PART - PRIVATE HEARING

Professional Conduct Committee
Initial Hearing

6 to 8 January 2025

Name:	NOCTON, Simon Magnus
Registration number:	62959
Case number:	CAS-206615-V4D1H1

General Dental Council:	Guy Micklewright, Counsel Instructed by Sarah Barker, IHLPS
Registrant:	Present Represented by Stephen Brassington, Counsel Instructed by Venessa Holt, Medical Defence Union

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Outcome:	Facts found proved did not amount to misconduct. Case concluded.
Duration:	N/A
Immediate order:	N/A

Committee members:	Elizabeth Rantzen	(Chair, Lay Member)
	Navidah Chaudhary Munday	(Dentist Member)
	Pamela Machell	(DCP Member)
Legal Adviser:	Nicola Gordelier	
Committee Secretary:	Lola Bird	

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

NOCTON, Simon Magnus, a dentist, BDS Lond 1987 is summoned to appear before the Professional Conduct Committee on 6 January 2025 for an inquiry into the following charge:

CHARGE (as amended)

"That being registered as a dentist:

1. Between in or around September 2021 and November 2022 you engaged in a romantic and/or intimate relationship with Patient A
2. Your conduct at paragraph 1 above:
   (a) Breached professional boundaries and/or
   (b) WITHDRAWN
3. You provided dental treatment to Patient A on 1 February 2022
4. You provided 'Botox' treatment to Patient A on the following dates:
   (a) 1 February 2022
   (b) WITHDRAWN
5. Your conduct at paragraphs 3 and 4 above was inappropriate, in that you provided treatment to a patient with whom you had a close personal relationship.

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

Mr Nocton,

1. This is a Professional Conduct Committee hearing in respect of a case brought against you by the General Dental Council (GDC). The factual allegations set out in the charge concern the circumstances of your relationship with a patient, Patient A, between September 2021 and November 2022, whilst you were practicing as a dentist at a dental practice ('the Practice').

2. The hearing commenced on 6 January 2025 and is being conducted in person at the Dental Professionals Hearings Service

3. You are represented at these proceedings by Mr Stephen Brassington, Counsel. The Case Presenter for the GDC is Mr Guy Micklewright, Counsel.

PRELIMINARY APPLICATIONS – 6 January 2025

Application to amend the charge

4. At the outset of the hearing, Mr Micklewright made an application to amend the charge, pursuant to Rule 18 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules'). He applied to withdraw head of charge 2(b), which alleged that your conduct towards Patient A had been sexually motivated, and head of charge 4(b), which alleged that you provided Botox treatment to Patient A on 10 May 2022.

5. Mr Micklewright submitted that the evidential basis for the date '10 May 2022' alleged at head of charge 4(b), had been your previous admission made in written representations sent to the GDC on your behalf by your solicitors during the investigation of this case. However, the evidence since received in respect of the matter, namely a witness statement from the Practice Manager dated 12 September 2024 and the clinical records for Patient A, showed that there is no record of any treatment having been provided to Patient A on 10 May 2022 at the Practice. Mr Micklewright submitted that in the circumstances there would be no realistic prospect of head of charge 4(b) being proven. He noted that, having reviewed the evidence, you had now resiled from your admission of the matter.

6. In relation to the allegation at head of charge 2(b), namely that your alleged conduct in engaging in a romantic and/or intimate relationship with Patient A was sexually motivated, Mr Micklewright highlighted that it had been accepted by you that you were in a sexual relationship with Patient A during the material time. Accordingly, Mr Micklewright submitted that alleging sexual motivation did not add anything to the GDC's case, nor did it assist the Committee with its inquiry.

7. Mr Brassington did not oppose the application to amend the charge. He submitted that the amendments sought by the GDC could be fairly made. He submitted that the fact of your relationship with Patient A was captured in the other allegations set out in the charge.

8. Before reaching its decision on the GDC's application to amend to the charge, the Committee heard a further preliminary application made on your behalf.

Application to hold the hearing partly in private

9. Mr Brassington made an application under Rule 53 of the Rules for the hearing to be held partly in private. He requested that certain matters relating to your private life [PRIVATE] should be heard in private session.

10. Mr Micklewright did not oppose the application for the hearing to be held partly in private.

DECISIONS ON THE PRELIMINARY APPLICATIONS – 6 January 2025

11. In reaching its decisions on the preliminary applications, the Committee took account of the submissions made by both parties. It accepted the advice of the Legal Adviser.

Decision on application to amend the charge

12. The Committee first considered the application to withdraw head of charge 2(b), which alleged that your conduct in engaging in a romantic and/or intimate relationship with Patient A was sexually motivated. It was the Committee's view that an allegation of sexual motivation was unnecessary in circumstances where you have accepted that your relationship with Patient A was sexual in nature. The Committee agreed that head of charge 2(b) did not add anything to the case before it. It was satisfied that the alleged conduct in this case would be adequately captured by the remaining heads of charge.

13. The Committee next considered the application to withdraw head of charge 4(b), namely the date '10 May 2022'. The Committee was satisfied, having considered the material provided to it in advance of the hearing, that there was no evidence to support you having provided any treatment to Patient A on 10 May 2022.

14. Accordingly, having had regard to the merits of the case and the fairness of the proceedings, the Committee determined that both head of charge 2(b) and head of charge 4(b) should be withdrawn. The Committee considered that these withdrawals were appropriate and would not amount to an under-prosecution of the case. It was also satisfied that there would be no prejudice to you from withdrawing the matters in question.

Decision on application to hold the hearing partly in private

15. The Committee had regard to its discretion under Rule 53(2)(a) of the Rules to hold all or part of a hearing in private *"where the interests of the parties or the protection of the private and family life of the respondent or any other person so require".*

16. The Committee determined that it was entirely appropriate to hear in private the matters referred to by Mr Brassington in his submissions for the protection of your private and family life. The Committee did not consider that there was any public interest in hearing those matters in public session. It therefore acceded to the application for the hearing to move into private session at relevant junctures.

ADMISSIONS TO THE CHARGE – 6 January 2025

17. In relation to the charge (as amended), Mr Brassington told the Committee that you admitted all of the remaining factual allegations, namely heads of charge 1, 2(a), 3, 4(a) and head of charge 5 in so far as it relates to 3 and 4(a).

18. In accordance with the *'Guidance on admissions made at the preliminary stage of fitness to practise hearings'* (issued in October 2022), Mr Micklewright invited the Committee to find all the admitted factual allegations proven.

FINDINGS OF FACT – 6 January 2025

19. The Committee accepted the advice of the Legal Adviser, who drew its attention to paragraph 2.9 of the guidance on admissions which states, *"Whilst Rule 57(4) states that it shall be for the GDC*

to "prove any fact alleged in the notification of hearing", that requirement must be taken to exclude facts that are admitted pursuant to Rule 17(4) and, in effect, the GDC discharges the obligation to "prove" an alleged fact by reliance on the registrant's formal admission of its truth at the preliminary stage".

20. The Committee took into account that your admissions were made with the benefit of full legal representation, and that they were consistent with the written evidence the Committee had read in advance, including your witness statement prepared for this hearing dated 20 December 2024. The Committee was satisfied that your admissions were clear and unequivocal. In the circumstances, the Committee was content to accept your admissions, with the GDC no longer required to present evidence at the factual stage of this inquiry.

21. Accordingly, with heads of charge 2(b) and 4(b) having been withdrawn, the Committee's findings in relation to the facts were announced as follows:

1.	*Between in or around September 2021 and November 2022 you engaged in a romantic and/or intimate relationship with Patient A* **Admitted and found proved.**
2(a).	*Your conduct at paragraph 1 above:* *Breached professional boundaries* **Admitted and found proved.**
3.	*You provided dental treatment to Patient A on 1 February 2022* **Admitted and found proved.**
4(a)	*You provided 'Botox' treatment to Patient A on the following dates:* *1 February 2022* **Admitted and found proved.**
5.	*Your conduct at paragraphs 3 and 4 above was inappropriate, in that you provided treatment to a patient with whom you had a close personal relationship.* **Admitted and found proved.**

22. That concluded the factual inquiry at Stage One of the proceedings and the hearing moved to Stage Two.

STAGE TWO – 6 to 8 January 2025

Case background

23. Mr Micklewright opened the second stage of the hearing by addressing the Committee on the background to the factual matters admitted and found proved.

24. The Committee heard that you currently work as an associate at the Practice, but prior to the Practice being sold in 2021, you were a practice partner.

25. At the material time of the charge, you specialised in carrying out implant treatment on referral, which involved the placing and restoring of dental implants. Patient A first attended the Practice on 27 August 2009, when she had an initial consultation with you regarding implant treatment, following a referral from her own General Dental Practitioner who worked at a different dental practice.

26. Patient A was initially under your care for implant treatment from 2009 until 2011, during which time you provided her with an implant retained bridge in the anterior maxillary region.

27. In January 2012, Patient A transferred to being a patient at the Practice and was seen regularly by one of the Practice's General Dental Practitioners until 2017.

28. In March 2017, Patient A was referred to you by that other General Dental Practitioner for a second course of treatment following concerns about bone loss and gingival recession after her original implant treatment. At that time, it was considered that the second course of treatment would take around 18 months to complete. However, it was not until 30 July 2020 that you fitted a definitive implant supported bridge for Patient A. This was anticipated to be the end of that second course of treatment, although a review appointment was booked to take place in September 2020, but did not go ahead.

29. You next saw Patient A for a review on 16 April 2021, due to the patient's concerns about the fragility of her gums and the upper anterior implant bridge. The Committee heard that following that review you had not intended to see Patient A again.

30. From June 2021, you started to see Patient A socially, first meeting her for a drink, in response to her suggestion that you should meet for coffee.

31. On 26 August 2021, you saw Patient A again at the Practice as part of a 'pop in' review. It was explained that 'pop in' reviews, which were a feature at the Practice at the time, were informal, non-diarised, requests for dental practitioners to provide clinical advice or clarification on an issue. Your evidence was that this practice had been discontinued before this date, as there was a risk of feeling *"ambushed"* by being asked to review a patient without prior warning. Nevertheless, on 26 August 2021, the hygienist who was treating Patient A on that occasion, and worked in the room next door to yours, requested you attend the appointment on a 'pop in' basis. It is recorded by the hygienist that you carried out a review of the patient's implants, but you have limited memory of this.

32. You continued to meet socially with Patient A and from September 2021 your relationship with her became more intimate and, from October 2021, sexual in nature.

33. On 1 February 2022, you provided dental treatment to Patient A to have her upper bridge tightened on an emergency basis when there were no other suitably qualified dental practitioners available to provide treatment. On the same day you also administered Botox treatment to Patient A

at her request. The Committee heard that you were not routinely administering Botox to patients at this time.

34. The clinical records for Patient A indicate that following the appointment 1 February 2022, you made a decision not to provide any further treatment to her, and an entry was made in the clinical notes that she should be treated by another named dental practitioner in future.

35. However, on 31 March 2022, the clinical records show that you "*popped in to [review] LV implants"* during Patient A's appointment with a hygienist, although your evidence is that you have no memory of this appointment.

36. On your own account, from June 2022, your personal relationship with Patient A became difficult. The relationship ended in November 2022 and Patient A made a complaint to the GDC in the same month.

Evidence

37. The evidence before the Committee at this second stage of the hearing included all the material provided in advance of the Stage One factual inquiry, including your witness statement and a number of other witness statements from colleagues at the Practice. There was no witness statement from Patient A, and she did not attend the hearing.

38. The Committee further received a Remediation Bundle submitted on your behalf comprising evidence of your Continuing Professional Development (CPD) in the areas of maintaining professional boundaries, insight and remediation in practice, and your written reflections on your learning. Also included in the Remediation Bundle were [PRIVATE], a number of testimonials and patient feedback.

39. In addition, the Committee heard oral evidence from you at this second stage of the proceedings, during which you described the nature of your relationship with Patient A over the material time. The Committee noted your oral and written evidence that you had considered Patient A to be a 'former patient' when your relationship started. Further, that your relationship first began as a friendship before developing into something more intimate. [PRIVATE].

40. You explained that the dental treatment that you provided to Patient A on 1 February 2022 occurred in the context of an emergency, when no other suitably qualified dental practitioners were available. You acknowledged, however, that the provision of the Botox treatment was wrong. The Committee noted your evidence, which was consistent with the witness statement provided by the Practice Manager and Patient A's clinical records, regarding the steps you took following the 1 February 2022 appointment to ensure that Patient A was seen by another dental practitioner in future. You explained to the Committee that on reflection after that appointment, you had felt uncomfortable about treating somebody with whom you were in a close personal relationship. The Practice Manager confirmed in her witness statement that you had flagged with her that you were *"concerned that this could be a boundary issue, despite her care being concluded",* although having consulted GDC guidelines you could not see that there was anything to be concerned about.

Misconduct, impairment and sanction

41. The Committee's task at this stage has been to consider whether the facts admitted and found proved in this case amount to misconduct. The Committee noted that it was only if it were to find misconduct, that it should proceed to consider whether your fitness to practise is currently impaired by reason of that misconduct. The Committee further took into account that if it found current impairment, it would need to consider what sanction, if any, to impose on your registration.

42. In reaching its determination, the Committee considered all the evidence before it, both oral and documentary. It took account of the helpful and comprehensive submissions made by both parties in relation to misconduct, current impairment and sanction.

43. The Committee accepted the advice of the Legal Adviser. It bore in mind that its decisions were for its independent judgement. There is no standard or burden of proof at this stage of the proceedings.

Summary of parties' submissions

44. In accordance with Rule 20(1)(a) of the Rules, Mr Micklewright confirmed that you have no fitness to practise history before the GDC. He went on to outline some of the general legal principles applicable to the Committee's considerations at this stage.

45. Mr Micklewright highlighted that for a finding of misconduct to be made, the conduct concerned must be serious. It was his submission that the proven facts in this case are serious, in that they amount to a significant departure from the professional standards expected of a registered dental professional. Mr Micklewright submitted that your conduct was a clear breach of Standard 9.1.4 of the GDC's Standards for the Dental Team (effective from September 2013) ('the GDC Standards'). Standard 9.1.4 states that:

> *"You must maintain appropriate boundaries in the relationships you have with patients. You must not take advantage of your position as a dental professional in your relationships with patients".*

46. Mr Micklewright set out what he considered to be a number of aggravating features of your conduct, including: the length of time of your relationship with Patient A, which was in excess of a year; that you did not bring the relationship to an end because it was improper, but because it began to fail; and the temporal proximity of the relationship to your treatment of Patient A, including your failure to recognise the potential for further reviews of the implants.

47. In relation to the treatment that you provided to Patient A on 1 February 2022, which was during the currency of your personal relationship, Mr Micklewright submitted that there was some mitigation in this regard. He noted that the dental treatment you provided on that occasion was during an emergency appointment when no other suitably qualified dentist was available. He also noted that you took steps shortly after that appointment to make provision for another dental practitioner to treat Patient A going forward. Mr Micklewright submitted, however, that there was no mitigation for the provision of the Botox. He submitted that this was clear evidence of the significant blurring of the professional and personal boundaries that existed between you and Patient A at the time.

48. It was acknowledged that there is no evidence of predatory behaviour on your part and that your personal relationship with Patient A was a consensual one. However, it was the submission of the GDC that you abused your position of power as Patient A's treating or previously treating clinician. Mr Micklewright referred the Committee to the relevant sections on *'Abuse of Privilege' and 'Sexual Misconduct'* contained in the GDC's '*Guidance for the Practice Committees including Indicative Sanctions Guidance'* (effective from October 2016; last revised in December 2020). In all the circumstances, he invited the Committee to conclude that the facts found proved amount to misconduct.

49. Mr Micklewright also submitted that your fitness to practise is currently impaired by reason of misconduct. He submitted that a finding of current impairment was required for the protection of the public and was in the wider public interest.

50. It was the view of the GDC that your remediation to date has been insufficient. Mr Micklewright submitted that you have not fully come to terms with what you did. He stated that in your oral evidence you ignored obvious issues, and you had been *"playing down"* the true nature of your relationship with Patient A. Mr Micklewright also invited the Committee to have regard to your written reflections in which you refer to your 'friendship' with Patient A which, he said, showed a lack of insight. He further submitted that your reflections lacked any consideration of how your behaviour would be viewed by members of the public.

51. It was Mr Micklewright's submission that there remains a risk of repetition in this case because of your partial and developing insight. [PRIVATE]. With regard to the wider public interest, Mr Micklewright submitted that there was a need to protect the reputation of the dental profession and to maintain and uphold proper professional standards. He submitted that a finding of impairment would be required in the circumstances of this case, even if it was considered that such a finding was not necessary to protect the public.

52. With regard to sanction, Mr Micklewright submitted that a suspension order for a period of 12 months would be appropriate and proportionate, given the nature of your conduct, the aggravating features present, and the risk of repetition.

53. Mr Brassington also outlined a number of general legal principles for the Committee's consideration. He emphasised that not every breach of professional standards amounts to misconduct, and that not every finding of misconduct warrants a finding of current impairment.

54. Mr Brassington rejected the GDC's submission that you have not demonstrated sufficient insight. He submitted that, from the outset, including during the course of the GDC's investigation, you accepted that what you did was inappropriate and that you should not have acted as you did.

55. Mr Brassington drew the Committee's attention to your witness statement, in which you apologise unreservedly to Patient A for the upset you caused, and you accepted that you should have not allowed a personal relationship to develop. Mr Brassington noted [PRIVATE] and that you stated that "*The insight I now have is one of a totally different perspective. I feel so remorseful for the upset I have caused to the patient and my work colleagues as well as the harm it may have done. I would never let anything similar happen again".*

56. It was Mr Brassington's submission that context is very important in this case. He submitted that at the time the breach occurred, you genuinely believed that Patient A's course of treatment had ended, as did the patient, with the last of the substantive treatment appointments having taken place in July 2020. Mr Brassington noted that Patient A attended for a review in April 2021 but stated that this was before your personal relationship had developed. It was only subsequently that Patient A invited you to meet socially. Mr Brassington acknowledged that Patient A's initiation of the social contact did not absolve you of the responsibility, but submitted that there is no evidence that you abused your position to pursue a personal relationship with Patient A.

57. Mr Brassington stated that you admitted providing dental treatment to Patient A on 1 February 2022 following the beginning of your close personal relationship. However, this was in the circumstances of an emergency, and the treatment in question was the tightening of a screw that took a few minutes. Mr Brassington submitted that Patient A would have suffered significant distress had the treatment not been undertaken. He asked the Committee to consider whether a body of practitioners would regard your conduct as deplorable in the circumstances. With regard to the provision of the Botox treatment, Mr Brassington told the Committee that you accepted that you were wrong to have provided this, but that it was a single, ill-advised act. He invited the Committee to take into account that both the dental treatment and the Botox treatment were clearly recorded by you in the patient's records with no attempt to cover up what had occurred.

58. Mr Brassington submitted that Standard 9.1.4 referred to in the GDC's submissions is a professional standard that is open to a multitude of interpretations. He contended that there is no specific guidance issued by the GDC that says dental practitioners should never have relationships with patients or treat anyone with whom they have a close personal relationship. Mr Brassington asked the Committee to carefully consider whether the facts admitted and found proved in this case amount to misconduct when placed in their proper context.

59. Mr Brassington submitted that if the Committee did make a finding of misconduct, it should, when considering the issue of current impairment take into account the evidence of your remediation. He submitted that notwithstanding any express prohibition in the GDC Standards, you are now aware of the pitfalls of embarking on a relationship with a patient or former patient. Mr Brassington submitted that [PRIVATE], the witness statements provided, and the testimonials are all relevant, including in relation to the impact that this case has had on you. Mr Brassington submitted that the idea that you would repeat such an error in future is fanciful, and that the Committee should carefully consider whether the wider public interest is invoked. Mr Brassington submitted that a reasonable and well-informed member of the public would not conclude that a finding of current impairment is required in all the circumstances.

60. Mr Brassington submitted that if the Committee was against him in relation to the issue of current impairment, a reprimand would be an appropriate and proportionate sanction.

Decision on misconduct

61. The Committee considered whether the facts admitted and found proved in this case 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.

62. In reaching its decision, the Committee had regard to Standard 9.1.4 of the GDC Standards which states that:

> *"You must maintain appropriate boundaries in the relationships you have with patients. You must not take advantage of your position as a dental professional in your relationships with patients".*

63. It was the view of the Committee that Standard 9.1.4 is broad in nature. It noted that the Standard does not explicitly prohibit personal relationships with past or present patients. The guidance is that you must maintain appropriate professional boundaries. You have admitted and the Committee has found proved that in forming a romantic/intimate relationship with Patient A you did breach professional boundaries. In considering the seriousness of that breach, the Committee had regard to the chronology of your treatment of Patient A. The Committee remained mindful of the vulnerability of any patient receiving dental treatment.

64. The Committee noted that the first course of treatment you provided to Patient A started in 2009 and was completed in 2011. After 2011, there was a considerable period of time when Patient A was not under your care. When Patient A formally transferred to the Practice in 2012, she was seen exclusively by another General Dental Practitioner, until referred by him to you for a second course of treatment in March 2017. That second course of treatment was completed in July 2020.

65. It was your evidence, which the Committee accepted, that you had not anticipated treating Patient A again following the completion of the second course of treatment. Indeed, there was another lengthy period of time before you did treat her again, which was on 1 February 2022 in the context of an emergency appointment. Whilst the Committee took into account that you attended two 'pop in' reviews involving Patient A, these were not regular, and the Committee accepted that because of the nature of the 'pop in' review system, you were often unaware of who the patients would be.

66. By 1 February 2022, when you next provided dental treatment to Patient A, you had embarked on a close and intimate personal relationship with her. However, the Committee accepted that there were extenuating circumstances on that occasion, in that Patient A needed to be treated urgently and you recognised that there were no other suitable dental practitioners at the Practice or nearby who could provide the treatment required. The extent of the treatment you provided on 1 February 2022 was to tighten a screw on Patient A's anterior bridge. The Committee took into account that in the absence of that treatment there could have been serious consequences for the patient in the context of her complaint of gum recession. The Committee considered that it would not have been in Patient A's best interests for you to have refused that short intervention of tightening the screw. The Committee also took into account your responsibility in those circumstances as the practitioner who had originally fitted the bridge. The Committee did not consider that the dental treatment you provided to Patient A on 1 February 2022 was motivated by your close personal relationship with her, nor did it, in the Committee's view, represent conduct that fell far short of what was expected in the circumstances.

67. The Committee remained mindful that you also provided Patient A with Botox treatment at her request at the appointment on 1 February 2022, which was inappropriate. However, it did not consider that this single, ill-judged incident fell far below the standards such that fellow dental

professionals and members of the public would find your conduct deplorable. Although your provision of this treatment to Patient A was inappropriate, the Committee found that this did not constitute misconduct. The Committee took into account that you later took active steps to avoid being in the same situation again, by ensuring that Patient A was seen by another dental practitioner going forward.

68. Having considered the chronology of what happened with Patient A, including that your personal relationship with her began when you believed that your dentist-patient relationship had ended, the gradual manner in which your relationship developed, and, in the Committee's view, the absence of any evidence to suggest that you took advantage of your position as a dental professional to pursue that relationship, the Committee was not satisfied that your conduct represented a significant departure from professional standards.

69. Accordingly, the Committee concluded that the facts admitted and found proved do not amount to misconduct.

70. That concludes this determination.