) *Charge 2(a)(ii);*
- c) *Charge 2(b)(i);*
- d) *Charge 2(b)(ii);*
- e) *Charge 2(b)(iii);*
- f) *Charge 2(b)(iv).”*

WITHDRAWN

Charge 4

“On 29 August 2019 you stated to NHS England and NHS Improvement that you had “decided I will leave the country and move back home in December”.

PROVED

- 42. In coming to its decision, the Committee bore in mind all the evidence in this case, along with the advice provided by the Legal Adviser and the relevant case law referred to.
- 43. The Committee had regard to the email, dated 29 August 2019, which included the aforementioned statement. The Committee noted that the email was signed “*Eugeniya*” and sent from an email address that adopted the sender’s name as “*Eugeniya Radeva*”.
- 44. The Committee was satisfied that there is no reason to believe that anyone other than Miss Radeva sent the email and that it contained the statement in the head of Charge 4.
- 45. Accordingly, the Committee found **Charge 4 proved.**

Charge 5

“On 29 October 2019 the Performers List Decision Panel imposed the condition that “You must restrict your provision of General Dental Services to a practice/a number of named practices approved in advance by NHS England” on your inclusion in the National Dental Performers List.”

PROVED

- 46. The Committee had regard to the letter, dated 26 September 2019, from NHS England in which its stated:

"I am writing to advise you of the outcome of the Performers List Decision Panel (PLDP) discussion about your cases (Q80-2018-2019-DPC-100 and Q80-2018- 2019-DPC-074) held on 10th September 2019.

The PLDP considered the relevant action appropriate to your cases and have agreed that you may continue to work but subject formal conditions."

47. This was confirmed in a further letter, dated 29 October 2019, from NHS England in which it confirmed:

"I write on behalf of NHS England (South West) to provide notification that conditions have been imposed on your continued inclusion in the National Dental Performers List, in accordance with regulation 10 (1)(b) of the National Health Service (Performers Lists) Regulations 2013, with effect from 29th October 2019.

I can confirm that the conditions imposed on your inclusion in the National Dental Performers List are as follows:

'You must restrict your provision of General Dental Services to a practice/a number of named practices approved in advance by NHS England.'"

48. Having had sight of the letter, the Committee was satisfied that the conditions were imposed, in the terms detailed within the letter.
49. Accordingly, the Committee found **Charge 5 proved.**

Charge 6

"On 17 December 2019 you stated to NHS England and NHS Improvement that you were "not working at the moment and out of the country, will reply when and if I come back to the UK".

PROVED

50. The Committee had regard to the email, dated 17 December 2019, which included the aforementioned statement. The Committee noted that the email was signed "*Dr E Radeva*" and sent from an email address that adopted the sender's name as "*Eugeniya Radeva*" and included an email address used by Miss Radeva when corresponding with the GDC.
51. The Committee was satisfied that there is no reason to believe that anyone other than Miss Radeva sent the email and that it contained the statement in the head of Charge 6.
52. Accordingly, the Committee found **Charge 6 proved.**

Charge 7

"On 7 January 2020 you stated to NHS England and NHS Improvement "I am planning to work in UK again, will let you know when after I come back in the country."

PROVED

53. The Committee had regard to the email, dated 7 January 2020, which included the aforementioned statement. The Committee noted that the email was signed "*Dr Radeva*" and sent from an email address that adopted the sender's name as "*Eugeniya Radeva*" and included an email address used by Miss Radeva when corresponding with the GDC.
54. The Committee was satisfied that there is no reason to believe that anyone other than Miss Radeva sent the email and that it contained the statement in the head of Charge 7.

55. Accordingly, the Committee found **Charge 7 proved**.

Charge 8

“You did not respond to an email from NHS England and NHS Improvement dated 3 March 2020 which asked “Can you please provide with an update? Please could you confirm whether it is still your intention to return to work in the UK?”

PROVED

56. The Committee had regard to the email, dated 3 March 2020, which included the aforementioned statement.
57. In Witness 1’s written statement regarding the email, she stated:

“No response was received from the Registrant. The purpose of the email on 3 March 2020 was to ensure that NHS England were aware of where she was working as there had been a number of concerns and we did not want her to drop off the radar.

There was no response or further engagement from the Registrant. At this point, all we knew was that she was out of the country and would contact NHS England when she returned.”

58. The Committee bore in mind that it was more difficult to prove that something did not happen than to conclude whether or not something did, so it considered the circumstances surrounding Miss Radeva’s correspondence with NHS England. It noted that she had responded to previous emails, sent to the same email address, and that NHS England had provided copies of these responses to the GDC. Witness 1 confirmed that no further responses had been received from Miss Radeva after her email dated 7 January 2020.
59. On the balance of probabilities, the Committee was satisfied that Miss Radeva had received the email dated 3 March 2020 and had not responded to it.
60. Accordingly, the Committee found **Charge 8 proved**.

Charge 9

“You provided dental treatment without seeking advance approval of NHS England to patients at:

- a) Practice 1 for a period of time including between 23 January 2020 and 20 March 2020;*
- b) Practice 2 for a period of time including between 20 February 2020 and 21 September 2020.”*

PROVED

61. In coming to its decision on Charge 9a), the Committee bore in mind all the evidence in this case.
62. The Committee had regard to the documentation provided by Witness 2 which plainly showed that a practitioner named “Miss ES Radeva” was contracted to practice at Practice 1 and had made claims for Units of Dental Activity (UDAs) to the NHS for the relevant period. Witness 2 confirmed in her oral evidence that, having considered the documentation provided, it was evident that Miss Radeva had been practising at Practice 1. The Committee was satisfied that the documentation supported Witness 2’s belief that Miss Radeva was working at Practice 1 during the relevant period.
63. The Committee had regard to the emails and documentation from NHS England stating that Miss Radeva was to inform NHS England upon her return to the UK and restrict her practise to pre-approved NHS England prior to commencing employment.

64. The Committee was satisfied that Miss Radeva would have been aware of her obligation to obtain approval as she had contacted NHS England seeking approval to work at Orchard Dental Practice and again in January 2020 stating her intention to return to practise in the UK. The Committee had no reason to believe that Miss Radeva would have forgotten about this obligation, misunderstood it in any way, or could have been of the belief that it no longer applied as the condition had only been imposed since October 2019.
65. Having found that she did not respond to NHS England when asked whether she still intended to return to work in the UK, the Committee determined that she did not seek approval from NHS England before providing treatment to patient at Practice 1.
66. Accordingly, the Committee found **Charge 9a) proved.**
67. For all the reasons cited in its findings relating to Charge 9a), the Committee determined that Miss Radeva had also provided treatment to patients at Practice 2 without having first sought the approval of NHS England.
68. Accordingly, the Committee found **Charge 9b) proved.**

Charge 10

“Your conduct in respect of the following charges was misleading:

- a) Charge 6;
- b) Charge 7;
- c) Charge 8;
- d) Charge 9(a);
- e) Charge 9(b).”

Charges 10a) b) and c) NOT PROVED
Charges 10d) and e) PROVED

69. In coming to its decision, the Committee bore in mind all the evidence in this case, along with the advice provided by the Legal Adviser and the relevant case law referred to.
70. In relation to Charge 10a) and b), there was no evidence at all before the Committee that the information Miss Radeva provided in her emails (the subject of Charges 6 and 7) was objectively misleading at the time she sent them. Miss Radeva stated that she was not working and was out of the country at that time; the Committee noted that for this information to be misleading, the GDC must provide evidence that she was either in the country or that she was working, but there is no evidence of this before the Committee. Further, Miss Radeva stated that she was planning to return to the UK and would notify NHS England when she returned. Again, the GDC would need to provide evidence that this was not Miss Radeva’s intention, but this evidence has not been provided.
71. Therefore, the Committee concluded that the GDC had not discharged its burden of proof and did not demonstrate that the information provided within those emails was either knowingly misleading or had misled NHS England at the time they were sent.
72. Accordingly, the Committee found **Charges 10a) and b) not proved.**
73. In relation to Charge 10c), the Committee found that Miss Radeva did not respond to the email sent by NHS England (the subject of Charge 8). The Committee was aware that, at the time the email from NHS England was sent to Miss Radeva, she was practising at both Practice 1 and Practice 2. It considered whether by not responding to the email, this had been misleading. The Committee has already found that Miss Radeva had not provided a response to the email, dated 3 March 2020. There was no basis on the information before it on which the Committee could conclude on the

balance of probabilities that the GDC had proved that the omission was misleading. Miss Radeva had not sought pre-approval from NHS England before providing treatment at the two practices, but it could not be satisfied that by not responding to an email, this was misleading.

74. Therefore, the Committee concluded that the GDC had not discharged its burden of proof and had again, not provided evidence that omitting to send the email had been misleading.
75. Accordingly, the Committee **found Charge 10c) not proved.**
76. In relation to Charge 10d), the Committee acknowledged that Miss Radeva had been providing dental care to patients at Practice 1 from January 2020. The Committee heard from Witness 2 that Miss Radeva was under a duty to inform NHS England before she commenced practising as per the condition imposed in October 2019. The Committee noted Ms Bird's submission that the NHS was under the impression that Miss Radeva would not work at an unapproved practice when she returned to the UK to work. Miss Radeva had been made aware of the condition and had not challenged it. Indeed, she had emailed NHS England to notify it of her intention to return to the UK to practise on 7 January 2020.
77. In this regard, there was a plain expectation on the part of NHS England that Miss Radeva would contact it upon returning to the UK and seek approval before beginning treatment or commencing employment. In having not done so, the Committee determined that Miss Radeva's conduct had been misleading.
78. Accordingly, the Committee found **Charge 10d) proved.**
79. In relation to Charge 10e), the Committee acknowledged that Miss Radeva had been providing dental care to patients at Practice 2 from February 2020.
80. For the same reasons put forward in respect of Charge 10d), the Committee was satisfied that by not having sought pre-approval from NHS England before commencing treatment and having stated that she was planning to return to work in the UK and would notify NHS England when she had returned, Miss Radeva's conduct was plainly misleading.
81. Accordingly, the Committee found **Charge 10e) proved.**

Charge 11

"Your conduct in respect of the following charges was dishonest:

- a) Charge 6;
- b) Charge 7;
- c) Charge 8;
- d) Charge 9(a);
- e) Charge 9(b)."

Charges 11a), b) and c) NOT PROVED Charges 11d) and e) PROVED

82. The Committee first considered Charges 11a) and b). Having considered all the evidence before it, and referring to the advice provided relating to dishonesty, the Committee did not find that Miss Radeva's email statements (the subjects of Charges 6 and 7) were proved to be dishonest. The Committee had not been provided with any sufficient evidence that, at the time she wrote the emails, the information contained within those emails was not true.
83. Accordingly, the Committee found **Charges 11a) and b) not proved.**
84. In relation to Charge 11c), the Committee has already determined that Miss Radeva had a duty to

contact NHS England before commencing work at a new practice upon her return to the UK. In failing to do so there was a possible inference that Miss Radeva had deliberately not responded. However, there were other possibilities for her omission. For example, she may have forgotten to respond to the email as an oversight.

85. The Committee has not been provided with any cogent evidence as to Miss Radeva's state of mind or the reason for not responding to the email on 3 March 2020.
86. In the absence of any evidence to demonstrate that Miss Radeva had acted dishonestly by not responding to the email, the Committee concluded that the GDC had not discharged its burden of proof.
87. Accordingly, the Committee found **Charge 11c) not proved.**
88. In having found Charges 9a) and b) misleading, the Committee considered whether her conduct had been dishonest in Charges 11d and e). In this regard, it applied the two stage "test" for dishonesty referred to in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67. It considered two principles; first, what was the defendant's actual state of knowledge or belief as to the facts, and was his conduct dishonest by the standards of ordinary decent people?
89. The Committee had regard to the email dated 19 November 2019 that NHS England had approved Miss Radeva working at the [Redacted], as per her requirement under the condition impose on 29 October 2019. The Committee was satisfied that this email, together with the previous and subsequent correspondence between NHS England and Miss Radeva, demonstrated that she was aware of her obligation that she needed to inform NHS England of where she intended to work and have that practice approved before commencing treatment.
90. In considering Miss Radeva's state of knowledge or belief, it concluded that she was aware of her obligation to restrict her provision of dental service to a practice/a number of named practices approved in advance by NHS England and had implemented this in November 2019 regarding Orchard Dental Practice. The Committee noted that Miss Radeva had contacted NHS England confirming that she was leaving the country, and also of her intentions to return to the UK and return to practice.
91. The Committee noted that Miss Radeva then engaged in working as a dentist for two other practices, but in these instances did not seek approval before practising. In this instance, the Committee concluded that it was less likely that she had acted carelessly, recklessly or negligently, as she had fulfilled her obligation regarding her employment at [Redacted] and there was no plausible or reasonable explanation for her failure to do so for Practice 1 and Practice 2.
92. The Committee could form no other view than Miss Radeva was aware of her obligations and that by failing to do so, in respect of Charges 9a) and 9b), her conduct would be seen as dishonest by ordinary decent people.
93. Accordingly, the Committee found **Charge 11d) and e) proved.**

Charge 12

"You failed to co-operate with the Council's investigation concerning your fitness to practise including by failing to attend appointments with Heales on 1 October 2020 and/or 29 October 2020."

NOT PROVED

94. The Committee noted a letter from the GDC to Miss Radeva dated 3 September 2020 which advised her of concerns relating to her health. The letter did not detail what those concerns were but the Committee made a reasonable inference that the reason she was expected to undertake a medical assessment was due to her notifying NHS England that she was seeking medical attention for a

previous diagnosis [PRIVATE], which she believed may have returned. This was the only reference to Miss Radeva's health in the documents.

95. In coming to its decision, the Committee first considered whether Miss Radeva was under an obligation to attend appointments. The Committee accepted that as a registered professional, Miss Radeva should at all times follow the GDC document, 'Standards for the dental team'. Standard 9.4 states, "*You must co-operate with any relevant formal or informal inquiry and give full and truthful information.*" The Committee accepted that registrants are subject to a statutory overarching obligation to undertake examinations by appropriately qualified practitioners if required to do so by their regulator in order to determine they are fit to practise on grounds including health.
96. Miss Radeva notified NHS England that she was seeking medical treatment abroad in January 2019. In a subsequent email in February 2019, she confirmed that whilst she thought her [PRIVATE] diagnosis had returned, it had not. During this period, Miss Radeva had taken herself out of practice and was seeking treatment abroad.
97. On 3 September 2020, the GDC contacted Miss Radeva asking for further information about her health and asking her to undertake a health assessment. At this time, Miss Radeva was not in the UK. The medical assessment was arranged for her to attend via telephone. There is no information contained within the bundle provided to the Committee that any previous or potential [PRIVATE] diagnosis was affecting Miss Radeva's fitness to practise. The Committee noted that Miss Radeva had confirmed in February 2019 that her concerns about a further [PRIVATE] diagnosis was negative and there is no information before the Committee that, as of September 2020, there was reason to believe that her health was cause for concern.
98. The Committee accepted that practitioners may find themselves in ill health during their careers, but this is not in itself a reason to believe that their fitness to practise should be called into question or trigger a need to comply with an Occupational Health (OH) Assessment. NHS England have not referred to any health concerns in its reasons for imposition of the condition in October 2019, only that OH advice may be sought before returning to practice. The Committee was satisfied that this was a supportive measure resulting from NHS England's duty of care towards practitioners and in no way an obligation on Miss Radeva's part.
99. Having considered all the evidence before it, including Miss Radeva's last communications with the GDC in August 2022, and could not be satisfied that she had failed to cooperate with the GDC's investigation. She had replied to some of the GDC's emails and made it clear why she did not consider a health assessment to be appropriate.
100. The Committee accepted that Miss Radeva was not in the country, had taken herself out of practice, and had confirmed that she did not have a current diagnosis [PRIVATE], as she had suspected in January 2019.
101. For these reasons, the Committee concluded that it was not unreasonable for Miss Radeva to not attend the appointments arranged by the GDC as it was not clear what the health concern was in September 2020 or how this was suspected to have impacted upon her fitness to practise.
102. Accordingly, the Committee found **Charge 12 not proved.**

Decision on impairment and sanction

103. Having announced its decision on the facts, the Committee then moved on to consider whether the facts found proved amount to misconduct and, if so, whether Miss Radeva's practice is currently impaired. In accordance with Rule 20, the Committee heard submissions from Ms Bird, on behalf of the GDC, in relation to the matters of misconduct, impairment and sanction. The Committee accepted the advice of the Legal Adviser.

Submissions

104. Ms Bird invited the Committee to make a finding of misconduct and referred it to the relevant caselaw. She submitted that Miss Radeva had breached a number of GDC Standards and took the Committee through those that she considered applied in this case. She submitted that having been found to have failed to comply with the Standards, Miss Radeva has brought the profession into disrepute. She stated that these departures are serious enough to amount to misconduct.
105. On the issue of impairment, Ms Bird invited the Committee to make a finding of impairment on the bases of public protection and being otherwise in the public interest. She submitted that the Committee, in assessing current impairment, should consider any evidence of insight, remorse, and remediation. She reminded the Committee that Miss Radeva has chosen not to attend this hearing and she has not put forward any submissions in her absence. As a result, Ms Bird submitted that there is no way of assessing Miss Radeva's insight and whether she has been able to demonstrate any remorse or remediation. In the absence of such evidence, Ms Bird submitted that there is a risk of repetition.
106. In light of the seriousness of the departure from the relevant Standards and the absence of any insight or engagement, Ms Bird invited the Committee to erase Miss Radeva from the Register. She took the Committee through the factors that may be applicable in a case where erasure is the most appropriate and proportionate sanction.

Committee's decision on misconduct

107. In coming to its decision on Charges 4, 5, 6 and 7, the Committee bore in mind that misconduct was described in *Roylance v General Medical Council* [2001] 1 AC 311 as "*a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances*".
108. The Committee considered that Miss Radeva's statements detailed in charges 4, 5, 6 and 7 are not failings in and of themselves. The Committee did not find that Miss Radeva's statements in Charges 4, 5, 6 and 7 were misleading or dishonest and concluded that these charges are background to the mischief in this case, namely that Miss Radeva practised at two dental surgeries without having first sought approval from NHS England, as per her condition of practice.
109. In respect of Charge 8, the Committee found that there may have been other possibilities for Miss Radeva's omission and, in light of this finding, could not find that this amounted to a falling short of the standards expected of a registered professional.
110. The Committee acknowledged that the criticism of Miss Radeva in this case is based on her having practised at two separate dental practices, between January and September 2020, without having first sought the approval of NHS England. The Committee found that Miss Radeva had acted dishonestly by failing to comply with the condition imposed on the NDPL to address concerns relating to complaints around her clinical competence. The Committee concluded that her failure to do so, having already sought approval from NHS England to work at another practice in October 2019, was clearly misleading and dishonest.
111. In considering whether Charges 9, 10 and 11 taken together amount to misconduct, the Committee had regard to the following principles from 'Standards for the Dental Team (September 2013)', ('the Standards') in particular:

Standard 1.3: You must be honest and act with integrity

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

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

112. The Committee determined that Miss Radeva had failed to be honest and had not acted with integrity when practising at two dental surgeries without having notified or having sought approval from NHS England, as she knew she was obliged to do. The Committee concluded that this would no doubt bring the profession into disrepute and thereby undermine the public's trust in her as a practitioner and in the profession.
113. Accordingly, the Committee was satisfied that Charges 9, 10 and 11 taken together are serious departures from the Standards referred to above and amount to professional misconduct.

Committee's decision on impairment

114. The Committee considered whether Miss Radeva's misconduct is remediable, whether it had been remedied, and the risk of repetition. The Committee also had regard to the wider public interest, which includes the need to uphold and declare proper standards of conduct and behaviour to maintain public confidence in the profession and this regulatory process.
115. Miss Radeva has not engaged with these proceedings and as a result, the Committee has not been provided with any evidence that she has any insight into her misconduct. The Committee noted that Miss Radeva had previously sought the approval of NHS England before providing treatment at a practice in October 2019, but has not provided any explanation as to why she did not do so for Practice 1 or for Practice 2. In the absence of any apology or acknowledgment of the potential harm her misconduct could cause the public, including the wider public interest, or of any remediation or reflection, the Committee determined that there is a demonstrable risk of Miss Radeva repeating similar behaviour in the future.
116. Therefore, the Committee concluded that a finding of impairment is necessary on the ground of public protection.
117. The Committee bore in mind the statutory overarching objective to maintain public confidence in the profession and to uphold standards. It concluded that public confidence would be undermined if a finding of impairment were not made in this case and therefore also finds Miss Radeva's practice impaired on the ground of public interest.

Committee's decision on sanction

118. In coming to its decision on sanction, the Committee considered what action, if any, to take in relation to Miss Radeva's registration. It took into account the GDC's document '*Guidance for the Practice Committees, including Indicative Sanctions Guidance 2016 (ISG)*' (revised December 2020). The Committee reminded itself that any sanction imposed must be proportionate and appropriate and, although not intended to be punitive, may have that effect.
119. The Committee took into account the following aggravating features:
- Dishonesty;
 - deliberate misconduct;
 - financial gain by the registrant;
 - breach of trust;
 - misconduct sustained over a prolonged period of time;
 - wilful disregard of the regulatory role of NHS England;
 - non-engagement with the GDC as her regulator;
 - lack of insight.
120. The Committee found that the only mitigating feature was:
- Evidence of previous good character.

121. The Committee acknowledged that the central feature in this case is Miss Radeva's dishonest conduct. It bore in mind that despite her knowledge to the contrary, she had failed to seek prior approval from NHS England before providing treatment at two dental surgeries. The Committee did not consider this to be two isolated incidences, but that her failure was repeated every time she attended the practices to provide dental treatment over a period which spanned some nine months. The Committee was aware that Miss Radeva had complied with the condition imposed by NHS England in October 2019 but in the space of approximately two months, when she began her contract at Practice 1, wilfully disregarded her condition and NHS England's role to manage the NDPL. This, it considered, was a clear breach of trust which resulted in financial gain to Miss Radeva when submitting her UDA claims to the NHS.
122. The Committee next considered each sanction in ascending order of severity and had regard to its previous findings on misconduct and impairment in coming to its decision.
123. The Committee first considered whether to take no action or to issue a reprimand but concluded that this would be inappropriate in view of the seriousness of the misconduct in this case. The Committee did not consider Miss Radeva's conduct to be at the lower end of the spectrum and therefore it would neither protect the public nor in the public interest to allow her to return to practice without some form of restriction in place.
124. The Committee next considered whether placing conditions on Miss Radeva's registration would be a sufficient and appropriate response. The Committee considered the ISG, which states conditions may be suitable where most of the following factors are present:
- there are discrete aspects of the registrant's practice that are problematic;
 - any deficiencies are not so significant that patients will be put at risk directly or indirectly as a result of continued – albeit restricted – registration;
 - the registrant has shown evidence of insight and willingness to respond positively to conditions;
 - it is possible to formulate conditions that will protect the public during the period they are in force.
125. The Committee was of the view that the area of concern in this case relate to Miss Radeva's dishonesty in failing to seek prior approval from NHS England before practising at two surgeries between January and September 2020. Miss Radeva has not demonstrated any insight into her misconduct and there is no evidence of any willingness to comply with conditions, particularly in light of her failure to comply with the condition imposed by NHS England. The Committee did not consider that Miss Radeva's compliance with conditions was capable of being monitored as she had previously failed to comply with the condition imposed by NHS England.
126. As a result, there are no practical or workable conditions that could be formulated that would be both appropriate and proportionate so as to protect patients during the period in which they are enforced. In addition, it did not consider that conditions would adequately address the public interest identified in this case.
127. The Committee then went on to consider whether a suspension would be the appropriate sanction. The ISG states suspension may be suitable where most of the following factors are present:
- there is evidence of repetition of the behaviour;
 - the registrant has not shown insight and/or poses a significant risk of repeating the behaviour;
 - patients' interests would be insufficiently protected by a lesser sanction;
 - public confidence in the profession would be insufficiently protected by a lesser sanction;
 - there is no evidence of harmful deep-seated personality or professional attitudinal problems.

128. The Committee took into account that Miss Radeva provided treatment at one dental practice throughout January to March 2020 and at another from February to September 2020. The Committee considered this to be sustained and repeated misconduct as Miss Radeva was aware of her obligation to seek approval from NHS England and did not do so. Since the misconduct has been brought to light, Miss Radeva has not provided any evidence of insight or remorse and, in its absence, the Committee concluded there is a high risk of repetition of similar misconduct. The Committee bore in mind that the safety of patients is paramount and was satisfied that knowingly ignoring her obligation to her condition imposed by NHS England was evidence of harmful personality and/or professional attitudinal problems.
129. The misconduct in this case was a significant departure from the standards expected of a dentist. The Committee found that Miss Radeva's conduct was a serious breach of fundamental tenets set out in the Standards and that her actions are fundamentally incompatible with remaining on the register. The Committee was of the view that suspension would not adequately address the public protection issues identified or satisfy the public interest in this matter.
130. In considering erasure, the ISG states removal from the register may be suitable where most of the following factors are present:
- 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 ...
 - serious dishonesty, particularly where persistent or covered up;
 - a persistent lack of insight into the seriousness of actions or their consequences.
131. Balancing all these factors, the Committee directs Miss Radeva's name on the register be removed. The Committee was of the view that the findings in this case demonstrate a prolonged dishonesty, breach of trust, failure to comply with conditions imposed by NHS England in order to protect patients, and a persistent lack of insight. The Committee was satisfied that allowing Miss Radeva to remain on the register would not only pose a significant risk to the public but would seriously undermine public confidence in the profession. Erasure is the only sanction that would appropriately address the misconduct in this case and send to the public and the profession a clear message about the standards expected of a dentist. To adequately protect the public, nothing short of removal from the register would be sufficient.
132. The Committee now invites submissions as to whether an immediate order should take effect to cover the 28-day appeal period.

Decision on immediate order

133. The erasure does not come into effect until the end of the appeal period or, if an appeal is lodged, until it has been disposed of. The appeal period expires 28 days after the date on which the notification of the determination is served on Miss Radeva.
134. In this regard, Ms Bird informed the Committee that Miss Radeva has been subject to an interim suspension order prior to these proceedings and invited the Committee to revoke that order with immediate effect.
135. In relation to the immediate order, Ms Bird made an application pursuant to Rule 22 for an immediate suspension to be imposed on Miss Radeva's registration on both grounds of public protection and in the wider public interest.
136. Having had regard to the submissions made by Ms Bird, and following its decision on the substantive order, the Committee was satisfied that it was appropriate to revoke the existing interim suspension order imposed upon Miss Radeva's registration with immediate effect.

137. In relation to the immediate order, the Committee has determined that, given the risks that it has identified in relation to public protection and the wider public interest, and Miss Radeva's serious departures from the relevant Standards, it would be inconsistent to permit Miss Radeva to practise before the substantive direction of erasure takes effect and therefore an immediate order is necessary.
138. In all the circumstances, the Committee considers that an immediate order of suspension is consistent with the findings that it has set out in its main determination and is necessary to protect the public and is otherwise in the public interest.
139. The immediate suspension will remain in place until any appeal is disposed of or, if no appeal is lodged, the erasure will replace the immediate order 28 days after Miss Radeva is sent the decision of the Committee in writing.
140. That concludes this determination.