“Mr Yovev,

This is a resumed hearing of your case before the Professional Performance Committee (PPC), pursuant to section 27C of the Dentists Act 1984 (as amended) (‘the Act’). The hearing is being conducted remotely by Microsoft Teams video-link in line with the current practice of the General Dental Council (GDC).

The purpose of the hearing has been for the Committee to review a substantive order of suspension currently in place on your registration.

You are represented by Mr Richard Creamer, Solicitor. The Case Presenter for the GDC is Mr Callum Munday, Counsel.

Case background

Your case was first considered by the PPC at a hearing held in March 2021, when it was alleged that your fitness to practise was impaired by reason of misconduct and/or deficient professional performance. The factual allegations against you were set out in two heads of charge (Charge 1 and Charge 2). Charge 1 included the misconduct allegations namely, that you failed to provide an adequate standard of care to a number of patients between 1 September and 21 November 2019. Charge 2 included the allegations of deficient professional performance namely, that you failed to demonstrate the standards of knowledge and skill required of a Foundation Dentist between 1 September 2019 and 21 November 2019 in the areas of treatment planning, patient communication and diagnosis.

At the hearing in March 2021, you admitted all of the factual allegations in Charge 1 and Charge 2, and the Committee found all but one of the allegations proved on the basis of your admissions.

In its decision on misconduct, the Committee in March 2021 stated the following:

“The Committee noted that the factual findings in Charge 1 included numerous clinical failings by you in relation to several patients and it considered that these failings concern fundamental aspects of dentistry and directly impacted upon the overarching issue of patient safety. It identified the following areas (listed below) covering poor clinical practice into which your failings fall:

- Treatment planning
- Diagnosis
• Patient communication
• Taking of medical histories
• Placing a filling
• Radiography
• The use of dental instruments
• Administration of ID block injections

The Committee was satisfied that the clinical failings in these areas were wide-spread, repeated and serious. The failures concern basic and fundamental knowledge and skills of a competent dentist. In the Committee’s view the particulars in Charge 1 individually and cumulatively amounts to misconduct.”

In its decision on deficient professional performance (DPP), the Committee in March 2021 stated as follows:

“The Committee considered DPP and noted that the evidence of treatment you provided (under supervision) related to twelve patients over six days. It accepted this was a fair sample of your work over a period of time. It considered that the sample was sufficient to show that the breaches were repeated and persistent and demonstrate a pattern of conduct that underlies Charges 2. The matters set out in Charge 2 span the entire period of your clinical practice. Therefore, in the circumstances of this particular case a relatively small sample of twelve patients is in fact demonstrative of your practice overall.

The Committee considered that your failures in treatment planning, patient communication and diagnosis led to a poor standard of care to patients. Whilst these failures did not cause actual harm, they had the potential to do so. The Committee considered that these failings concern fundamental aspects of basic dentistry and directly impacted upon the overarching issue of patient safety. Given the number of patients and the nature of the matters where facts have been found proved over a period of just 6 days of practice, the Committee was satisfied that this connoted a standard of professional performance which was unacceptably low.

Overall, the Committee was satisfied that your failures in basic dental competencies constituted DPP”.

The Committee in March 2021 determined that your fitness to practise was impaired by reason of misconduct and by reason of DPP. It imposed an order of suspension on your registration for a period 12 months, with an immediate order. That Committee also determined that a review should take place before the expiry of the substantive suspension order. In directing the review, that Committee stated that:

“… a Committee reviewing your case may find it helpful to receive the following:

• A reflective piece addressing and demonstrating insight into the areas of deficiency in your practice as found proved.
• Any steps taken by you to remedy the deficiencies in your practice, including any evidence of training or other remedial actions, testimonials and references.
• A structured Personal Development Plan which includes addressing the shortcomings identified at this hearing. Recent revised enhanced Continued Professional Development.”

Today’s review
In comprehensively reviewing the suspension order today, the Committee considered all the evidence presented to it, including your oral evidence. You told the Committee about the various steps you have taken to address the concerns raised by the initial PPC in March 2021. You told the Committee what you had learnt from your Continuing Professional Development (CPD) and the benefits you had gained in being able to observe another dentist at work.

The Committee took account of the submissions made by Mr Munday on behalf of the GDC, as well as the submissions made by Mr Creamer on your behalf. The Committee accepted the advice of the Legal Adviser.

Mr Munday invited the Committee to extend the current suspension order on your registration by a period of up to six months. He told the Committee that the GDC’s position is that your fitness to practise remains impaired by reason of your misconduct and your deficient professional performance.

It was Mr Munday’s submission that there has not been a sufficient change in circumstances to justify revoking or replacing the current order of suspension. He stated that he understood, from reading the material that you have provided in respect of this review, that you have undertaken some training since the initial PPC hearing in March 2021. Mr Munday said that he had identified five training days completed by you in the first part of last year.

Mr Munday stated, however, that the initial Committee had identified significant deskilling in relation to your clinical practice and, he said, that the initial Committee had considered that significant remediation was required before you could safely treat patients. Mr Munday submitted that, given the number and gravity of the concerns raised regarding your clinical practice, five training days undertaken in Spring 2021 did not amount to recent and sufficient training to address the deficiencies that were found at the initial hearing. He also drew the Committee’s attention to what he said were concerns raised by the assessors in respect of some aspects of the training you had undertaken.

It was Mr Munday’s submission that public protection and the wider public interest required that the current suspension order be extended by a short period. He submitted that a further period of up to six months would allow you to further update your remediation. Mr Munday stated that if the Committee disagreed with extending the current suspension order, it should consider imposing an order of conditions with a requirement for direct supervision.

Mr Creamer submitted that in reaching its decisions in relation to current impairment, the Committee should consider whether you have demonstrated insight, whether you have sufficiently addressed the concerns in this case, and whether you are safe to return to clinical practice. It was his submission that all of these criteria have been fulfilled. He submitted that you have rectified the deficiencies in your clinical practice. He also highlighted the full admissions you made at the initial PPC hearing, as well as your answers given to the Committee’s questions today.

Mr Creamer submitted that you had taken full and comprehensive steps in relation to your remediation, which included your completion of a six-day, one to one, Bespoke Remediation Support Programme with Portsmouth University, as well as extensive pre-reading. He stated that the Committee should give the views of the assessors from that programme significant weight, given their professional positions and their independence. Mr Creamer highlighted that no performance assessment had been requested by the GDC in relation to this review.

Mr Creamer drew the Committee’s attention to your oral evidence regarding your future wish to work in a supportive practice or ideally complete your NHS Foundation Training. He highlighted that you are committed to your CPD, and, as you stated, that you would continue to engage with the dentist that you have been observing.

Mr Creamer stated that the continued suspension of your registration would be wholly unnecessary, disproportionate, punitive, and would lead to deskilling. He invited the
Committee to determine that your fitness to practise is not currently impaired and allow you to return to unrestricted practice. Mr Creamer submitted that if the Committee found that your fitness to practise remained impaired on one or both grounds, an order of conditions should be imposed in order to enable you to return to clinical practice. However, he opposed the imposition of direct supervision in this case, as he said that this would be tantamount to a suspension.

Current impairment

In considering whether your fitness to practise remains impaired by reason of your misconduct and/or DPP, the Committee exercised its independent judgement. It had regard to the overarching 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.

Decision on impairment by reason of misconduct

The Committee had regard to the areas of deficiency, as outlined by the initial PPC, which formed the basis of its finding of misconduct. These were: Treatment planning; Diagnosis Patient communication; Taking of medical histories; Placing a filling; Radiography; The use of dental instruments, and Administration of ID block injections. This Committee noted that in the intervening period since the initial hearing you have taken steps in accordance with the previous Committee's recommendation to try and address the identified shortcomings in these areas of your clinical practice. The Committee noted that this included your completion of the Bespoke Remedial Support Programme referred to in submissions. You also secured the opportunity to observe another dentist in practice which, the Committee noted, you have been doing over a significant period of time. Further, the Committee received written evidence showing that you have carried out a considerable amount of reflection and demonstrated insight in relation to your past failings.

The Committee also heard from you in evidence. It noted your acceptance that there had been deficiencies in your practice, and how this had impacted on your care of patients. The Committee found that you were able to explain the approaches you had taken in trying to remedy the shortcomings. The Committee was particularly impressed with your description of the dental anatomy, which you explained in the context of being able to competently administer ID block injections. You told the Committee that you had been undertaking role play in relation to 'positioning' and the angle of approach of the needle. With regard to your observing of another dentist, you told the Committee that this had been of great assistance to you, particularly in the areas of radiography and communication with patients. You told the Committee of your plan to continue observing this dentist. The Committee noted the letter provided by the dentist, dated 15 March 2022, in which it was stated “It is my opinion that Dr Yovev has shown a keenness to improve his failings and has the makings of a fine Dentist”.

The Committee found that you were open and honest in saying that you considered that there were still areas of weakness in your clinical practice, particularly around your communication skills. You also suggested that you might benefit from having a mentor. The Committee considered that you were aware of your continuing need for some level of support.

It was the view of the Committee that you demonstrated insight into your past misconduct and that the actions you have taken to date demonstrate your dedication to improving your clinical practice. The Committee was satisfied on the evidence before it, that you have gained considerable theoretical knowledge and practical skills in the areas highlighted as a concern. However, the Committee was concerned about the level of your deskilling. You have not worked in clinical practice for some time. The Committee also took into account that much of your theoretical and practical learning was undertaken almost a year ago. The Committee has a duty at these proceedings to bear in mind the need to protect patients. It was not satisfied
on the evidence it received today, that you are, at this stage, safe to return to unrestricted practice as a dentist. In reaching its conclusion, the Committee did not apply a gold standard; it considered what it would expect as a basic, safe and effective level of competency. In all the circumstances, the Committee concluded that a finding of impairment is necessary for the protection of the public.

The Committee also considered that a well informed member of the public would expect a finding of impairment in this case. It considered that in light of the ongoing concerns about your ability to practise safely without restriction, public confidence in the dental profession would be undermined in the absence of a finding of impairment in relation to your misconduct. The Committee further considered that such a finding is required to promote and maintain proper professional standards.

Accordingly, the Committee determined that your fitness to practise remains impaired by reason of your misconduct.

Decision on impairment by reason of DPP

In considering the issue of DPP, the Committee took into account the submission made on your behalf regarding the lack of any formal performance assessment requested by the GDC in relation to this review. However, it noted that the initial Committee found DPP on the basis of its assessment of the evidence relating to your work over a particular period of time, and that Committee was satisfied that the evidence represented a fair sample of your work.

This Committee considered that its task was to look at the circumstances since that finding of DPP, and to determine whether there has been a material change in relation to the standard of professional performance. This Committee considered that, at this review, the burden was upon you to demonstrate that you have addressed your past impairments.

The Committee acknowledged that, in view of the suspension of your registration, it has not been possible for you to demonstrate that you now possess the skill required of a Foundation Dentist in a clinical setting in the areas of treatment planning, patient communication and diagnosis. The Committee has accepted that you have demonstrated your updated theoretical knowledge and practical skills.

The Committee recognised that you have worked hard to learn and update your knowledge in the identified clinical areas. However, it concluded that it could not be satisfied there has been a material change to indicate that your professional performance is no longer deficient until you have been able to demonstrate this through clinical practice.

Accordingly, the Committee determined that your fitness to practise remains impaired by reason of your DPP. It considered such a finding necessary for the protection of patients. It also considered that a finding of impairment is in the wider public interest, to uphold public confidence in the dental profession and to uphold and maintain proper professional standards.

Decision on sanction

The Committee next considered what action to take in respect of your registration. It had regard to section 27C(1) of the Act, which sets out the options available to the Committee at this review.

In reaching its decision, the Committee had regard to the ‘Guidance for the Practice Committees including Indicative Sanctions Guidance (effective from October 2016; last revised December 2020)’. It noted that the purpose of any sanction is not to be punitive, although it may have that effect, but to protect the public and the wider public interest. The Committee applied the principle of proportionality, balancing the public interest with your own interests.

The Committee was satisfied that a sanction was necessary in this case, given its outstanding concerns in relation to the standard of your clinical practice, and the identified risks to public
safety and the wider public interest. The Committee therefore decided that it would not be appropriate to terminate the current order of suspension without taking any further action, or to allow it to lapse.

The Committee next considered whether to terminate the current suspension order and replace it with a substantive order of conditions. It had regard to the fact that its ongoing concerns relate to areas of clinical practice which, in its view, are capable of being addressed with further remediation. The Committee has acknowledged that you have undertaken a good amount of theoretical and practical learning. It considered that, given the level of insight and proactivity that you have demonstrated thus far, it could formulate a set of workable conditions that would protect the public and the wider public interest, whilst assisting you in addressing the gaps in your practical experience in a clinical setting. The Committee was satisfied on the evidence received, both documentary and oral, that you would be willing to comply with any conditions imposed. It therefore decided that conditional registration would be an appropriate and proportionate sanction.

In deciding to impose a period of conditional registration, the Committee noted the submission of the GDC regarding the extension of the current order of suspension. It concluded, however, that a further period of suspension in this case would be disproportionate and punitive, given your demonstration of insight, and the evidence of steps that you have taken to address the deficiencies in your clinical practice. The Committee also remained mindful of its duty to impose the least restriction necessary to protect patients and the wider public interest. It was satisfied that a period of conditional registration would afford the necessary protection.

In all the circumstances, the Committee determined to replace the current order of suspension with an order of conditions. The order of conditions is to be imposed for a period of 12 months, with a review. In deciding on the 12-month period, the Committee took into account the range of deficiencies identified in your clinical practice, and considered the time that would be required for you to demonstrate improvement in all areas of concern.

In formulating the conditions, the Committee had regard to the GDC’s request for direct supervision. However, it was satisfied that close supervision would be sufficient in the particular circumstances of this case. The Committee agreed that the imposition of direct supervision in this case would be tantamount to a suspension.

The following conditions will appear alongside your name in the Dentists Register:

1. He must work with a Development Adviser to formulate a Personal Development Plan, specifically designed to demonstrate his competence in treating patients in the following areas:
   - Treatment planning
   - Diagnosis
   - Patient communication
   - Taking of medical histories
   - Placing a filling
   - Radiography
   - The use of dental instruments
   - Administration of ID block injections

2. He must notify the GDC promptly of any professional appointment he accepts and provide the contact details of his employer or any organisation for which he is contracted to provide dental services and the Commissioning Body on whose Dental
Performers List he is included or Local Health Board if in Wales, Scotland or Northern Ireland.

3. He must allow the GDC to exchange information with his employer or any organisation for which he is contracted to provide dental services, and any Development Adviser and workplace supervisor referred to in these conditions.

4. He must inform the GDC of any formal disciplinary proceedings taken against him, from the date of this determination.

5. He must inform the GDC if he applies for dental employment outside the UK.

6. At any time he is employed, or providing dental services, which require him to be registered with the GDC; he must place himself and remain under the close supervision* of a workplace supervisor nominated by him, and agreed by the GDC.

7. He must allow his workplace supervisor to provide reports to the GDC at intervals of not more than three months and the GDC will make these reports available to any Development Adviser referred to in these conditions.

8. He must keep his professional commitments under review and limit his dental practice in accordance with his workplace supervisor’s advice.

9. He must not engage in single-handed dental practice, and must only work at premises where another GDC registrant (in his category of the Register) is working at the same time as he is working and with whom he has made personal contact before he commences treatment of patients at each session.

10. He must not work as a locum or undertake any out-of-hours work or on-call duties without the prior agreement of the GDC.

11. He shall carry out an audit of his radiographic practice. The audit must be signed by his workplace supervisor.

12. He must provide a copy of the audit referred to in Condition 11 above to the GDC on a three-monthly basis or, alternatively, confirm that there have been no such cases.

13. He must inform, within one week, the following parties that his registration is subject to the conditions, listed at (1) to (12), above:
   - Any organisation or person employing or contracting with him to undertake dental work;
   - Any prospective employer (at the time of application);
   - The Commissioning Body on whose Dental Performers List he is included or seeking inclusion, or Local Health Board if in Wales, Scotland or Northern Ireland (at the time of application).

14. He must permit the GDC to disclose the above conditions, (1) to (13), to any person requesting information about his registration status.

*Close supervision

The registrant’s day to day work must be supervised by a person who is registered with the GDC in their category of the register or above and who must be on site and available at all times. As a minimum, the registrant’s work must be reviewed at least twice a week by the supervisor via one to one meetings and case-based discussion. These bi-weekly meetings must be focussed on all areas of concern identified by the conditions.

A Committee will review your case at a resumed hearing to be held shortly before the end of the period of conditional registration. That Committee will consider what action it should take
in relation to your registration. You will be informed of the date and time of that resumed hearing.

Unless you exercise your right of appeal, the order of conditions as directed by the Committee will take effect 28 days from the date that notice is deemed to have been served upon you.

The Committee invites submissions from Mr Munday and from Mr Creamer as to whether an immediate order of conditions should be imposed on your registration pending the substantive order taking effect.

Mr Yovev,

In reaching its decision on whether to impose an immediate order of conditions on your registration, the Committee took account of the submission of Mr Munday that such an order should be imposed. Mr Creamer confirmed that he had no submissions to make in this regard. The Committee accepted the advice of the Legal Adviser.

The Committee determined that it is necessary for the protection of the public, and is otherwise in the public interest, to impose an immediate order of conditions on your registration. In its decisions on impairment, the Committee identified an ongoing risk to the safety of patients if you were to return to unrestricted practice. The current order of suspension has been terminated, and the substantive order of conditions will not come into effect until after the 28-day appeal period, or longer, in the event of an appeal. In the circumstances, the Committee was satisfied that an immediate order of conditions is necessary for the protection of the public.

The Committee also considered that the imposition of an immediate order is in the wider public interest. It considered that public confidence in the dental profession and this regulatory process would be undermined in the absence of an order imposing the aforementioned conditions immediately.

The effect of the foregoing determination and this order is that your registration will be made subject to the conditions, as already announced, to cover the appeal period. Unless you exercise your right of appeal, the substantive direction for conditions for a period of 12 months (with a review), will take effect 28 days from the date of deemed service.

Should you exercise your right of appeal, this immediate order will remain in place until the resolution of any appeal.

That concludes this determination."