

HEARING PARTLY HEARD IN PRIVATE
KNEE, Michelle
Registration No: 124703
PROFESSIONAL CONDUCT COMMITTEE
JULY 2021
Outcome: Erased with Immediate Suspension

KNEE, Michelle a dental nurse, National Certificate NEBDN 2000, was summoned to appear before the Professional Conduct Committee on 26 July 2021 for an inquiry into the following charge:

Charge (as amended on 27 July 2021)

“That being a registered dental care practitioner:

- 1) For a period of time including, between 1 January 2016 and 31 July 2016, whilst employed by Local Care Direct (“the Company”), you misappropriated money received from patients for dental treatment provided by the Company.
- 2) Your conduct in relation to Charge 1 was:
 - a) Misleading;
 - b) Dishonest.
- 3) On or around 15 November 2016 you authored and sent a letter to the General Dental Council marked as being signed by Person A.
- 4) Your conduct in relation to Charge 3 was:
 - a) Misleading;
 - b) Dishonest, in that you sought to create the impression that the letter was authored by Person A and/or that you provided a positive reference to avoid further investigation.

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

Mrs Knee was not present and was not represented. On 26 July 2021 the Chairman made a statement regarding the preliminary application.

“This is a Professional Conduct Committee hearing of Mrs Knee’s case. The hearing commenced on 26 July 2021, and is being conducted remotely via Microsoft Teams video-link in line with the current practice of the General Dental Council (GDC).

Mrs Knee is not present at the hearing, and she is not represented in her absence. The Case Presenter for the GDC is Ms Louise Price, Counsel.

PRELIMINARY MATTERS

Determination on application to proceed with the hearing in the absence of the registrant – announced on 26 July 2021

At the outset, Ms Price made an application under Rule 54 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), to proceed with the hearing notwithstanding Mrs Knee's absence. The Committee took into account Ms Price's submissions in respect of the application and the supporting documentation provided. It accepted the advice of the Legal Adviser in relation to both service and proceeding in Mrs Knee's absence.

The Committee's decision on service

The Committee considered whether notice of the hearing had been served on Mrs Knee in accordance with Rules 13 and 65. It had regard to the Notice of Hearing, dated 10 June 2021 ('the notice'), which was sent to Mrs Knee's registered address by Special Delivery. The Committee took into account that there is no requirement within the Rules for the GDC to prove receipt of the notice, only that it was sent. However, it noted from the associated Royal Mail 'Track and Trace' information provided to it, that the notice was delivered on 11 June 2021. In addition, a copy of the notice was sent to Mrs Knee by email on 11 June 2021.

The Committee was satisfied that the notice sent to Mrs Knee 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 and time of this hearing, confirmation that it would be held remotely via video-link on Microsoft Teams, and that the Committee had the power to proceed with the hearing in her absence.

On the basis of all the information provided, the Committee was satisfied that notice of the hearing had been served on Mrs Knee in accordance with the Rules.

The Committee's decision on whether to proceed with the hearing in the absence of the registrant

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Mrs Knee. It approached this issue with the utmost care and caution. The Committee took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones [2003] 1 AC 1HL*. The Committee remained mindful of the need to be fair to Mrs Knee and to the GDC, taking into account the public interest in the expeditious disposal of this case.

In considering the GDC's application to proceed with this hearing, the Committee took into account that Mrs Knee is unrepresented in this matter. It also took into account her email to the GDC, dated 6 July 2021, in which she stated that she could not attend the hearing as she is currently caring for a close relative who is suffering from serious ill-health.

In the circumstances, the Committee carefully considered whether it had been explained sufficiently to Mrs Knee that she could apply to postpone this hearing to a later date. The Committee noted that in an email to Mrs Knee, dated 7 July 2021, a lawyer at the GDC stated, "*you may wish to consider making an application to postpone the current listing until a time that you are able to attend the hearing in future.... I am able to explain the process of seeking a postponement. If this is something that you would like more information in respect of, please do not hesitate to let me know.*". Mrs Knee responded to the GDC lawyer by email, dated 11 July

2021, and stated, *"I think it is best to go ahead..."* and she indicated the impact that the ongoing proceedings were having on her.

Taking all of this information into account, the Committee was satisfied that it was made clear to Mrs Knee that she had the option of applying for a postponement. The Committee also considered it clear that Mrs Knee declined the opportunity, and expressed her wish that the hearing should proceed. The Committee noted that it received no information to suggest that an adjournment of the hearing today (26 July 2021) would secure Mrs Knee's attendance on a future date. It therefore concluded that an adjournment would serve no meaningful purpose, and would only prolong matters for Mrs Knee. The Committee was also aware that there were three witnesses called to attend this hearing who would have been inconvenienced. The Committee further had regard to its duty to act expeditiously in the resolution of this case.

Accordingly, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Mrs Knee. It also considered that such a course of action was in her own interests in view of her communication of 11 July 2021."

On 27 July 2021 the Chairman announced the findings of fact to the Counsel for the GDC:

"Mrs Knee is a registered dental nurse. At the material time she worked as a receptionist at Local Care Direct ('the Company'), working at weekends and on Bank Holidays.

It is alleged that for a period of time including between 1 January 2016 and 31 July 2016, whilst employed by the Company, Mrs Knee misappropriated money received from patients for dental treatment provided by the Company. The Committee heard from Ms Price that this allegation arises out of an investigation undertaken by the Company in response to complaints received from a number of patients.

The Committee heard that eight patients complained to the Company that they had received fines from the NHS Business Services Authority (NHS BSA) for having declared to the Company that they were exempt from payment for dental treatment, when they were not entitled to any exemption. The Company's investigation revealed that the patients in question had in fact paid in cash for their dental treatment, and that none of them had declared that they were exempt from payment. It is alleged that Mrs Knee, who was said to be on reception duty when these patients attended the Company, had amended the patients' records from indicating that they 'pay' for treatment to indicating that they were 'exempt' from paying for treatment.

The GDC's case is that Mrs Knee was amending patients' records because she was taking and keeping the cash they had paid for their dental treatment. Accordingly, Mrs Knee is charged by the GDC with misleading and dishonest conduct in this regard.

Mrs Knee faces a further allegation that on or around 15 November 2016, she authored and sent a letter to the GDC marked as being signed by *Person A*. The GDC maintains that Mrs Knee misleadingly and dishonestly authored the letter to evade any further scrutiny of her alleged misappropriation of practice money.

Evidence

The evidence received by the Committee from the GDC comprised four witness statements, along with a number of associated exhibits. The Committee received a witness statement dated 11 January 2021, from Witness 1, who is now retired, but at the time of the Company's investigation,

worked for the Company as Support Services Manager – Dental. Witness 1 was responsible for conducting the Company’s investigation into the matters. Also provided was a witness statement, dated 4 January 2021, from Witness 2, Associate Director of Quality and Risk at the Company. The Committee further received a witness statement and addendum witness statement, both dated 13 January 2021, from Ms Gift Akinola, Paralegal with the GDC’s In-house Legal Presentation Service.

The Committee also requested and received a copy of the ‘Fact Find Meeting Summary’, containing details of the investigatory meeting held by the Company on 10 September 2016, which Mrs Knee attended.

In addition to the documentary evidence, the Committee heard oral evidence from Witness 1, Witness 2 and Ms Akinola.

The Committee’s findings

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

The Committee’s findings are as follows:

1.	<p><i>For a period of time including, between 1 January 2016 and 31 July 2016, whilst employed by Local Care Direct (“the Company”), you misappropriated money received from patients for dental treatment provided by the Company.</i></p> <p>Found proved.</p> <p>The Committee found the witness evidence in relation to this allegation to be credible and compelling.</p> <p>The Committee noted that Witness 1’s written account of the events involving Mrs Knee was originally prepared to assist with an investigation by the police. Witness 1 explained in her witness statement that, in her role as Support Services Manager – Dental, it was her responsibility to “<i>oversee what was happening with patient charges</i>”. She also stated that she was responsible for ensuring that various aspects of the Software of Excellence (SOEL) Health System were correct. The Committee noted from Witness 1’s evidence that there were two main systems in use at the Company, these being SOEL and SystemOne.</p> <p>Witness 1 provided significant detail in her witness statement about her methodology in conducting the Company’s investigation into Mrs Knee’s alleged conduct. Witness 1 also set out comprehensively the findings of that investigation. She stated, “<i>I subsequently looked at every patient record on the SystemOne diary and identified that, of 124 changes made, 119 incidents demonstrated that the Registrant had amended the pay status originally entered on the SystemOne diary by staff in the booking service to instead show an exemption</i>”. Witness 1 further stated, “<i>I knew it was the Registrant who had amended the patient pay status because the SystemOne audit trail allowed me to see who had been logged onto the system at the time any diary amendment had been made.</i>”</p> <p>Witness 1 exhibited with her witness statement a number of exhibits including a spreadsheet that she had drafted titled ‘<i>Record of Changes on SystemOne</i>’. In her</p>
----	--

oral evidence, Witness 1 highlighted a number of examples from the spreadsheet of discrepancies that she had considered to be of concern. This included an example of a patient record that had been changed by Mrs Knee to indicate that the patient was exempt because they were of pensionable age (which was 65 years old for men and at least 60 years old for women). However, the patient in question was 55 years old. Witness 1 also highlighted instances when patients had been marked as exempt from payment by Mrs Knee on certain occasions, but then had subsequently re-attended and paid for their dental treatment. This included one patient who had attended for treatment on 9 January 2016, when Mrs Knee had indicated that they were in receipt of Income Support and exempt from payment, but when the patient attended a week later, they paid an urgent dental charge.

It was also noted that unusually, all the patients concerned had paid for their dental treatment in cash. Witness 1 provided considerable evidence in her witness statement regarding Mrs Knee's access to receipt books. Witness 1 also stated, *"Another factor is that it had come to light that the Registrant had started ringing patients in advance of their appointments to confirm whether they were coming"*. Witness 1 explained that this was a function normally undertaken by the booking staff. She stated that whilst she had initially wondered whether Mrs Knee had been contacting patients to be helpful, when the charging concerns arose through her investigation, she questioned whether Mrs Knee had been telephoning patients to advise them that they could not pay for their treatment by card and would need to pay by cash.

Witness 1 stated in her witness statement that it was agreed that another manager at the Company (Witness 2), who was unconnected to the dentistry aspect of the service, would telephone some of the other patients from the identified 124, who had not received letters from the NHS BSA. In her witness statement, Witness 2 confirmed that she was asked to contact 14 patients, although she was only able to speak to 9. Witness 2 stated that all 9 patients said that they had paid for their dental treatment in cash, although SystemOne had been amended to show that they were exempt from payment. Witness 2 went on to state that, *"At the time I rang the patients, I was not aware of any concerns regarding the Registrant"*.

The Committee was satisfied on the basis of the evidence received from Witness 1 and from Witness 2, that it was more likely than not that Mrs Knee had been misappropriating cash payments made by patients for their dental treatment. In reaching its conclusion, the Committee took into account and accepted Witness 1's oral evidence that the NHS BSA had only been doing random spot-checks at the time, which is why only eight patients of the identified 119 had received official fine letters. The Committee also took into account the 'Fact Find Meeting Summary' of the Company's investigation meeting with Mrs Knee on 10 September 2016. The Committee noted that Mrs Knee had stated at that meeting that she would *"suffer the consequences"* if she had done anything wrong, and that she would *"pay anybody back"*. However, she did not, in the Committee's view, offer any plausible explanation in response to the Company's investigation findings, other than there had been mistakes on her part. The Committee considered the possibility of there having been mistakes by Mrs Knee, but given the discrepancies in patients' records highlighted by Witness 1, the pattern of all the patients having paid in cash, and the evidence that changes were made by her to not one, but the two systems in use, the Committee concluded that identified instances were less likely to have been

	<p>mistakes. It noted the evidence of Witness 1 in this respect. She stated, “As I went through the exercise of reviewing the patient records, on both SystemOne and SOEL Health, my heart was sinking because I could see no reason for the Registrant to have done what she had been doing other than to retain patients’ cash”.</p> <p>In all the circumstances, the Committee was satisfied on the balance of probabilities that this head of charge is proved.</p>
2.	<p><i>Your conduct in relation to Charge 1 was:</i></p>
2.(a)	<p><i>Misleading;</i></p> <p>Found proved.</p> <p>Having found that Mrs Knee misappropriated money received from patients for dental treatment provided by the Company, the Committee was satisfied that her conduct in this regard was misleading. It considered that there was ample evidence to indicate that Mrs Knee made deliberate and concerted efforts to deceive patients and her employers, which included amending a large number of patients’ records across two computer systems to ensure consistency of information. Accordingly, this head of charge is proved.</p>
2.(b)	<p><i>Dishonest.</i></p> <p>Found proved.</p> <p>In reaching its finding on this head of charge, the Committee took into account that it received no direct evidence from Mrs Knee as to her state of knowledge and belief as to the facts at the material time. Whilst it had regard to her responses to the Company’s questions, as detailed in the ‘<i>Fact Find Meeting Summary</i>’ of 10 September 2016, the Committee rejected the possibility of there having been mistakes on her part, given all the circumstances surrounding her conduct.</p> <p>Having considered all the evidence presented to it, including the extent of Mrs Knee’s actions in deliberately falsifying patient records to indicate a range of exemptions which were untrue, the Committee was satisfied that there was no other logical or innocent explanation for what she was doing. It considered that she must have known that what she was doing was wrong and plainly dishonest. The Committee was also satisfied that ordinary decent people would consider Mrs Knee’s conduct to be dishonest.</p>
3.	<p><i>On or around 15 November 2016 you authored and sent a letter to the General Dental Council marked as being signed by Person A. [The Committee amended this head of charge to replace the name originally stated with ‘Person A’ in line with the GDC’s Anonymisation Policy].</i></p> <p>Found proved.</p> <p>The Committee noted from the evidence that Person A was the Practice Manager at Mrs Knee’s other place of employment. The GDC sent a letter dated 2 November 2016, addressed to Person A at that place of employment. The letter was headed “<i>Investigation relating to Michelle Knee (registration number 124703)</i>”. By way of a reply, the Committee received a letter on 15 November 2016, purportedly from Person A, in which it was stated that there were no concerns about Mrs Knee’s fitness to practise, and that she was a “<i>total team player</i>”, “<i>hardworking</i>” and “<i>loyal</i>”.</p>

	<p>The Committee had regard to the record of a telephone interview, dated 9 October 2020, which was exhibited by Ms Akinola with her written evidence. The telephone interview was conducted by another Paralegal at the GDC with Person A. The Committee noted that during that interview Person A did not recall seeing the GDC's letter of 2 November 2016, and she stated that she was unaware of the ongoing GDC investigation. Person A further stated that she did not write a letter to the GDC in response. Person A said that, whilst she did not know who wrote the letter in response to the GDC, she was "<i>pretty sure</i>" that it was not her, that she would not "<i>write like that</i>", and nor would she sign her name as shown on the letter.</p> <p>The Committee was satisfied on the evidence that the letter purporting to be from Person A, was not from her. It was also satisfied that it was more likely than not, having considered all the circumstances, that it was Mrs Knee who authored the letter in question. The Committee noted the serious nature of the letter sent to Person A, and could not see why that letter would not have been brought to the attention of Person A if erroneously received by anyone else at that place of employment. The Committee further noted that the written response sent to the GDC purportedly by Person A was very positive. It considered that it was only Mrs Knee who had a vested interest in responding in that manner.</p> <p>The Committee was satisfied on the balance of probabilities that this head of charge is proved.</p>
4.	<i>Your conduct in relation to Charge 3 was:</i>
4.(a)	<p><i>Misleading;</i></p> <p>Found proved.</p> <p>In view of the Committee's finding that the letter in question was not authored by Person A, but by Mrs Knee, it was satisfied that this head of charge is proved. The Committee considered that it was clear that Mrs Knee's intention was to give the GDC the impression that the letter was written by Person A, and this was plainly misleading.</p>
4.(b)	<p><i>Dishonest, in that you sought to create the impression that the letter was authored by Person A and/or that you provided a positive reference to avoid further investigation.</i> [The Committee amended this head of charge to replace the name originally stated with 'Person A' in line with the GDC's Anonymisation Policy].</p> <p>Found proved.</p> <p>In finding this head of charge proved, the Committee took into account that it had no information before it from Mrs Knee in relation to this allegation. However, in the Committee's view, the conduct found proved is plainly dishonest. The Committee has found proved on the evidence that Mrs Knee acted intentionally to create the impression that the letter was authored by Person A. The Committee was satisfied, given the positive nature of the response letter, that Mrs Knee acted as she did to avoid further investigation by the GDC. It considered that there could be no other logical or innocent explanation in the circumstances. The Committee was further satisfied that ordinary decent people would consider such conduct to be dishonest.</p>

We move to Stage Two."

On 28 July 2021 the Chairman announced the determination as follows:

“This is a Professional Conduct Committee hearing of Mrs Knee’s case. The hearing commenced on 26 July 2021, and is being conducted remotely via Microsoft Teams video-link in line with the current practice of the General Dental Council (GDC).

Mrs Knee is not present at the hearing, and she is not represented in her absence. The Case Presenter for the GDC is Ms Louise Price, Counsel.

The Committee’s task at this second stage of the hearing has been to consider whether the facts found proved against Mrs Knee amount to misconduct and, if so, whether her fitness to practise is currently impaired by reason of that misconduct. The Committee noted that if it found current impairment, it would need to go on to consider the issue of sanction.

The Committee considered all the evidence presented to it. It took account of the submissions made by Ms Price in relation to misconduct, impairment and sanction. In Mrs Knee’s absence and in the absence of any representative on her behalf, the Committee received no material or written submissions from her in relation to the matters to be considered at this stage.

The Committee accepted the advice of the Legal Adviser. The Committee reminded itself that misconduct and current impairment were matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings.

Summary of the facts found proved

The facts found proved against Mrs Knee, a registered dental nurse, relate to her conduct whilst employed as a receptionist at Local Care Direct (‘the Company’), where she worked at weekends and on Bank Holidays.

The Committee found proved that, for a period of time, including between 1 January 2016 and 31 July 2016, Mrs Knee misappropriated money received from patients for dental treatment provided by the Company. She did this by amending the pay status in patients’ records on the Company’s software systems to falsely indicate that they were exempt from paying for their dental treatment. She then took and kept cash payments that patients had made for their dental treatment. An investigation undertaken by the Company revealed that of 124 amendments made by Mrs Knee to patient records, 119 related to the amendment of patients’ pay status. The Committee was in no doubt that Mrs Knee’s conduct in this regard was both misleading and dishonest.

It was further found proved by the Committee that, on or around 15 November 2016, Mrs Knee authored and sent a letter to the GDC marked as being signed by Person A, when the letter was in fact authored by Mrs Knee herself. Person A was the Practice Manager at Mrs Knee’s other place of employment. The letter purportedly written by Person A contained positive comments about Mrs Knee, and indicated that there were no concerns about her fitness to practise. The Committee found proved that Mrs Knee’s conduct in authoring the letter was plainly misleading, and was clearly dishonest. Mrs Knee had sought to create the impression that the letter was authored by Person A and/or that she had provided a positive reference, in order to avoid further investigation by the GDC into the matter of her misappropriation of practice money from the Company.

Summary of the submissions made by the GDC

Ms Price confirmed that Mrs Knee has no fitness to practise history.

In relation to this current case, Ms Price submitted that it was quite plain that the facts found proved amount to misconduct. Ms Price referred the Committee to a number of paragraphs relating to dishonesty in the *‘Guidance for the Practice Committees including Indicative Sanctions*

Guidance (Effective from October 2016; last revised in December 2020) ('the Guidance'). Ms Price also highlighted that case law supports the fact that dishonesty is a very serious matter, and she drew the Committee's attention to the case of *Parkinson v Nursing and Midwifery Council [2010] EWHC 1989 (Admin)*. In addition, Ms Price invited the Committee to have regard to the GDC's '*Standards for the Dental Team (September 2013)*' ('the GDC Standards'), and she referred to a number of Standards that she considered to be relevant.

On the issue of impairment, Ms Price submitted that there were two components to be considered, the private component and the public component. In relation to the private component and whether Mrs Knee had remedied her wrongdoing, as highlighted in this case, Ms Price submitted that the Committee may feel that the matters found proved relate to attitudinal concerns which are not capable of remedy. She stated, however, that there was no evidence of remediation in any event. Ms Price submitted that there was no evidence of any remorse or apology, or any evidence to suggest that Mrs Knee had repaid the money she misappropriated. Further, Ms Price stated, Mrs Knee had failed to engage with this hearing. It was Ms Price's submission that in the circumstances, there was a risk of repetition.

With regard to the public component of impairment, Ms Price submitted that, given the facts of this case, public confidence in the dental profession would be undermined if a finding of impairment were not made. She submitted that this is a case where a registrant had taken patients' money, altered records to cover up her dishonesty and had provided a false document to her regulator to prevent its investigation continuing. Ms Price submitted that this is a case where a finding of impairment should be made.

Ms Price went on to address the Committee on sanction. She stated that the Committee may feel that the matters in this case are so damaging to Mrs Knee's fitness to practise, that the only appropriate sanction is that of erasure. She stated that the Committee may conclude that the facts found proved indicate an attitudinal problem incompatible with continued registration. Ms Price drew the Committee's attention to the factors relevant to the sanction of erasure, as set out in the Guidance. In making her submissions on sanction, Ms Price reminded the Committee that there was some reference in the evidence before it of Mrs Knee's personal circumstances leading up to the material time but, she submitted, those matters did not take away from the seriousness of what has been found proved. Ms Price also highlighted that there is little by way of information about those personal circumstances.

The Committee's decision on misconduct

The Committee considered whether the facts found proved against Mrs Knee amount to misconduct. It took into account that a finding of misconduct in the regulatory context requires a serious falling short of the professional standards expected of a registered dental professional. The Committee had regard to the GDC Standards. It considered the following professional standards to be engaged in this case:

- 1.3 Be honest and act with integrity.
- 1.3.1 You must justify the trust that patients, the public and your colleagues place in you by always acting honestly and fairly in your dealings with them. This applies to any business or education activities in which you are involved as well as to your professional dealings.
- 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.

- 1.7.1 You must always put your patients' interests before any financial, personal or other gain.
- 1.9 You must find out about laws and regulations that affect your work and follow them.
- 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.
- 9.1.1 You must treat all team members, other colleagues and members of the public fairly, with dignity and in line with the law.

The Committee noted that it is often said that there is a spectrum of dishonesty. It was satisfied, on the facts found proved in this case, that Mrs Knee's dishonesty was at the higher end of the spectrum. Mrs Knee took patients' money for her own personal gain, in a manner that led to a number of patients receiving fines from the NHS Business Services Authority (NHS BSA), and many others were placed at risk of being fined. Mrs Knee's misappropriation of money was repeated over an extended period of time, and involved an intricate cover-up to sustain her dishonesty. Her conduct in this regard was a clear and serious breach of fundamental GDC Standards, including the requirements to put patients' interests first and to act with honesty and integrity. Mrs Knee's actions breached the trust that patients and her employer had placed in her.

Mrs Knee's dishonesty continued when she attempted to avoid the GDC's investigation into her conduct at the Company. By authoring a false letter indicating that there were no concerns in relation to her fitness to practise, Mrs Knee demonstrated a complete disregard of the GDC Standards to which she was required to adhere, as well as the important role of the GDC as the regulator of the dental profession.

Taking all the above into account, the Committee concluded that Mrs Knee's conduct represented a serious departure from what was expected of her in the circumstances. It was therefore satisfied that the facts found proved amount to misconduct.

The Committee's decision on impairment

The Committee next considered whether Mrs Knee's fitness to practise is currently impaired by reason of her misconduct. It had regard to the over-arching objective of the GDC, which is: the protection, promotion and maintenance of the health, safety and well-being of the public; the promotion and maintenance of public confidence in the dental profession; and the promotion and maintenance of proper professional standards and conduct for the members of the dental profession.

The Committee took into account that its findings against Mrs Knee relate to serious instances of dishonesty which, in its view, indicates a problem of an attitudinal nature. The Committee considered that attitudinal problems are difficult to remedy, although not impossible. It noted, however, that there has been no meaningful engagement by Mrs Knee in relation to this hearing and, as a consequence, there is no evidence before the Committee of any remediation. There is also no evidence of any apology or remorse, or any information to suggest that she has repaid the money that she misappropriated.

In considering the issue of Mrs Knee's insight, the Committee took into account that it had before it the 'Fact Find Meeting Summary' of the investigating meeting held by the Company on 10 September 2016, which Mrs Knee attended. However, this was a meeting held almost five years ago at a time when Mrs Knee stated, *"I haven't been taking cash"* and *"I am not a thief"*. She simply stated that she would suffer the consequences for any mistakes she had made and made

reference to some personal matters affecting her around that time. The Committee has received no evidence relating to Mrs Knee's current level of insight into her dishonesty.

In the absence of any evidence of remorse, remediation, or insight from Mrs Knee into her dishonesty which affected patients, her employer and an investigation by the GDC, the Committee concluded that there remains a risk of repetition. It therefore decided that a finding of impairment is necessary for the protection of the public.

The Committee went on to consider the wider public interest. It considered that any form of dishonesty has the potential to undermine public confidence in the dental profession. Therefore, in a case such as this which involves serious dishonesty on the part of Mrs Knee, including dishonesty that persisted over a lengthy period of time, abused the trust of patients and an employer, as well as dishonesty that showed her complete disregard for the investigation by her regulatory body, the Committee was satisfied that a finding of impairment is in the wider public interest. It considered that public confidence would be severely damaged in the absence of such a finding. It also considered that a finding of impairment would serve to promote and maintain proper professional standards.

Accordingly, the Committee determined that Mrs Knee's fitness to practise is currently impaired by reason of her misconduct.

The Committee's decision on sanction

The Committee considered what sanction, if any, to impose on Mrs Knee's registration. It noted that the purpose of a sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest. In reaching its decision, the Committee had regard to the Guidance. It applied the principle of proportionality, balancing the public interest with Mrs Knee's own interests.

In deciding on the appropriate sanction, the Committee first considered the issue of mitigating and aggravating factors. It decided that there was no evidence of any mitigating factors in this case. In reaching this decision, the Committee acknowledged that there was some reference to personal matters in the 'Fact Find Meeting Summary' of 10 September 2016. However, it received no supporting evidence in relation to those matters.

The Committee identified a considerable number of aggravating factors, which are as follows:

- actual harm or risk of harm to patients or another, in that some patients received NHS BSA fines, whilst others were placed at risk of being fined. There was also financial harm to the Company;
- dishonesty
- premeditated misconduct;
- financial gain by Mrs Knee;
- breach of trust of both patients and Mrs Knee's employer, the Company;
- misconduct sustained or repeated over a period of time;
- blatant or wilful disregard of the role of the GDC and the systems regulating the profession; and
- lack of insight.

Taking all these factors into account, the Committee considered the available sanctions, starting with the least restrictive. The Committee noted that it was open to it to conclude this case without taking any action in relation to Mrs Knee's registration. However, it concluded that taking no action would be wholly inappropriate, given the serious nature of its findings and the absence of any evidence of remorse, remediation, or insight, which means that there is an ongoing risk to the public and wider public interest considerations.

The Committee next considered whether to issue Mrs Knee with a reprimand. It had regard to paragraph 6.7 of the Guidance which states, "*A reprimand is the lowest sanction which can be applied and may therefore be appropriate where the misconduct ... is at the lower end of the spectrum. A reprimand does not impose requirements on a registrant's practice and should therefore only be used in cases where he or she is fit to continue practising without restrictions. A reprimand might be appropriate if the circumstances do not pose a risk to patients or the public which requires rehabilitation or restriction of practice.*" The Committee concluded that none of these factors apply in this case. Mrs Knee's misconduct was at the higher end of the spectrum, and the Committee has identified a risk of repetition in the absence of any evidence of remediation or insight. The Committee therefore determined that issuing a reprimand would not be sufficient to protect the public, nor would it satisfy the wider public interest.

The Committee considered whether to impose conditions on Mrs Knee's registration. However, it considered that it could not formulate any conditions that would address the issue of dishonesty and the serious breach of fundamental GDC Standards. Conditional registration by its nature requires honesty and cooperation. In all the circumstances, taking into account the need to protect the public and the wider public interest, the Committee was not satisfied that conditions would be appropriate or proportionate.

The Committee went on to consider whether to suspend Mrs Knee's registration for a specified period. It had regard to the Guidance at paragraph 6.28, which sets out the factors to be considered when deciding whether the sanction of suspension would be appropriate. The Committee noted that the majority of those factors are present in this case, including that Mrs Knee has not shown insight and that there remains a risk of repetition. However, it also noted from paragraph 6.28 that a suspension could be considered appropriate in circumstances where "*there is no evidence of harmful deep-seated personality or professional attitudinal problems*". It was the view of the Committee that Mrs Knee's dishonesty does demonstrate deep-seated attitudinal problems, and that this is an issue central to this case. The findings made against her are of the most serious kind, initially involving deliberate fraud and then followed by her misleading of the GDC which, the Committee considered, emphasises the extent of her attitudinal problems. Further, there has been no evidence to indicate that she has acknowledged her wrongdoing including the impact on the patients involved, and the reputation of the dental profession.

In light of the Committee's concerns that Mrs Knee has a deep-seated attitudinal problem, and the identified risk to the public and the wider public interest, the Committee seriously questioned whether a suspension would be sufficient. It considered whether the highest sanction, namely erasure, might be more appropriate and proportionate in all the circumstances. In doing so, it had regard to the case of *Parkinson v Nursing and Midwifery Council [2010] EWHC 1989 (Admin)*, which was drawn to its attention by Ms Price. It was stated in *Parkinson* that a registrant who has been found to have acted dishonestly is always at severe risk of having their name erased from the register. It was further stated in that case that, a registrant who has acted dishonestly, who does not appear before the Committee either personally or by solicitors or Counsel to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, effectively forfeits the small chance of persuading the Committee to adopt a

lenient or merciful outcome and to suspend for a period rather than to direct erasure. Bearing this in mind, the Committee considered paragraph 6.34 of the Guidance which deals with erasure.

Paragraph 6.34 states that, *“Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion:*

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

The Committee noted that all but one of the factors from paragraph 6.34 apply in this case which, in its view, demonstrates the gravity of the matters found proved against Mrs Knee.

The Committee also had regard to the following paragraphs of the Guidance:

Paragraph 60:

“Acting with honesty and integrity is a fundamental tenet of the dental profession. As such, dishonesty will always be serious, even when it does not involve direct harm to patients (for example defrauding the NHS or providing misleading information), because it can undermine public confidence in the profession...”

Paragraph 61:

“Dishonesty can take many forms, with some being more serious than others. Some forms of dishonest conduct can destroy trust instantly, whilst others can merely undermine it to a greater or lesser extent. Dishonest conduct may be considered less serious in cases of:

- *One-off incidents;*
- *Opportunistic or spontaneous conduct;*
- *No direct personal gain;*
- *No risk to patients;*
- *Incidents in private life.”*

In considering paragraph 61 above, the Committee was satisfied that there was no evidence before it to suggest that Mrs Knee's dishonesty had been anything but serious and deliberate.

The Committee continued to consider paragraphs 62 and 63 of the Guidance, which state as follows:

Paragraph 62:

"It is a matter for the Committee to determine where on the spectrum of seriousness the Registrant's dishonesty lies. However, dishonesty that is persistent and/or covered up, is likely to result in erasure."

Paragraph 63:

Where dishonesty is a central feature of a Committee's decision, there will always be a severe risk of a registrant's name being erased from the register. Where little remorse, regret or insight is demonstrated, or where a registrant fails to cooperate with an investigation, engage with the final hearing or persists in misconduct, then this may point to a more serious sanction needing to be imposed to ensure public confidence in the profession is not undermined and that proper professional standards of conduct are maintained.

Having considered the relevant sections of the Guidance, including those that specifically deal with the issue of dishonesty, the Committee concluded that the suspension of Mrs Knee's registration would not be sufficient or appropriate in light of all its findings.

Accordingly, the Committee determined that, the only appropriate and proportionate sanction to protect the public and to uphold the wider public interest, is that of erasure.

Unless Mrs Knee exercises her right of appeal, her name will be erased from the Register of Dental Care Professionals, 28 days from the date on which notice of this Committee's direction is deemed to have been served upon her.

The Committee now invites submissions from Ms Price, as to whether an immediate order of suspension should be imposed on Mrs Knee's registration to cover the appeal period, pending its substantive determination taking effect.

In reaching its decision on whether to impose an immediate order of suspension on Mrs Knee's registration, the Committee took account of the submissions made by Ms Price that such an order should be imposed. The Committee accepted the advice of the Legal Adviser.

The Committee has determined that the imposition of an immediate order of suspension on Mrs Knee's registration is necessary for the protection of the public and is otherwise in the public interest.

The Committee identified a likelihood of repetition in its decision on impairment, given the absence of any evidence of remediation or any evidence of Mrs Knee's insight into her misconduct. The Committee noted that if an immediate order were not imposed, Mrs Knee would be able to continue practising for the duration of the appeal period, or for longer in the event of an appeal, without any restriction on her registration. The Committee considered that this would place members of the public at risk of harm. It was therefore satisfied that an immediate order of suspension is necessary for the protection of the public.

The Committee also considered that public confidence in the dental profession and the regulatory process would be seriously undermined if an immediate order of suspension were not imposed in all the circumstances of this case. The Committee has determined that Mrs Knee has deep-seated attitudinal problems incompatible with continued registration. It considered that it would be inappropriate and inconsistent to allow her to continue to practise, unrestricted, even for a short period of time. Accordingly, an immediate order is required in the wider public interest to maintain public confidence and to uphold proper professional standards.

The effect of the foregoing determination and this order is that Mrs Knee's registration will be suspended immediately from the date on which notice is deemed to have been served upon her.

Unless Mrs Knee exercises her right of appeal, the substantive direction for erasure, as already announced, will take effect 28 days from the date of deemed service.

The interim order currently in place on Mrs Knee's registration is hereby revoked.

That concludes this determination."