

**HEARING HEARD IN PUBLIC**

**SITKA, Vaidutis**

**Registration No: 167346**

**PROFESSIONAL CONDUCT COMMITTEE**

**OCTOBER 2013 - FEBRUARY 2017\*\***

**Most recent outcome: Suspended indefinitely**

\*\* See page 22 for the latest determination.

Vaidutis SITKA, a dentist, D Stom Kaunas 1984, was summoned to appear before the Professional Conduct Committee on 28 October 2013 for an inquiry into the following charge:

**Charge (as amended)**

“That, being a registered dentist:

1. In the period June 2009 to October 2009 you worked at the Moffat Dental Centre, Moffat on behalf of Integrated Dental Holdings and provided dental care and treatment to Patients 1 to 15, identified in Schedule 1<sup>1</sup>.
2. On 5 October 2009 you inappropriately prescribed Co-Amoxiclav to Patient 11 with a known allergy to Penicillin (“the prescription”):
  - (a) having not taken or recorded a medical history adequately or at all;
  - (b) not having taken adequate regard of Patient 11’s recorded medical history;
  - (c) thereafter, on 6 October 2009, on the prescription being queried:
    - (i) you maintained in effect that the prescription was not inappropriate;
    - (ii) you did not comprehend why the prescription had been queried.
3. On 24 August 2009 you treated Patient 15 by providing two restorations:
  - (a) without obtaining adequate local anaesthesia ahead of treatment;
  - (b) utilising loose amalgam deposited in Patient 15’s mouth;
  - (c) as a consequence of 3 (b) above, such that you thereby risked compromising the efficacy of the restorations.
4. Your standard of care and treatment was deficient in that, as identified in Schedule 2, you failed:
  - (a) to take and / or record adequately or at all the reason for attendance for each of Patients 1, 2, 3, 5, 6, 7, 9, 10, 13 and 15;
  - (b) to take and / or record adequately or at all the dental history for each of Patients 1, 2, 3, 5, 6, 7, 9, 13, 14 and 15;
  - (c) to take and / or record adequately or at all the medical history for each of Patients 2, 3, 4, 5, 6, 8, 12, 13, 14 and 15;

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<sup>1</sup> Please note that the schedule is a private document and cannot be disclosed

- (d) to take and / or record adequately or at all a basic periodontal examination (BPE) for each of Patients 1, 2, 3, 5, 6, 7, 9, 10, 11, 13, 14 and 15;
  - (e) to take and / or record adequately or at all an intra-oral examination for each of Patients 1, 2, 3, 5, 6, 7, 9, 10, 11, 13, 14 and 15;
  - (f) to take and / or record adequately or at all an extra-oral examination for each of Patients 1, 2, 3, 5, 6, 7, 9, 10, 11, 13, 14 and 15;
  - (g) to take appropriate X-rays for each of Patients 2, 3, 5, 6, 7, 10, 13 and 14;
  - (h) to make a record of the justification for antibiotic therapy for Patient 11;
  - (i) to determine and / or record an appropriate recall interval for each of Patients 1, 2, 3, 5, 6, 7, 9, 10, 11, 13, 14 and 15.
5. As regards Patient 1, on 21 July 2009 you carried out a scale and polish without recording any or any adequate justification.
  6. As regards Patient 2, on 1 July 2009 you carried out a scale and polish without recording any or any adequate justification.
  7. As regards Patient 4, on 14 July 2009 you restored LL5 without first conducting a clinical assessment and / or obtaining appropriate radiographs.
  8. As regards Patient 5, on 3 July 2009 you restored UR4 and UR5 without undertaking the adequate removal of caries.
  9. As regards Patient 8, on 18 June 2009 and 1 October 2009 you provided dental care (including relating to a denture) without first conducting a clinical assessment and / or obtaining appropriate radiographs.
  10. As regards Patient 9:
    - (a) between 25 June 2009 and 1 July 2009 you failed to diagnose the problems present at UL7, LR5, LR7, LL7 and UR2;
    - (b) on 25 June 2009 you carried out a scale and polish without recording any or any adequate justification;
    - (c) on 30 June 2009, you restored UR4 inadequately in that an extraction was required unduly soon thereafter;
    - (d) on 1 July 2009, you restored LR8 inadequately in that an extraction was required unduly soon thereafter.
  11. As regards Patient 10, on 11 August 2009 you inappropriately restored UL6 instead of extracting the tooth.
  12. As regards Patient 13, on 25 June 2009 you restored LR5 and on 1 July 2009 you restored LL7, inadequately in that further treatment was required unduly soon thereafter.
  13. As regards Patient 14, on 23 July 2009 and 29 September 2009 you restored LL4 inadequately in that further treatment was required unduly soon thereafter.
  14. As regards Patient 15:

- (a) on 2 July 2009 you restored UR7 and UR6 inadequately in that further treatment was required unduly soon thereafter;
- (b) between 2 July 2009 and 24 August 2009 you failed to diagnose the problems present at UR8, UL7, LR6, LR7, LL6, and LL7.

And that, in relation to the facts alleged, your fitness to practise is impaired by reason of misconduct.”

On 1 November 2013 the Hearing adjourned until 23 January 2014.

Mr Sitka was not present and was not represented. On 23 January 2014 the Chair announced the findings of fact to the Counsel for the GDC:

“Mr Hurst,

Mr Sitka is neither present nor represented at this hearing. At the outset, on behalf of the General Dental Council (GDC), you made an application to proceed in his absence, pursuant to Rule 54 of the GDC (Fitness to Practise) Rules 2006 (the Rules).

In reaching its decision on the application, the Committee took into account your submissions and the documentation provided. It accepted the advice of the Legal Adviser.

The Committee first considered whether Mr Sitka had been notified of this hearing in accordance with Rules 13 and 65. It saw the Notification of Hearing, dated 24 September 2013 and the TNT consignment details confirming that it was delivered to Mr Sitka’s registered address in Lithuania. A copy of the Notification of Hearing was also sent to Mr Sitka by email. The Committee also took into account the evidence of Mr Sitka’s participation in a GDC case management telephone conference on 16 July 2013. It noted that the dates for commencing his hearing were confirmed during that conference. On the basis of all this information, the Committee was satisfied that all reasonable efforts had been made, in accordance with the Rules, to notify Mr Sitka of this hearing.

The Committee next considered whether to exercise its discretion to proceed with the hearing in Mr Sitka’s absence. It approached this issue with the utmost care and caution. It took into account the criteria approved by the House of Lords in the case of R v Jones [2003] AC 1 HL and bore in mind the need to be fair to Mr Sitka, as well as the GDC.

The Committee was satisfied that Mr Sitka was aware of the dates for commencing the hearing. It had regard to the case management telephone conference notes of 16 July 2013, in which Mr Sitka is recorded to have said that he did not know whether he would be attending, but that he would let the GDC know nearer the time. The last telephone conference regarding Mr Sitka’s case was held on 10 October 2013. Mr Sitka was not in attendance on that occasion. The notes of that conference state that the GDC’s Case Management Officer and Capsticks, solicitors for the GDC, had made attempts to contact him without success.

Mr Sitka has not provided any explanation for his non-attendance at this hearing, nor has he requested an adjournment. Further, the Committee received no evidence to suggest that an adjournment would secure Mr Sitka’s attendance on a future date. In the circumstances, the Committee was satisfied that he has voluntarily absented himself from these proceedings. The Committee therefore considered it fair in the interests of justice and in the public interest to proceed in his absence.

The allegations against Mr Sitka concern the period between June and October 2009, whilst he was working as a dentist at the Moffat Dental Centre (the Practice) on behalf of Integrated Dental Holdings (IDH). In particular, it is alleged that there were number of failings in the dental care and treatment he provided to 15 patients, identified in these proceedings as Patients 1 to 15.

The Committee received copies of the dental records for each of the patients in question. It also viewed a number of original radiographs relating to specific patient cases. In accordance with Rule 57 of the Rules, the Committee received the witness statement of Sandra Corbett, Area Manager, Scotland South at IDH. Ms Corbett, who provided the dental records to the GDC, confirmed in her statement that “the records provided are the full and complete set of all dental records held by the Practice for the patients”.

The Committee also heard evidence from four witnesses by telephone: Anna Was, a dentist who worked with Mr Sitka at the Practice; Patient 15; Claire Warren, Clinical Director at IDH; and Constantin-Aurelian Ciobanu, a dentist who joined the Practice after Mr Sitka’s departure, but who has since treated a number of Mr Sitka’s former patients.

In addition, the Committee was provided with a bundle of correspondence from Mr Sitka to the GDC, in which he provides his observations in relation to the allegations. The Committee has borne his comments in mind.

The Committee received a report from, and heard the evidence of, Mr Richard Butler, the expert witness called by the GDC. It also received a copy of the National Institute for Clinical Excellence (NICE) Guidance on Dental recall (October 2004), which is referenced in Mr Butler’s report.

Prior to your closing submissions on the alleged facts of this case, the Committee agreed to your application, pursuant to Rule 18 of the Rules, to make three amendments to the charge. These were amendments to heads 9 and 12, which related to specific dates which were factually incorrect and an amendment to head 4(b), which involved the deletion of one patient case from the list. The Committee was satisfied that no injustice would be caused by agreeing to these amendments, particularly the amendment to head 4(b) which is in Mr Sitka’s favour.

In making its findings of fact, the Committee considered all the evidence presented to it. It also took into account your submissions and it accepted the advice of the Legal Adviser. In accordance with that advice 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 matters are proved on the balance of probabilities. The Committee drew no adverse inferences from Mr Sitka’s absence.

I will now announce the Committee’s findings in relation to each head of charge:

1	Proved.
2 (a)	Proved.  The Committee accepted the opinion of Mr Butler that the absence of a record of a medical history shows that a medical history was not taken by Mr Sitka. The Committee considered the dental records for Patient 11 and found no information relating to a medical history. Therefore it was also satisfied that Mr Sitka did not take one from this patient.

2 (b)	Proved.
2 (c)(i)	Proved.  The Committee accepted the evidence of Claire Warren. She told the Committee that she had raised this issue with Mr Sitka and that he had sought to justify the clinical need for the prescription, rather than addressing the inappropriateness of it. Further, the Committee noted Mr Sitka's comments in his email to the GDC, dated 23 May 2011 in which he acknowledges that Co-Amoxiclav would be "dangerous for her to use [Co-Amoxiclav] because of allergies, but she has assured me that before using the Co-Amoxiclav she would consult with her doctor." The Committee considered Mr Sitka's conduct in this respect to be wholly inappropriate.
2 (c)(ii)	Proved.  Ms Warren told the Committee that Mr Sitka did not seem to grasp the point she had been trying to make about the inappropriateness of this particular prescription for this particular patient. She also told the Committee that his communication skills in terms of the English language were, in her opinion, less than satisfactory.
3 (a)	Proved.  The Committee accepted the evidence of Patient 15 in this respect.
3 (b)	Not proved.  In reaching its decision the Committee had regard to Patient 15's oral evidence, as well as her letter of complaint to the practice manager, dated 24 August 2009. The Committee accepted that Patient 15 believed that her account of what had happened during her treatment to be true. However, in its view, she was describing what she thought had been the case, rather than what she saw happen. While it accepts that she may have seen pieces of amalgam falling onto the apron she was wearing, it was not satisfied that she could have seen what Mr Sitka was doing inside her mouth. In the absence of any evidence to corroborate Patient 15's account, the Committee could not find this allegation proved.
3 (c)	Not proved.
4 (a)	Proved.
4 (b)	Proved (as amended).
4 (c)	Proved.
4 (d)	Proved.
4 (e)	Proved.
4 (f)	Proved.  In respect of heads 4(a), 4(b), 4(c), 4(d), 4(e) and 4(f), the Committee accepted the opinion of Mr Butler that the absence of a relevant record shows that a particular action or treatment was not carried out. The Committee did not find a relevant record made by Mr Sitka in any of these instances.

<p>4 (g)</p>	<p>Proved in relation to Patients 2, 3, 5, 6, 13 and 14.</p> <p>The Committee found this head of charge not proved in relation to Patients 7 and 10.</p> <p>The Committee noted from the dental records that Patient 7 was pregnant at the time she was treated by Mr Sitka. This fact was not mentioned in Mr Butler’s report, but he did comment on the matter in evidence. Mr Butler told the Committee that the relevant guidance does not prohibit the taking of radiographs in pregnancy. Nonetheless, the Committee considered that Patient 7’s pregnancy could have influenced Mr Sitka’s decision not to take a radiograph at that time. The Committee took into account that Patient 7 had regularly attended the Practice and that she was not a patient who had received a substantial amount of dental treatment. In the circumstances, the Committee concluded that there had been no failure on Mr Sitka’s part.</p> <p>The Committee also found this to be the case with Patient 10. Mr Sitka did take a radiograph of the UL6 on 13 August 2009. In his report, Mr Butler referred to that radiograph as being clinically useful. The Committee noted that Ms Was also used the radiograph when she treated the patient a month later. The Committee noted Mr Butler’s criticism that Mr Sitka should have taken the radiograph when he first saw the patient on 11 August 2009, but this allegation does not concern the timing of the radiograph.</p>
<p>4 (h)</p>	<p>Not proved.</p> <p>The Committee found that Mr Sitka did record a justification for antibiotic therapy for Patient 11. On 5 October 2009, in the dental records for this patient, Mr Sitka noted, among other things, her report of great sensitivity in UR7 and also that an x-ray had shown the inflammation of one of the three roots. The Committee was satisfied that this note reflects his justification for the prescription of Co-Amoxiclav. While it accepts that this may not be considered an adequate justification, it was the justification noted by Mr Sitka.</p>
<p>4 (i)</p>	<p>Proved in relation to Patients 2, 5 and 9.</p> <p>The NICE guidelines state that the interval before the next oral health review should be chosen, either at the end of an oral health review if no further treatment is indicated, or on completion of a specific treatment journey. The Committee noted from the dental records that Mr Sitka had not recorded appropriate recall intervals for these patients, although their courses of treatment had finished.</p> <p>The Committee did not find this head of charge proved in relation to the other nine patients listed. In some of these cases the Committee found that there was no evidence in the dental records to confirm that Mr Sitka had actually completed the courses of treatment in question. In the case of Patient 6, whilst the computer record states that a course of treatment was completed and another course created, there was only an interval of one week, before treatment was continued by Mr Sitka. In other cases, Mr Sitka had scheduled appointments to see the patients again, well within the recall period recommended by the NICE guidelines, but for whatever reason the appointments were cancelled. Further, there were instances when Mr Sitka was</p>

	unable to complete a course of treatment because he had ceased working at the Practice.
5	<p>Proved.</p> <p>The Committee accepted the opinion of Mr Butler that periodontal treatment should be justified. It considered the dental records of Patient 1 and noted that no Basic Periodontal Examination (BPE) was recorded but a scale and polish was carried out by Mr Sitka.</p>
6	<p>Proved.</p> <p>The Committee similarly noted from the dental records of Patient 2, that a scale and polish was carried out without a BPE being recorded.</p>
7	<p>Not proved.</p> <p>The Committee was satisfied that Mr Sitka examined the tooth in question, as he made a note stating that the tooth was “sensitive at times”. He was obviously aware that something was wrong with the tooth and he acted on this by placing a filling. The Committee decided that Mr Sitka’s examination of the tooth was his clinical assessment, albeit a limited one.</p> <p>The Committee was also satisfied that appropriate radiographs would have been available to Mr Sitka at the time he treated this patient on 14 July 2009. It noted from the patient’s records that “small films” (periapical radiographs) of the same tooth were taken by another dentist in February 2009, when the patient attended with a similar complaint. This being the case, the Committee decided that it would not have been necessary for Mr Sitka to re-take another radiograph if he had access to those “small films”. The Committee received no evidence to suggest that he did not.</p>
8	<p>Proved.</p> <p>The Committee accepted the evidence of Mr Butler, as set out in his report. It is Mr Butler’s opinion that when Mr Sitka placed the restorations in UR4 and UR5 on 3 July 2009, he failed to ensure complete caries removal because the periapical radiograph of 25 January 2011 shows the classic appearance of caries around the fillings, as if they are “sitting in a bed of decay”. The Committee saw the radiographs in question and accepted Mr Butler’s interpretation that the amount of decay visible could not have occurred post-filling.</p>
9	<p>Not proved (as amended).</p> <p>The dental care that Mr Sitka provided to this patient included the provision of partial dentures. The Committee therefore found that Mr Sitka must have carried out some form of an assessment in order to have been able to give instructions to the dental technician who created the dentures.</p> <p>In relation to the matter of appropriate radiographs, the Committee noted that previous radiographs of this patient had been taken on 13 March 2009. In the absence of any evidence to the contrary, the Committee was satisfied that it was more likely than not that Mr Sitka had access to those radiographs.</p>

10 (a)	<p>Proved.</p> <p>The Committee accepted the evidence of Ms Was, which is supported by her notes in the dental records. She told the Committee that when she saw Patient 9 in September 2009, there were numerous cavities in his teeth. She said that she could find no treatment plan addressing the issue of the cavities and that no further appointments had been booked by Mr Sitka, who was the last dentist to see the patient.</p>
10 (b)	<p>Proved.</p> <p>The Committee accepted the opinion of Mr Butler that periodontal treatment should be justified. It considered the dental records of Patient 9 and noted that no BPE was recorded but a scale and polish was carried out by Mr Sitka.</p>
10 (c)	<p>Not proved.</p> <p>The extraction of Patient 9's UR4 took place at another dental practice. As such, there is no evidence within the dental records provided to the Committee to indicate the exact reason for the extraction. Mr Butler acknowledged the possibility that there could have been another reason for the extraction, other than an inadequate restoration by Mr Sitka.</p>
10 (d)	<p>Not proved.</p> <p>Ms Was told the Committee that when she first assessed Patient 9's LR8 on 24 September 2009, she found very deep decay to the pulp chamber. She therefore marked it for extraction. While the Committee accepted that Mr Sitka's decision to restore the tooth on 1 July 2009 was not appropriate, given the extent of decay found less than three months' later, it was not satisfied that the tooth had to be removed because the restoration itself was inadequate. The Committee considered that the amount of decay was the main cause. It noted Mr Butler's evidence that Mr Sitka's decision to restore the tooth could have been an attempt to save it, albeit a futile attempt.</p>
11	<p>Proved.</p> <p>The Committee saw a radiograph of UL6, which was taken by Mr Sitka on 13 August 2009, two days after he had restored it. Mr Butler explained to the Committee that the radiograph clearly showed that caries had extended to bone level and was therefore unrestorable and also unsuitable for endodontic treatment. While Mr Sitka did not have the benefit of this radiograph on 11 August 2009, the Committee was satisfied that the poor state of the tooth would have been obvious to him during the actual process of placing the restoration.</p>
12	<p>Proved (as amended).</p> <p>The Committee was satisfied that Mr Sitka inadequately restored these two teeth, as he failed to remove decay from them before placing the restorations. The Committee took into account the evidence of Ms Was, who treated the patient in September 2009. She told the Committee that there was deep dental caries in both of these teeth at the time, which in the LL7 had progressed to the pulp chamber. She stated that there was "no sign of drilling" in the LL7, which she would have expected, seeing as Mr Sitka restored the tooth in July 2009. She told the Committee that the LL7 looked as if it had been "untouched by the</p>

	<p>dentist before”. With regard to the LR5, this tooth required the commencement of root canal treatment by Ms Was less than three months after the treatment by Mr Sitka.</p> <p>The Committee also took into account the evidence of Mr Butler that the amount of decay described by Ms Was could not have occurred in these teeth after Mr Sitka had restored them in June and July 2009.</p>
13	<p>Proved.</p> <p>The dental records of Ms Was confirm that Patient 14 re-attended the Practice on 5 October 2009 as the filling placed by Mr Sitka had come out.</p> <p>Mr Sitka restored the LL4 on two occasions on 23 July and 29 September 2009, namely within a two month period. The Committee accepted the evidence of Ms Was and the clinical records of Patient 14 from 5 October 2009 that the patient re-attended complaining of a lost filling in the tooth, and that Ms Was found that the root canal was infected. The Committee accepts the evidence of Ms Was that the root canal was open and smelly, and filled with old root canal material, which showed that Mr Sitka had placed the filling over an infected canal, which was clearly inadequate treatment. The tooth required further treatment, namely thorough root canal treatment. The Committee notes that the radiographs were not available for Mr Butler, but that he was also of the opinion that the work done by Mr Sitka was inadequate in the circumstances.</p>
14 (a)	<p>Not proved.</p> <p>Not proved with respect to UR7. Mr Sitka restored this tooth on 2 July 2009 with two composite fillings, one on the mesial and one on the distal side. The patient was seen by Mr Ciobanu on 26 November 2009 and on 30 November 2009, when he recorded caries under the filling, as well as “defective amalgam restorations, overhangs and defective contact points”. Mr Ciobanu only refers to the amalgam restorations but does not mention the composite fillings. The Committee did not consider that the remedial work done on 6 July 2010, a year later, was “unduly soon” after the treatment by Mr Sitka.</p> <p>With respect to the UR6 the Committee also found the charge not proved. According to the clinical records the contact point between UR6 and UR7 appears to be a different surface of the tooth from the one Mr Sitka treated on 2 July 2009.</p>
14 (b)	<p>Proved.</p> <p>The Committee accepted the evidence of Mr Ciobanu, in that, he undertook the treatment for Patient 15, after Mr Sitka had left the Practice. Mr Ciobanu explained in his oral evidence and recorded in the treatment notes that “she will need a lot of work to replace all the defective amalgam fillings”. Mr Sitka undertook an examination of Patient 15 on the 2 July 2009, but did not record the extensive caries in six of her teeth which had to be subsequently restored by Mr Ciobanu.</p> <p>The Committee accepted Mr Butler’s opinion that it was unlikely that all this deterioration had taken place since the patient last saw Mr Sitka on 24 August 2009 and when she saw Mr Ciobanu on 26 November 2009. The Committee</p>

found that the evidence showed that Mr Sitka had failed to diagnose the problems in the six teeth concerned.
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We move to Stage Two.”

On 24 January 2014 the Chair announced the determination as follows:

“Mr Hurst,

The Committee has considered all the evidence presented to it. It has taken account of your submissions made on behalf of the General Dental Council (GDC), and it has considered the bundle of correspondence from Mr Sitka. The Committee has accepted the advice of the Legal Adviser.

The proven facts in this case are that, between June and October 2009, Mr Sitka worked at the Moffat Dental Centre (the Practice) on behalf of Integrated Dental Holdings (IDH), where he provided dental care. The allegations found proved relate to 15 patients (Patients 1 to 15).

There were multiple and wide ranging clinical deficiencies in the standard of care and treatment Mr Sitka provided, including his taking and recording of important clinical information. In many of the patient cases he failed to take and record the following:

- the reason for their attendance;
- their medical and dental histories;
- intra-oral and extra-oral examinations; and
- Basic Periodontal Examinations.

Also, for a number of the patients, he:

- failed to determine and record appropriate recall periods;
- carried out scales and polishes without recording any justification;
- failed to take appropriate x-rays; and
- failed to diagnose dental problems.

For six specific patients, he undertook inadequate and inappropriate restorations and for a further two patients, he carried out restorations without appropriate preparation and/or prior investigation.

Further, on 24 August 2009, Mr Sitka provided two restorations to Patient 15 without obtaining adequate local anaesthesia prior to treatment. In evidence to the Committee, Patient 15 stated that she had to ask Mr Sitka for the anaesthetic he eventually administered to her, as he appeared to agree only reluctantly to do so. He then proceeded with her treatment before it had taken effect, which resulted in her experiencing considerable pain.

There were also serious failings in Mr Sitka’s treatment of Patient 11, in that on 5 October 2009 he inappropriately prescribed Co-Amoxiclav, a penicillin-based antibiotic, to this patient, who has a known and recorded allergy to penicillin. This showed that in addition to neglecting to take Patient 11’s medical history himself, Mr Sitka had paid no regard to the

patient's medical history as previously recorded. When the prescription of Co-Amoxiclav was subsequently queried by Ms Claire Warren the clinical director of IDH, Mr Sitka maintained that the prescription was not inappropriate and he did not comprehend why it was being queried. The Committee has found that this showed a lack of insight and it was not reassured by Mr Sitka's specific comments in relation to this allegation in his email to the GDC dated 23 May 2011.

### Misconduct

The Committee first considered whether the facts found proved in this case amount to misconduct. In doing so, it had regard to the GDC's '*Standards for Dental Professionals (May 2005)*', in particular, the following paragraphs:

- 1.3 Work within your knowledge, professional competence and physical abilities. Refer patients for a second opinion and for further advice when it is necessary, or if the patient asks. Refer patients for further treatment when it is necessary to do so.
- 1.4 Make and keep accurate and complete patient records, including a medical history, at the time you treat them. Make sure that patients have easy access to their records.
- 2.1 Treat patients politely and with respect, in recognition of their dignity and rights as individuals.
- 5.1 Recognise that your qualification for registration was the first stage in your professional education. Develop and update your knowledge and skills throughout your working life.

The deficiencies identified in Mr Sitka's clinical practice cover a wide-range of basic and fundamental areas of dentistry, namely anaesthesia, safe prescribing, radiography, diagnosis and treatment of caries, root canal therapy and record keeping. His clinical failings in these areas affected a significant number of patients over a relatively short period of time. The Committee noted that Mr Richard Butler, the expert witness called by the GDC, reported that the care and treatment Mr Sitka provided to the majority of the patients fell far below the standard expected of a reasonably competent practitioner. With regard to the remaining patients, the care and treatment Mr Sitka provided fell below this standard. Indeed Mr Butler's opinion was that one particular patient was subject to "supervised neglect".

The Committee was in no doubt that Mr Sitka's actions and omissions, as highlighted in this case, represent a serious falling short of the standards expected of a registered dentist, and as such, amounted to misconduct.

### Impairment

The Committee next considered whether Mr Sitka's fitness to practise is currently impaired by reason of his misconduct.

In reaching its decision, the Committee has exercised its own independent judgement. It has borne in mind its duty to consider the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

The Committee was satisfied that Mr Sitka's clinical failings, although extensive, are such that they could be remedied. The issues arising in this case relate to basic clinical competencies, which could be sufficiently addressed with the appropriate level of education and training. However, the Committee has received no evidence to show that Mr Sitka has made efforts to remedy his failings. It took into account his email to the GDC, dated 23

October 2012, in which he stated that “at present time I working in Lithuania in private clinic as GP dentist”. He also stated that he had finished a “quality increasing course” and had “attended multiple international conferences”. Mr Sitka has provided no evidence to support these assertions. The email correspondence from Mr Sitka shows that he has known about the allegations against him since 2011, yet he has failed to produce any objective or documentary evidence of remediation.

In the absence of full insight or any evidence of remediation, the Committee concluded that the deficiencies identified in Mr Sitka’s clinical practice are likely to still remain. It therefore considered that there is a likelihood of him repeating the same mistakes and this currently poses an ongoing risk to patient safety.

The Committee also took into account the need to maintain public confidence in the profession. In its opinion, members of the public are entitled to expect that a registered dentist would provide a good and safe standard of care and treatment to patients. The standard of Mr Sitka’s dentistry in 2009 was poor and many of his patients had to receive remedial care from other dentists at the Practice. To date he has failed to demonstrate to this Committee that he has addressed adequately the concerns that have been raised. The Committee was satisfied that the public’s confidence would be undermined if a finding of impairment were not made in this case.

In all the circumstances, the Committee has determined that Mr Sitka’s fitness to practise is currently impaired.

#### Sanction

The Committee considered what sanction, if any, to impose on Mr Sitka’s registration. It reminded itself 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.

The Committee took into account the ‘*Guidance for the Professional Conduct Committee (November 2009)*’. It considered the range of sanctions available to it, starting with the least serious. It applied the principle of proportionality, balancing the public interest with Mr Sitka’s own interests.

The Committee determined that it would be wholly inappropriate to conclude this case without taking any action in respect of Mr Sitka’s registration or with a reprimand. The matters found proved are too serious.

The Committee also concluded that the imposition of conditions would not be appropriate or proportionate. Mr Sitka has not yet shown insight into his clinical failings and the Committee is not persuaded that he yet understands the full nature of those failings and the extensive remediation that he would have to undertake to address them. A period of conditional registration would require a practitioner to fully engage in the regulatory process. So far, Mr Sitka’s engagement with the GDC has been limited and sporadic. The Committee also considered that conditions could not presently be devised which would provide adequate protection to the public.

In considering whether to suspend Mr Sitka’s registration, the Committee, in Mr Sitka’s absence, had regard to what it considered could be raised as mitigating factors in this case. It took into account the evidence it has received about Mr Sitka’s difficulty with the English language. In her evidence Ms Claire Warren told the Committee that she found his ability to communicate in English to be less than satisfactory. She also accepted the possibility that he may have struggled to understand English spoken in a Scottish accent. The Committee

also took into account that Mr Sitka had only been working in the United Kingdom for a relatively short period when the clinical and record keeping concerns were raised.

The Committee considers that, potentially, the clinical and record keeping failings of Mr Sitka are remediable. Its findings do not include any finding of dishonesty or generalised irremediable attitudinal problems. The Committee has noted that Mr Sitka is apparently again practising as a dentist in Lithuania, where he qualified in about 1984. The Committee considered that a dentist of his experience should be capable of remedying his clinical deficiencies so that he can successfully carry out the basic dental processes and procedures highlighted in this case.

The Committee considers that Mr Sitka did fail in his responsibility as a dentist, and that he currently poses a risk to patients because of his failure to demonstrate that he has corrected what are serious and wide ranging clinical shortcomings. However, in view of its findings that Mr Sitka's failings are potentially remediable, the Committee has decided that suspension of Mr Sitka's registration is an appropriate and proportionate sanction. The Committee considers that this sanction will provide adequate protection to the public and will therefore maintain the reputation of the profession and the GDC as its regulator. In all the circumstances and on the present evidence, the Committee considered that it would be disproportionate to direct the erasure of Mr Sitka's name from the Dentists Register.

The Committee has decided that the period of suspension will be 12 months. It was satisfied that this period would allow Mr Sitka time to address his failings.

A Committee will review Mr Sitka's case at a resumed hearing to be held shortly before the end of the period of suspension. That Committee will consider what action to take in relation to his registration. Mr Sitka will be informed of the date and time of that resumed hearing, which he will be expected to attend.

This Committee cannot bind the Committee which will review the suspension in 12 months' time. That Committee will exercise its own discretion, bearing in mind the findings of this Committee concerning the serious failings of Mr Sitka in his clinical practice and record keeping. This Committee considers that it would have been assisted if Mr Sitka had produced documentary and objective evidence from third parties concerning his current situation. This Committee would have expected Mr Sitka to produce references, documentary evidence concerning any remedial courses and Continuing Professional Development, and to engage more fully in the GDC's regulatory process. The Committee reviewing Mr Sitka's case may find it helpful to receive the aforementioned evidence and any other evidence which Mr Sitka can provide, if he wishes to assert that he is again safe and fit to practise.

Unless Mr Sitka exercises his right of appeal, his registration will be suspended for 12 months, 28 days from the date when notice of this determination is deemed to have been served upon him. However, the Committee invites submissions from you, as to whether Mr Sitka's registration should be suspended immediately to cover the 28-day appeal period."

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"Mr Hurst,

You invited the Committee to impose an immediate order for suspension on Mr Sitka's registration in accordance with Section 30(1) of the Dentists Act 1984. In reaching its decision, the Committee has taken into account your submissions and it has accepted the

advice of the Legal Adviser. The Committee also took into account the principle of proportionality, balancing the public interest with Mr Sitka's own interests.

In all the circumstances, the Committee has determined that it is necessary for the protection of the public and is otherwise in the public interest to impose an order for the immediate suspension of his registration. There is no evidence before the Committee to show that the serious and wide ranging clinical deficiencies in Mr Sitka's practice have been sufficiently remedied. It is therefore concerned about the risk to patient safety, if he were permitted to return to unrestricted practice, even for a short period. The Committee also considered that in view of its findings and its substantive determination, the public's confidence in the dental profession and the GDC would be undermined if an immediate order were not imposed.

The effect of the foregoing determination and this order is that Mr Sitka's registration will be suspended from the date on which notice of this decision is deemed served upon him. Unless he exercises his right of appeal, the substantive direction for suspension, as already announced, will take effect 28 days from the date of deemed service and will continue for a period 12 months.

Should Mr Sitka exercise his right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

The interim order currently on Mr Sitka's registration is hereby revoked.

That concludes this hearing."

At a review hearing on 13 February 2015 the Chairman announced the determination as follows:

"Ms French

You presented the case for the General Dental Council (GDC) at today's hearing. Mr Sitka was not present and was not represented in his absence.

**Purpose of hearing**

The purpose of today's hearing is to review a substantive suspension imposed on Mr Sitka's registration by the Professional Conduct Committee (PCC) in January 2014.

**Service**

On behalf of the GDC you submitted that Mr Sitka has been properly notified of today's hearing in accordance with Rule 28 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). You stated that a notice of hearing was sent to Mr Sitka's registered address in Lithuania on 25 November 2014 using the Royal Mail's International Special Delivery service. That Notice set out the date, time and venue of the hearing, as well as confirming the nature of the hearing and the powers available to the Committee.

You drew the Committee's attention to a copy of the Royal Mail's Track and Trace service which indicates that the notice was delivered to an address in Lithuania on 10 December 2014.

You stated that a copy of the notice was also sent to Mr Sitka's email address.

The Committee accepted the advice provided by the Legal Adviser. Having regard to the submissions and the evidence put before it the Committee is satisfied that service has been properly effected in accordance with the Rules.

### **Proceeding in absence**

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mr Sitka in accordance with Rule 54 of the Rules. It is mindful that the discretion to proceed in the absence of a registrant is to be exercised with the utmost care and caution. You invited the Committee to do so on the basis that all reasonable efforts have been made to inform Mr Sitka of today's proceedings. You stated that Mr Sitka has not responded to that notice or otherwise engaged with these proceedings. You submitted that it would be appropriate for the Committee to proceed, given the public interest in expediting these matters and the need to review the suspension order before it expires.

The Committee accepted the advice of the Legal Advisor. It determined that it would be appropriate and fair to proceed with the hearing in Mr Sitka's absence. It considered that Mr Sitka had voluntarily absented himself from today's hearing and that an adjournment would serve no purpose, as it would be highly unlikely to secure his attendance. It was also mindful of the impending expiry of the extant suspension order and the public interest in the timely hearing of such matters.

### **Existing order**

In October 2013 the PCC commenced its substantive hearing of concerns about Mr Sitka which had been referred to it by the Investigating Committee (IC). The hearing commenced on 28 October 2013 and was adjourned on 1 November 2013 until 23 January 2014. The hearing concluded on the following day, namely 24 January 2014. Mr Sitka was not present at the hearing and was not represented in his absence.

The allegations that Mr Sitka faced related to apparent clinical failings in his care and treatment of up to 15 patients in the period of June to October 2009. In its determination the PCC made the following comments in relation to the allegations:

*The proven facts in this case are that, between June and October 2009, Mr Sitka worked at the Moffat Dental Centre (the Practice) on behalf of Integrated Dental Holdings (IDH), where he provided dental care. The allegations found proved relate to 15 patients (Patients 1 to 15).*

*There were multiple and wide ranging clinical deficiencies in the standard of care and treatment Mr Sitka provided, including his taking and recording of important clinical information. In many of the patient cases he failed to take and record the following:*

- *the reason for their attendance;*
- *their medical and dental histories;*
- *intra-oral and extra-oral examinations; and*
- *Basic Periodontal Examinations.*

*Also, for a number of the patients, he:*

- *failed to determine and record appropriate recall periods;*
- *carried out scales and polishes without recording any justification;*
- *failed to take appropriate x-rays; and*
- *failed to diagnose dental problems.*

*For six specific patients, he undertook inadequate and inappropriate restorations and for a further two patients, he carried out restorations without appropriate preparation and/or prior investigation.*

*Further, on 24 August 2009, Mr Sitka provided two restorations to Patient 15 without obtaining adequate local anaesthesia prior to treatment. In evidence to the Committee, Patient 15 stated that she had to ask Mr Sitka for the anaesthetic he eventually administered to her, as he appeared to agree only reluctantly to do so. He then proceeded with her treatment before it had taken effect, which resulted in her experiencing considerable pain.*

*There were also serious failings in Mr Sitka's treatment of Patient 11, in that on 5 October 2009 he inappropriately prescribed Co-Amoxiclav, a penicillin-based antibiotic, to this patient, who has a known and recorded allergy to penicillin. This showed that in addition to neglecting to take Patient 11's medical history himself, Mr Sitka had paid no regard to the patient's medical history as previously recorded. When the prescription of Co-Amoxiclav was subsequently queried by Ms [CW] the clinical director of IDH, Mr Sitka maintained that the prescription was not inappropriate and he did not comprehend why it was being queried. The Committee has found that this showed a lack of insight and it was not reassured by Mr Sitka's specific comments in relation to this allegation in his email to the GDC dated 23 May 2011.*

The PCC concluded that Mr Sitka's fitness to practise was impaired by reason of his misconduct. It found that the deficiencies that had been identified covered a wide range of basic and fundamental areas of dentistry, namely anaesthesia, safe prescribing, radiography, diagnosis and treatment of caries, root canal therapy (RCT) and record-keeping. The Committee stated that Mr Sitka's actions and omissions represented a serious falling short of the standards expected of a registered dentist and that as such they amounted to misconduct. The Committee considered that these clinical failings, although extensive, were capable of being remediated through appropriate education and training. The Committee was concerned that there was no evidence of Mr Sitka having remediated these failings or having provided any information about his current practice. The Committee concluded that his fitness to practise was currently impaired because of the likelihood of the persistence of such shortcomings and the risk of failings being repeated. It considered that repetition would undermine and compromise both public safety and public confidence in the profession.

The PCC decided that the necessary and proportionate sanction was one of suspension for a period of 12 months, with a review before the expiry of the suspension. In imposing that sanction the Committee made a number of suggestions to Mr Sitka as to how he might address the deficiencies that had been identified in his practice and what evidence a future reviewing Committee may find helpful in assessing his current fitness to practise. This information included documentary evidence from third parties concerning his current practice, any courses or continuing professional development (CPD) that he may have undertaken, and fuller engagement with the GDC's regulatory process.

The suspension order came into effect on 27 February 2014 following the period in which Mr Sitka could make an appeal. No such appeal was made.

**GDC submissions**

On behalf of the GDC you submitted that Mr Sitka's fitness to practise remains impaired and that accordingly the suspension order should be extended for a further period of 12 months. You stated that Mr Sitka has not communicated in any way with the GDC. In particular he has not provided any of the information that the previous Committee considered might be helpful, including evidence of CPD, courses attended or other remediation. You stated that he has not acknowledged any of the numerous letters and emails that have been sent to him.

You submitted that as there has been no change whatsoever in the position Mr Sitka's fitness to practise remains impaired and that the same concerns for patient safety and the public interest remain. You therefore invited the Committee to extend the suspension order for a further period of 12 months in order to prevent possible damage to patient safety and public confidence in the profession and in the GDC as regulator.

**Committee's determination**

The Committee has carefully considered all of the information presented to it, including written documentation and submissions made by you on behalf of the GDC. The Committee has accepted the advice of the Legal Adviser.

The Committee has determined that Mr Sitka's fitness to practise remains impaired. It notes that the previous PCC provided helpful guidance to Mr Sitka as to the steps that he may wish to take to demonstrate that he is no longer impaired, and it notes that he has provided no information whatsoever as to any steps that he may have taken to remediate the deficiencies that have been identified in his practice. The Committee further notes that there is no other information available from any other sources to suggest that he has addressed any of the issues which had been identified by the previous PCC as being of concern. The Committee has therefore concluded that the same risks to patient safety and public confidence persist, and that accordingly Mr Sitka's fitness to practise continues to be impaired.

The Committee next considered whether it could formulate conditions which would be workable and which would address the risks that have been identified. The Committee concluded that it could not formulate any conditions which would be practicable, particularly in the absence of information about Mr Sitka's current practice or any suggestion that he would engage and comply with any such conditions.

The Committee then went on to consider whether it is necessary and appropriate to extend the current period of suspension. It has determined that the existing suspension remains the proportionate and appropriate sanction to impose given the failings that have been identified and the fact that there is no evidence of any change since the last hearing.

The Committee has therefore decided to extend the existing suspension of Mr Sitka's registration for a further period of 12 months. It is mindful that if Mr Sitka begins to engage with the GDC's regulatory process it is open to him to ask for a further review of this suspension.

The Committee further determined that the further suspension should be reviewed prior to its expiry.

Although it is mindful that the task of reviewing this extended suspension is entirely one for the future PCC, the Committee considered that that Committee may find it helpful to have

sight of the information previously suggested as being of relevance by the initial PCC. The Committee endorses and adopts these suggestions, and therefore suggests that Mr Sitka may wish to present the following information to the future reviewing PCC:

- Documentary and objective evidence from third parties about his current situation
- References
- Documentary evidence concerning remedial courses and CPD
- Fuller engagement with the GDC
- Any other evidence relevant to the question of his current fitness to practise

That concludes this case for today.”

At a review hearing on 19 February 2016, the Chair announced the determination as follows:

“Ms Donnelly

You presented the case for the General Dental Council (GDC) at today’s hearing. Mr Sitka is not present and is not represented in his absence.

#### **Purpose of hearing**

The purpose of today’s hearing is to review a substantive suspension imposed on Mr Sitka’s registration for a period of 12 months by the Professional Conduct Committee (PCC) on 24 January 2014. The hearing is being held in accordance with section 27C of the Dentists Act 1984 (as amended) (‘the Act’). The suspension was reviewed by the PCC at a resumed hearing held on 13 February 2015 and was extended for a further period of 12 months.

#### **Service**

On behalf of the GDC you submitted that Mr Sitka has been properly notified of today’s hearing in accordance with Rule 28 of the General Dental Council (Fitness to Practise) Rules 2006 (‘the Rules’). You stated that a notice of hearing was sent to Mr Sitka’s registered address in Lithuania on 13 January 2016 using the Royal Mail’s International Tracked and Signed service. That Notice set out the date, time and venue of the hearing, as well as confirming the nature of the hearing and the powers available to the Committee. You drew the Committee’s attention to a copy of the Royal Mail’s Track and Trace service which indicates that the notice was delivered to an address in Lithuania on 22 January 2016. You stated that a copy of the notice was also sent to Mr Sitka’s known email address on 13 January 2016. You also drew the Committee’s attention to Mr Sitka’s email of 17 February 2016 in which he confirms his knowledge of the date of this hearing.

The Committee accepted the advice provided by the Legal Adviser. Having regard to your submissions and the evidence placed before it the Committee is satisfied that service has been properly effected in accordance with the Rules.

#### **Proceeding in absence**

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mr Sitka in accordance with Rule 54 of the Rules. It is mindful that the discretion to proceed in the absence of a registrant is to be exercised with the utmost care and caution. You invited the Committee to do so on the basis that all reasonable efforts have been made to inform Mr Sitka of today’s proceedings. You stated that Mr Sitka sent an email to the GDC

on 17 February 2016 in which he stated that he is content for the hearing to proceed in his absence. Following a telephone conversation with the GDC on 18 February 2016 Mr Sitka sent a further email earlier today, namely 19 February 2016, in which he stated that he would not be able to participate remotely via telephone or via Skype due to a current bout of 'flu and his need to attend a family funeral today. You submitted that it would be appropriate for the Committee to proceed, given the public interest in expediting these matters and the need to review the suspension order before it expires.

The Committee accepted the advice of the Legal Adviser. It determined that it would be appropriate and fair to proceed with the hearing in Mr Sitka's absence. The Committee was particularly mindful of the imminent expiry of the extant suspension order, noting as it does that the period of suspension is due to end in one week's time on 26 February 2016. There is a clear public interest in ensuring that the suspension order is reviewed before its expiry. The Committee considered that Mr Sitka had voluntarily absented himself from today's hearing and that an adjournment would serve no useful purpose, as it would be unlikely to secure his attendance. Mr Sitka has also not requested an adjournment of today's hearing and previously stated that he was content for the hearing to proceed in his absence.

### **Existing order**

In October 2013 the PCC commenced its substantive hearing of concerns about Mr Sitka which had been referred to it by the Investigating Committee (IC). The hearing commenced on 28 October 2013 and was adjourned on 1 November 2013 until 23 January 2014. The hearing concluded on the following day, namely 24 January 2014. Mr Sitka was not present at the hearing and was not represented in his absence.

The allegations that Mr Sitka faced related to apparent clinical failings in his care and treatment of up to 15 patients in the period of June to October 2009. On 24 January 2015 the PCC concluded that Mr Sitka's fitness to practise was impaired by reason of the misconduct that it had found arising from its findings of fact. It found that the deficiencies that had been identified covered a wide range of basic and fundamental areas of dentistry, namely anaesthesia, safe prescribing, radiography, diagnosis and treatment of caries, root canal therapy (RCT) and record-keeping. The Committee stated that Mr Sitka's actions and omissions represented a serious falling short of the standards expected of a registered dentist and that as such they amounted to misconduct. The Committee considered that these clinical failings, although extensive, were capable of being remediated through appropriate education and training. The Committee was concerned that there was no evidence of Mr Sitka having remediated these failings or having provided any information about his current practice. The Committee concluded that his fitness to practise was currently impaired because of the likelihood of the persistence of such shortcomings and the risk of failings being repeated. It considered that any such repetition would undermine and compromise both public safety and public confidence in the profession.

The PCC decided that the necessary and proportionate sanction was one of suspension for a period of 12 months, with a review before the expiry of that suspension. In imposing its sanction the Committee made a number of suggestions to Mr Sitka as to how he might address the deficiencies that had been identified in his practice, and the evidence that a future reviewing Committee may find helpful in assessing his current fitness to practise. This information included documentary evidence from third parties concerning his current practice, any courses or continuing professional development (CPD) that he may have undertaken, and fuller engagement with the GDC's regulatory process.

The substantive suspension order came into effect on 27 February 2014 following the period in which Mr Sitka could make an appeal. No such appeal was made. The Committee also made an immediate order of suspension to cover the appeal period.

### **First review hearing in February 2015**

The substantive direction of suspension was reviewed by the PCC at a resumed hearing held on 13 February 2015. That Committee noted that Mr Sitka provided no information as to any steps that he may have taken to remediate the misconduct that had been identified. The Committee found that in the circumstances the same risks to patient safety and public confidence persisted, and that a finding of impairment and a further period of suspension was necessary. The reviewing PCC directed that the suspension be extended for a further period of 12 months, beginning on the date on which the existing suspension would have otherwise expired, namely on 26 February 2015. The current period of suspension is therefore due to end on 26 February 2016.

In making its findings the Committee adopted the initial PCC's recommendations concerning the information that Mr Sitka may wish to present to the future reviewing PCC. These recommendations were as follows:

- Documentary and objective evidence from third parties about his current situation
- References
- Documentary evidence concerning remedial courses and CPD
- Fuller engagement with the GDC
- Any other evidence relevant to the question of his current fitness to practise

### **Committee's determination**

The Committee has carefully considered all of the information presented to it, including written documentation and submissions made by you on behalf of the GDC. The Committee has accepted the advice of the Legal Adviser. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2015).

### **Impairment**

The Committee has determined that Mr Sitka's fitness to practise remains impaired. It notes that the previous reviewing PCC, and indeed the PCC which imposed the initial period of suspension, provided helpful guidance to Mr Sitka as to the steps that he may wish to take to demonstrate that he is no longer impaired. It notes that he has provided no information about any steps that he may have taken to remediate the serious deficiencies that have been identified in his practice. The Committee further notes that there is no other information available from any other sources to suggest that he has addressed any of the issues which had been identified by the previous PCCs as being of concern.

The Committee notes from the documents placed before it that Mr Sitka has been repeatedly reminded of his right to submit documentary information and written submissions so that they might be considered by this Committee. He has not provided any such information, save to comment that he sees no reason why he could not practice in the UK in the future, although he has no specific plans to do so. The Committee considers that Mr Sitka's view that there is no reason why he could not practice suggests that he has still not developed insight into the matters that have precipitated these proceedings. The Committee has

therefore concluded that the same risks to patient safety and public confidence persist, and that accordingly Mr Sitka's fitness to practise continues to be impaired.

### **Sanction**

The Committee next considered whether it could formulate conditions which would be workable and which would address the risks that have been identified. The Committee concluded that it could not formulate any conditions which would be practicable or workable, particularly in the absence of information about Mr Sitka's current practice or any suggestion that he would engage and comply with any such conditions. The Committee also notes that Mr Sitka is presently outside of the UK and that this presents real difficulties for the imposition of any conditions that may in theory be capable of being formulated.

The Committee then went on to consider whether it is necessary and appropriate to extend the current period of suspension. It has determined that suspension remains the proportionate and appropriate sanction to impose. This is because of the serious failings identified, the consequential risks of harm being caused to public safety and to trust and confidence in the profession, and the fact that there is no evidence of any change in circumstances, positive or otherwise, since the last hearing. A further period of suspension is required to protect the public, to declare and uphold proper standards of conduct and behaviour and to maintain trust and confidence in the profession and in the regulatory process.

The Committee has therefore decided to extend the existing suspension of Mr Sitka's registration. In determining the appropriate length of the further suspension, the Committee has had regard to your submission that the period should be one of six months. However, in exercising its independent judgement, the Committee has decided that the appropriate period of time for this further extended period of suspension should be 12 months because of the serious failings that have been identified and the risks that continue to arise from those shortcomings. The Committee also considers that the steps that Mr Sitka would need to take to remediate the identified shortcomings, if so minded, are extensive and could only realistically occur in a period of 12 months. Mr Sitka has not demonstrated insight into the matters giving rise to these proceedings, and indeed his email of 19 February 2016, in which he states, 'I do not see why I could not practice', amplifies the concerns that the Committee has about his lack of acknowledgment and understanding of the serious failings that have been identified. Mr Sitka has been given two previous opportunities to demonstrate remediation of his failings and has provided no information whatsoever as to any such steps that he has taken, or any that he intends to take. The Committee has no greater confidence, one year on from the previous review conducted by its colleagues that Mr Sitka understands why his fitness to practise is impaired or has cognisance of the steps that he needs to take to return to safe practice.

In view of the risks to patients and to the wider public interest, as well as the total lack of evidence of remediation, the Committee hereby directs that Mr Sitka's registration be suspended for a further period of 12 months.

In accordance with section 27C of the Act this extended period of suspended registration will take effect from the date on which the existing period of suspension would otherwise expire, namely on 26 February 2016. The Committee has further determined that the further suspension should be reviewed prior to its expiry. Under section 27C (4) (a) it is open to Mr Sitka to seek an early review of this decision.

## **Recommendations**

Although it is mindful that the task of reviewing this extended suspension is entirely one for the future PCC, the Committee considered that that review Committee may find it helpful to have sight of the information previously suggested as being of relevance by the initial and reviewing PCCs. This Committee endorses and adopts these suggestions, and therefore suggests that Mr Sitka may wish to present the following information to the future reviewing PCC:

- Documentary and objective evidence from third parties about his current situation
- References
- Documentary evidence concerning remedial courses and CPD
- Fuller engagement with the GDC
- Any other evidence relevant to the question of his current fitness to practise

That concludes this case for today.”

At a review hearing on 14 February 2017 the Chairman announced the determination as follows.

### ***“Decision on service of notification of hearing***

Mr Sitka was neither present nor represented at this hearing. At the commencement of the hearing the Committee heard applications from Ms MacDonald, Counsel on behalf of the General Dental Council (GDC). She first made an application that the notification of hearing had been sent to the Registrant in accordance with Rule 28 and 65 of the General Dental Council (Fitness to Practise) Rules 2006.

The Committee had sight of a copy of the notification of hearing letter dated 9 January 2017 which was sent to Mr Sitka’s registered address in Lithuania. The Committee also had sight of the Royal Mail track and trace proof of delivery which showed that the notification of hearing letter was delivered on 18 January 2017. The notice of hearing was also sent to Mr Sitka via email to an email address with which he had previously corresponded with the GDC. The Committee noted that only the first page of the notification of hearing was included in the hearing bundle. In a witness statement from the GDC’s Solicitor dated 25 January 2017, the Committee was informed that the full notification of hearing was sent by post to the Registrant but that due to an administrative error, only the first page of the letter was scanned into the system and which now appears in the Committee’s bundle. The draft version of the letter was also produced in order to indicate what would have been on the second page of the actual letter which was sent by post. A copy of the complete letter was then sent to Registrant via email on 25 January 2017. The Committee was satisfied that the 9 January 2017 letter contained all the components necessary for notice to be valid as set out in Rule 28. It concluded that the notification of hearing had been served in accordance with Rules 28 and 65.

### ***Decision on proceeding in the Registrant’s absence***

Ms MacDonald then made an application under Rule 54 that the hearing should proceed in Mr Sitka’s absence. The Committee bore in mind that its discretion to proceed with a hearing in these circumstances should be exercised with the utmost care and caution. The Committee was referred to the cases of *R v Jones* [2003]; *R v Hayward* [2001] QB 862; *R v*

*Jones* [2001] EWCA Crim 168; *R (on the application of Raheem) v NMC* [2010] EWHC 2549; and *GMC v Adeogba & Visvardis* [2016] EWCA Civ 162. It also took account of Ms MacDoanld's submissions and it accepted the advice of the Legal Adviser.

Having determined that service of the notice of hearing was good, the Committee noted that on four further occasions in August and November 2016, a letter and email on each occasion was sent by the GDC to the Registrant but no response was received. On the last occasion, the GDC's 23 November 2016 letter sent by International signed delivery was returned to the GDC on 9 January 2017. Therefore, the Committee was satisfied that all reasonable efforts had been made by the GDC to inform the Registrant of this hearing. The Committee noted that the Registrant was aware of the initial hearing where an order of suspension was imposed on his registration and that he was aware of the two previous Reviews on 13 May 2015 and 19 February 2016. There was no application for an adjournment from the Registrant and the Committee was of the view that, in the circumstances, an adjournment was unlikely to secure his attendance at a future date. The Committee noted that this order was due to expire in a few days and as such there was a risk to the safety of patients if the order was allowed to lapse and the Registrant to return to unrestricted practice. The Committee concluded that the Registrant had waived his right to attend these proceedings and that given the serious nature of the Registrant's failings, the need to protect patients and the public and to uphold the wider public interest, this hearing should proceed in the absence of the Registrant.

### ***Background***

This is a resumed hearing pursuant to Section 27C of the Dentists Act 1984 (as amended) ('the Act') to review the order of suspension imposed on Mr Sitka's registration. In January 2014 a Professional Conduct Committee (PCC) found allegations proved against Mr Sitka which related to multiple and wide ranging clinical deficiencies in the standard of care and treatment he provided, including record keeping failings, involving 15 patients. Mr Sitka did not attend the hearing but he provided observations to the GDC which were before that Committee. On 24 January 2014, the PCC directed that Mr Sitka's registration be suspended for a period of 12 months to be reviewed prior to its expiry.

### ***First Review***

On 13 February 2015 the case was reviewed when the Registrant was absent. It was noted at that hearing that the Registrant had provided no evidence of remediation and in those circumstances that Committee concluded that the same risks to patient safety and public confidence remained. That Committee found that the Registrant's fitness to practise remained impaired and directed that the order of suspension be extended for a further period of 12 months with a review prior to its expiry.

### ***Second Review***

On 19 February 2016, the case was reviewed when the Registrant was again absent. It was noted that the Registrant had provided no evidence about any steps he may have taken to remediate the deficiencies identified in his practice. He had engaged in a limited capacity by sending two emails on 17 and 19 February 2016 and by making a telephone call on 18 February 2016. On these occasions, he did not refer as to how he was to remediate his failings, as had been suggested by the first review Committee.

In those circumstances, that Committee concluded that the same risks to patient safety and public confidence remained. It determined that the Registrant's fitness to practise remained

impaired and directed that the order of suspension be extended for a further period of 12 months with a review prior to its expiry.

### ***Third Review***

Today this Committee has comprehensively reviewed the case taking into account of all the evidence presented. It has considered the submissions made by Ms MacDonald on behalf of the GDC. The Committee accepted the advice of the Legal Adviser.

### ***Current Impairment***

In considering whether Mr Sitka's fitness to practise is currently impaired, the Committee noted that this was a matter for its own independent judgement. It also considered that its duty was to protect the public, declare and uphold proper standards of conduct and competence and maintain public confidence in the profession. The Committee was referred to the cases of *Yeong v GMC*; *Cohen v GMC*; *Kimmance v GMC*; and *CHRE v NMC and Paula Grant*.

The Committee noted that the Registrant qualified as a dentist in 1984 in Lithuania. At the time of his misconduct, he had been practising for approximately 25 years. The Registrant demonstrated a wide range of clinical deficiencies in basic areas of dentistry, across a number of patients within a short period of time, June to October 2009. In addition, the Registrant inappropriately prescribed a penicillin-based antibiotic to a patient who had a known and recorded allergy to penicillin. When the inappropriate prescription was pointed out to the Registrant, he maintained that it was appropriate. The previous Committees gave the Registrant indications of the steps he could take to demonstrate to a review Committee that his fitness to practise was no longer impaired. There was no evidence before this Committee demonstrating that he had remedied or started to remedy his failings. As a consequence, the Committee concluded that there was a likelihood that the Registrant could repeat the same failings in the future and therefore the risk to the safety of patients remained.

The Registrant did not demonstrate an acknowledgement of fault or insight into the seriousness of the deficiencies in his practice. He did not attend this hearing and as such the Committee could neither assess his understanding of the failings in his practise nor any remediation he may have undertaken. The Committee concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case.

The Committee therefore determined that Mr Sitka's fitness to practise is currently impaired.

### ***Disposal***

The Committee next considered what action, on this third review under S 27C (1)(a), (b), (c) (d)(i) and (ii), to impose on Mr Sitka's registration. It reminded itself that the purpose of any sanction is not to be punitive although it may have that effect. The Committee bore in mind the principle of proportionality. It carefully considered the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016) ("the PCC Guidance").

The Committee first considered whether to revoke the suspension order. It was of the view that because of the serious nature of the proven allegation and that there was no evidence of his insight or remediation, there was a continued risk to patients. Therefore, it would be inappropriate to revoke the suspension order.

The Committee then considered whether to revoke the suspension and replace it with a direction for conditional registration. There has been minimal engagement by Mr Sitka with

these proceedings. The absence of any evidence of remediation or insight suggested to the Committee that he did not understand the extent and gravity of his failings. The Committee noted that at numerous intervals, the GDC, in demonstrating its fairness to the Registrant, had sent correspondence to the Registrant inviting him to engage and reminding him of the previous Committees' recommendations. There had been no evidence submitted by the Registrant in response to those recommendations and as such the Committee was not assured that any conditions of his clinical practice would be complied with. The Committee concluded that any conditions would not be workable, appropriate or sufficient to protect patients and to uphold the wider public interest, in the circumstances of this case.

The Committee then considered whether to further extend the suspension order for a maximum period of 12 months. Given the Registrant's minimal engagement with the GDC, his non-engagement in this hearing and previous hearings, the lack of any evidence of insight, remorse or remediation and the seriousness of the failings identified, the Committee was of the view that a further period of suspension with a review would not be likely to achieve a situation of this Registrant being fully remediated, unimpaired and fit to practise. He has had nearly three years to commence remediation and has wholly failed to do so, despite ample opportunities. With just 12 days left of his existing suspension order, the Committee is of the view that full remediation by him in that time would be highly unlikely.

The Committee therefore determined that the only appropriate and proportionate order to make was one of indefinite suspension. The Committee considered the severity of this outcome. However, in the circumstances, the Committee was satisfied that an indefinite suspension was the only appropriate, sufficient and proportionate order to make so as to protect the public and uphold the wider public interest, for the reasons given.

Accordingly, the Committee directed that Mr Sitka's registration be suspended indefinitely pursuant to section 27C (1)(d)(i) and (ii) of the Dentists Act 1984, as amended."