HEARING PARTLY-HEARD IN PRIVATE*

AHITAN, Balwinder Singh

Registration No: 76097

PROFESSIONAL CONDUCT COMMITTEE

SEPTEMBER 2022 – September 2024

Outcome: Adjourned with Interim Suspension

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

AHITAN Balwinder Singh, a dentist, BDS University of Manchester 1999, was summoned to appear before the Professional Conduct Committee on 20 September 2022 for an inquiry into the following charge:

Charge

"That being a dentist registered under the Dentists Act 1984 under registration number (76097):

1. You submitted, or caused or allowed to be submitted, claims for courses of treatment ("CoTs") which inaccurately purported to have been completed on or before 31 March 2015, including those set out in Schedule A[1].
2. You submitted, or caused or allowed to be submitted, claims for incomplete CoTs which inaccurately purported that the date of the last visit by the patient was on or before 31 March 2015, including those set out in Schedule B.
3. You amended retrospectively, or caused or allowed to be amended retrospectively, records to indicate that appointments had taken place on 31 March 2015 when the appointments had taken place on a later date, including those set out in Schedule C.
4. You made, or caused or allowed to be made, records which were inaccurate in that they purported that appointments had taken place on 31 March 2015 when they had taken place on a later date, including those set out in Schedule D.
5. One or more of your actions set out at 1 and Schedule A were:
    a. Misleading; and/or
    b. Inappropriate; and/or
    c. Dishonest in that:

[1] The Schedules can be found at the end of the determination.

i. You knowingly represented, or knowingly caused, or knowingly allowed, to be represented that CoTs had been completed on 31 March 2015 when they had not; and/or

ii. You intended UDAs to be attributed to the wrong financial year, namely 2014/2015.

6. One or more of your actions set out at 2 and Schedule B were:

a. Misleading; and/or

b. Inappropriate; and/or

c. Dishonest in that:

i. You knowingly represented, or knowingly caused, or knowingly allowed, to be represented in relation to claims for incomplete CoTs that the date of the last visit was on or before 31 March 2015 when it was not;

ii. You intended UDAs to be attributed to the wrong financial year, namely 2014/2015.

7. One or more of your actions set out at 3 and Schedule C were:

a. Misleading; and/or

b. Inappropriate; and/or

c. Dishonest in that:

i. You knowingly represented, or knowingly caused, or knowingly allowed, to be represented that appointments had taken place on 31 March 2015 when they had not; and/or

ii. You intended UDAs to be attributed to the wrong financial year, namely 2014/2015.

8. One or more of your actions set out at 4 and Schedule D were:

a. Misleading; and/or

b. Inappropriate; and/or

c. Dishonest in that:

i. You knowingly represented, or knowingly caused or knowingly allowed, to be represented that appointments had taken place on 31 March 2015 when they had not; and/or

ii. You intended UDAs to be attributed to the wrong financial year, namely 2014/2015.

As a result of the matters set out above your fitness to practise is impaired by reason of your misconduct."

On 20,21,23 and 27 September 2022, the Chairman made statements regarding the preliminary applications:

Determination on admissibility of evidence – 20 September 2022

"Mr Ahitan, this is a Professional Conduct Committee hearing of your case. The hearing is being conducted by Microsoft Teams Video-link.

You are represented by Ms Vivienne Tanchel, Counsel. The Case Presenter for the General Dental Council (GDC) is Ms Rebecca Vanstone, Counsel.

At the outset of the hearing, Ms Tanchel informed the Committee that there were two preliminary matters to be dealt with, one precipitated by the other. She told the Committee of her intention to make an abuse of process application on your behalf at this hearing. She stated that her written skeleton argument in respect of the abuse of process application was served on the GDC last week, and that in response, the Council is seeking to rely on new evidence, in the form of a witness statement. The witness statement, dated 13 September 2022, is from a Senior Operating Lead for NHS Dental Services, which is part of the NHS Business Services Authority.

Ms Tanchel stated that she objected to the GDC seeking to rely on the witness statement, and as such, she wished to apply to exclude it from the evidence in this case. Ms Tanchel invited the Committee to consider her application in relation to the exclusion of the witness statement first, before dealing secondly, with the abuse of process application.

Ms Vanstone agreed with the proposed sequence for dealing with the two preliminary matters.

Submissions made by the parties in relation to the witness statement

It was Ms Tanchel's submission that the witness statement was not admissible, as it would create prejudice to you because of your inability to challenge its contents at this late stage. Ms Tanchel's position was that the Committee did not need to read the witness statement in order to reach its determination. In summary, she told the Committee that the witness statement contains information in relation to the processes and procedures for the collation and inputting of information from handwritten FP17 forms for NHS dental treatment onto an electronic system.

Ms Tanchel stated that the lack of FP17 forms, which is an issue in this case, was raised on your behalf with the GDC in July 2021, over a year ago. She submitted that it had been open to the GDC, at that time, to seek the witness statement on which it now seeks to rely, but that the Council only did so last week in response to her written skeleton argument on abuse of process. Ms Tanchel submitted that by way of challenge to the witness statement, you may have sought expert opinion, or

requested the disclosure of relevant material. However, the opportunity to do so has been lost at this late stage.

Ms Tanchel acknowledged that Rule 57 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules') allows the Committee to admit evidence at fitness to practise hearings. She stated however, that Rule 57 is subject to the test of fairness. She submitted that because of the late submission of the witness statement, and the prejudice it would cause you, fairness dictates that it should not be admitted into evidence.

Ms Vanstone opposed Ms Tanchel's application to exclude the witness statement. She invited the Committee to receive it as part of the evidence for this hearing.

Ms Vanstone confirmed that the witness statement was obtained last week in response to the written skeleton argument on abuse of process submitted on your behalf. She also acknowledged that the lack of FP17 forms was raised by you in July 2021. Ms Vanstone stated, however, that in 2021, the questions asked regarding the FP17 forms were about where they were, and whether they were still in existence. She stated that there was no suggestion at that time that you were challenging the accuracy of the information transposed from the FP17 forms onto the electronic system.

Ms Vanstone submitted that once it was made clear to the GDC, in the written skeleton argument received by the Council last week, that you were challenging the accuracy of the information, the GDC obtained the witness statement. Ms Vanstone acknowledged that it was not for you to identify and close any gaps in the GDC's case, but, she stated, had the GDC been aware of your position, it would have produced the witness statement as rebuttal evidence.

It was Ms Vanstone's submission that it was very vague in terms of what further evidence might have been sought on your behalf to challenge the witness statement. She stated that anything said in the witness statement could be challenged by you at this hearing, which would allow that evidence to be tested. Ms Vanstone submitted that it would be fair to admit the witness statement into evidence.

The Committee's decision in relation to the witness statement

In reaching its decision, the Committee took account of the submissions made by both Counsel. It accepted the advice of the Legal Adviser, who also referred the Committee to the relevant provisions of Rule 57, which state that:

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

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

The Committee took into account that in considering its discretion to admit evidence under Rule 57, it must have regard to the overriding requirement for fairness, balancing the interests of both parties.

The Committee took into account that the witness statement is new evidence which, it noted, was obtained by the GDC at a very late stage in these fitness to practise proceedings. The new evidence relates to the manner in which FP17s were processed by a third party, (from whom there is no direct evidence), and the quality assurance measures that were in place to verify the accuracy of the data. It was the view of the Committee that, because of the timing of the witness statement, you have been prevented from challenging effectively the witness statement in the ways

referred to by Ms Tanchel, which could have included seeking the opinion of an expert and requests for further disclosure.

The Committee noted that the allegations in this case involve your NHS claims for treatment, and therefore the witness statement is relevant information. However, the Committee had regard to the age of the allegations, and it considered that if the information contained within the witness statement was regarded as central to the matters of concern, the GDC would have sought to obtain it sooner.

Taking all of the circumstances into account, having balanced your interests with the interests of the GDC, the Committee determined that it would be unfair and prejudicial to you to admit the witness statement at this late stage, given your inability to effectively challenge its contents.

That concludes this determination."

Determination on Abuse of Process Application – 21 September 2022

"Mr Ahitan,

As indicated at the outset of these proceedings, Ms Tanchel's second preliminary application has been an abuse of process application. This application was opposed by Ms Vanstone, Counsel for the General Dental Council (GDC).

Summary of the submissions made by the parties in relation to the application

In making the application, Ms Tanchel referred the Committee to the legal authority of *R v Maxwell* [2011] 1 WLR 1837. She asked the Committee to note that there are two bases on which it can stay proceedings on an abuse of process, namely where:

1. It would be impossible for the registrant concerned to receive a fair hearing.
2. It would offend the Committee's sense of justice and propriety to continue with the hearing in the particular circumstances of the case.

Ms Tanchel told the Committee that her application was made on both of these limbs.

Ms Tanchel explained that she was making the application in relation to heads of charge 1 and 2, as well as the derivative allegations at heads of charge 5 and 6. Heads of charge 1 and 2 relate specifically to claims for courses of NHS dental treatment which, the GDC allege, inaccurately purported that the treatment concerned was carried out or completed on or before 31 March 2015. Heads of charge 5 and 6 are associated allegations of dishonesty. Ms Tanchel confirmed that her application did not apply to heads of charge 3 and 4, which are allegations relating to record keeping.

Ms Tanchel told the Committee that it was agreed evidence that, when a dentist has a contract with the NHS to provide dental treatment, as in this case, the practitioner is obliged to complete FP17 forms as part of that contract. She stated that the FP17 forms act as treatment plans for the patients, as well as forming the basis for claiming remuneration from the NHS for the care and treatment provided. Ms Tanchel told the Committee that it was further agreed between the parties that under an NHS contract, a dentist is contracted to undertake a certain number of Units of Dental Activity (UDAs) within a financial year.

Ms Tanchel stated that the relevant financial year in this case is 1 April 2014 to the end of March 2015. She stated that the gravamen of the GDC's case, at heads of charge 1 and 2, is that you allegedly provided dental treatment to patients in the financial year 2015/16, but claimed for the treatment, via FP17 forms, as part of the previous financial year 2014/15. It was Ms Tanchel's submission that the GDC's case in this regard, is entirely predicated on the FP17 forms in question which, she told the Committee, have since been destroyed. She explained that it was the process of the NHS, at the time, to dispose of FP17 forms after the information contained within them had been transposed onto an electronic system. Ms Tanchel told the Committee that it was the electronic format of the data that had raised concerns in this case, and that the evidence relied upon by the GDC, including the evidence of its expert witness, Mr Julian Scott, is all based on the collated electronic data.

Ms Tanchel stated that the crux of her application was that the FP17 forms have never been made available to you, and that this creates a prejudice which, she said, was a prejudice of some significance. She stated that you have been unable to comment on what is or is not in the FP17 forms, and instead have been expected to accept that the GDC's interpretation of them is correct. Ms Tanchel raised a concern about the possibility of the transposed electronic data being inaccurate. In doing so, she made clear that it was not her suggestion that the GDC had acted improperly or in bad faith. She stated, however, that this did not mean that prejudice had not been created.

It was also Ms Tanchel's submission that, whether or not there were errors in the electronic data, the available evidence does not assist you in knowing what was recorded on the FP17 forms. She told the Committee that the FP17 forms were completed both by you and by others working at the practice in 2015, which was

seven years ago. She invited the Committee to take into account the number of patients involved in this case, with an excess of 1000 pages of records, and that it was in this context that you would be asked to comment upon forms that you cannot see. Further, that the Committee should take into account the absence of important information due to the lack of FP17 forms, such as the date of treatment, the date the claims were received by the NHS, the handwriting on the forms, any notes included on them, or any signatures.

Ms Tanchel submitted that, when considering the issue of fairness, the Committee should consider the fairness of the hearing in its entirety, this being the fact-finding stage, as well as any second stage of the hearing, during which misconduct, impairment and sanction would be considered. Whilst she acknowledged the GDC expert's opinion regarding your responsibilities in ensuring that matters relating to your NHS contract were correct, she submitted that the question of 'who did what when', would be fundamental to any consideration of misconduct, impairment, and sanction. Ms Tanchel submitted that without such details about the context of the allegations, it would be impossible for you to defend your case, and that it would be impossible for the Committee, if required to do so, to assess the level of seriousness at the relevant stages.

Ms Tanchel also made submissions in relation to the delay in holding this fitness to practise hearing, which was first scheduled to take place in March 2018. She stated, however, that the issue of delay was not her strongest point.

In opposing the abuse of process application on both of the limbs outlined in *Maxwell*, Ms Vanstone submitted that the reasons advanced did not reach anywhere near the high threshold required for the staying of the allegations in question.

Ms Vanstone submitted that the starting point for the Committee should be whether the GDC, as the regulator, had a duty to obtain the information concerned, namely the FP17 forms. She highlighted that the forms had already been destroyed by the time the matters in this case were referred to the GDC in 2016. Therefore, there could be no failure on the part of the Council.

In relation to the evidence that is available, Ms Vanstone highlighted that there is the evidence of the Assistant Primary Care Contract Manager for NHS England, who provided the electronic data to the GDC on a disc, as well as the evidence of Mr Scott. Ms Vanstone submitted that it was noteworthy that Mr Scott has been able to give his opinion, despite the lack of FP17 forms. She stated that as an expert witness, Mr Scott's duty is to assist the Committee, and that he can only give his opinion on matters within his area of expertise, and only on the basis of information that he has seen. Ms Vanstone submitted that it would be a matter for the Committee whether to accept or reject Mr Scott's opinion. She further submitted that the issues in this case are about the submission of the FP17 forms, and that the evidence is that, as the NHS contract holder, you were responsible for any forms that were submitted.

Ms Vanstone emphasised that legal authorities indicate that it is rare for hearings to be stayed on the basis of missing evidence, in the absence of any serious failings on the part of the regulator. She submitted that there have been no such failings in this case.

Ms Vanstone also addressed the issue of delay in convening this hearing. In doing so, she questioned whether your memory in 2018, when this hearing was first scheduled to take place, would have been any different to what it is now in 2022.

The Committee's decision on the application

In reaching its decision, the Committee took into account the submissions made by both parties, including their additional submissions made following questions from the Legal Adviser. The Committee noted in particular the submissions made by both Counsel in relation to the duty to obtain and retain information as referred to in the case of *R (Ebrahim) v Feltham Magistrates' Court* [2001] 1 All ER 831. The Committee accepted the advice of the Legal Adviser.

In relation to whether the GDC had a duty to obtain and retain the FP17 forms, the Committee considered that, had the forms been available, the GDC would have had a duty to obtain and retain them. However, the FP17 forms were destroyed which, the Committee accepted, is a factor in this case, but it did not consider it determinative.

The Committee carefully considered the arguments in support of the abuse of process application. It first had regard to the concern raised regarding the possibility of the electronic data being inaccurate. The Committee took into account that the process of transposing information from handwritten FP17 forms onto an electronic system was, at the material time, the way in which the whole of NHS dentistry was paid and regulated. There is no information to suggest any systemic problem in what was a nationwide system that could call into doubt the accuracy of the data provided to NHS England. Further, the Committee also noted that there was no information to suggest that the accuracy of the data, relating to the claims which are the subject of these charges, was brought into question at any time, including at the time of the initial investigation in 2015. The Committee therefore concluded that it is purely speculative that the data relied upon does not accurately reflect the content of the FP17 forms, and that no unfairness arises from their non-availability.

The Committee next considered whether, notwithstanding its view on the accuracy of the electronic data, you could receive a fair hearing in the absence of the FP17 forms. In doing so, it took into account that, in respect of this application, the burden was upon you, and those who represent you, to satisfy the Committee that proceeding with the allegations in question would be unfair or prejudicial.

The Committee remained mindful that the burden of proof at the fact-finding stage will rest with the GDC, you will not have to prove anything. It will be for the Council to establish a prima facie case, and to discharge its burden in respect of all the allegations, including those relating to the submission of the FP17 forms. Further,

during the hearing process, you will have the opportunity to challenge the evidence of the GDC's witnesses. The Committee will also have the opportunity to ask questions of all witnesses as part of its inquiry, and in doing so, it can assess any impact of the absence of the FP17 forms on any evidence given, including any evidence given by you.

In relation to the issue of delay, the Committee considered it regrettable that it has taken so long for this hearing of your case to be convened. The Committee noted the reasons for this, as explained by both parties. It considered, however, that delay is

not uncommon in fitness to practise proceedings, and as such, Committees are able to recognise and account for any impact of delay on the memories of the witnesses. As Ms Tanchel herself recognised, it is only in exceptional circumstances that a stay would be imposed on the grounds of delay alone, in the absence of serious misconduct, and the Committee did not consider that the delay in this case reaches the high threshold required.

In all the circumstances, the Committee was not satisfied that there would be any prejudice to you in continuing with the entirety of the charge. It was of the view that, heads of charge 1, 2, 5 and 6, can properly and fairly be considered in the absence of the FP17 forms. Accordingly, the abuse of process application is rejected.

That concludes this determination."

Determination on the Rule 19(3) Legal Advice – 23 September 2022

"Mr Ahitan,

This is a Professional Conduct Committee hearing of your case. The hearing is currently being conducted remotely by Microsoft Teams video-link.

You are represented by Ms Vivienne Tanchel, Counsel. The Case presenter for the General Dental Council (GDC) is Ms Rebecca Vanstone, Counsel.

The charge in this case relates to your alleged conduct in the submission of inaccurate claims for courses of treatment to the NHS. There are also allegations relating to the retrospective amending of patient records, and inaccurate patient records. In respect of the claims for treatment, the GDC has alleged in those allegations that you *'submitted or caused or allowed to be submitted'* the claims in question. In relation to the matters of record keeping, it is alleged that you either *'amended'* or *'made'* the records yourself, or that you *'caused or allowed'* the amendments and inaccuracies.

Proposed submission of no case to answer

Yesterday, the GDC completed the presentation of its evidence, and Ms Vanstone confirmed the close of the Council's case. Ms Tanchel then informed the Committee that, prior to opening your case, it was her intention to make a submission of no case

to answer, pursuant to Rule 19(3) of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules').

The hearing resumed this morning for Ms Tanchel's submission of no case to answer. She told the Committee that her submission would be in respect of the outstanding allegations, that is, those that have not been admitted by you. She submitted that insufficient evidence had been presented by the GDC to find those outstanding allegations proved.

In outlining the outstanding matters that she was referring to, Ms Tanchel took the Committee through your admissions to heads of charge 1, 2 and 3, along with the corresponding patient references, set out in the relevant schedules to the charge, Schedules A, B and C. Ms Tanchel highlighted that you have admitted to causing or allowing claims for courses of treatment to be made in respect of certain patients in Schedules A and B, as well as causing or allowing records to be amended retrospectively in relation to certain patients in Schedule C. You denied submitting any of the claims yourself, and you also denied amending or making any of the records concerned.

Ms Tanchel told the Committee that her submission of no case to answer would specifically be in respect of those patients set out in Schedules A, B and C, who were not referred to in your admissions, as well in relation to those parts of the allegations which allege that you *'submitted'* claims or that you *'amended'* or *'made'* records. She also stated that she would be submitting that there is no case to answer in relation to head of charge 4 (relating to those patients listed in Schedule D). You denied head of charge 4 in its entirety. Ms Tanchel told the Committee that nothing she intended to say in her submission would go behind the admissions that you have made.

It was at this juncture, that the Legal Adviser intervened with questions for Ms Tanchel on the appropriateness of a no case to answer submission on the basis that she proposed. It was the view of the Legal Adviser that there was no basis in law for Ms Tanchel to make a Rule 19(3) submission in relation to heads of charge 1, 2 and 3, given the admissions that you have made and to do so would be inconsistent with those admissions. The Legal Adviser's position was that, on the basis of those admissions, if nothing else, there is sufficient evidence on which the Committee could find heads of charge 1, 2 and 3 proved at the fact-finding stage. He advised that the test in law is whether there is sufficient evidence that the Committee could reasonably find the charge proved and that you have admitted the charge, albeit with some qualifications in relation to some of the patients in the relevant schedules.

Ms Tanchel disagreed with the Legal Adviser. She submitted that she was entitled to make submissions in relation to those factual elements of the charges which were not admitted.

Following discussions in open session between Ms Tanchel and the Legal Adviser, the Committee also heard from Ms Vanstone. She confirmed that it had been her

intention, in opposition to the submission of no case to answer, to make submissions on whether Ms Tanchel could in fact rely on Rule 19(3) in respect of heads of charge 1, 2 and 3, in light of the admissions that have been made.

In these unusual circumstances, the Committee agreed to hear advice from the Legal Adviser on the legal technicalities of making a no case to answer submission in relation to heads of charge 1, 2 and 3, and to make a determination on whether to accept or reject that advice.

The Legal Adviser's advice

It was the Legal Adviser's advice that there is no basis in law to make a no case to answer submission in relation to those elements of heads of charge 1, 2 and 3, including the relevant schedules. It was his advice that by virtue of the admissions that have been made, there is sufficient evidence on which heads of charge 1, 2 and 3, are capable of being found proved, and that is the only test that needs to be satisfied at this half time stage. The Legal Adviser stated that the nuances of the nature of the alleged conduct and the number of patients involved, are matters that will come into consideration when the Committee has regard to the alleged facts in the round.

The Committee's decision on the Legal Adviser's advice

In reaching its decision, the Committee took into account the submissions and comments made by both parties. In particular, it took into account that Ms Tanchel disagreed with the Legal Adviser's advice. The Committee noted her submissions that the outstanding parts of heads of charge 1, 2 and 3, could have a material impact on how this case proceeds, particularly in relation to the matters of misconduct and impairment at stage two. Ms Tanchel highlighted that on the basis of your admissions, it was likely that this hearing would proceed to a second stage.

However, whilst the Committee bore in mind the need to be fair to both parties, it also remained mindful of its duty to conduct these proceedings within the Rules, and in accordance with the law. The Committee took into account that in determining a submission of no case to answer, it would be considering whether sufficient evidence has been presented by the GDC which is capable of proving heads of charge 1, 2 and 3. The Committee noted that in answer to questions from the Legal Adviser, Ms Tanchel conceded that these charges were capable of being found proved on the basis of your admissions. It also noted that no objection was taken to the form of the charges prior to them being read and you making your admissions. In the circumstances, the Committee was not satisfied that it was necessary or appropriate to disaggregate the individual components of heads of charge 1, 2 and 3, in order to consider whether there was a case to answer in relation to each element.

Accordingly, the Committee accepted the advice of the Legal Adviser that there is no basis in law for a submission of no case to answer in respect of heads of charge 1, 2 and 3. The Committee wishes to make clear that it is not its intention to prevent Ms Tanchel from representing you in the way that she wants to, but it is satisfied that

because of the technicalities of the Rules, she cannot address any of the matters in heads of charge 1, 2 and 3 as part of her no case to answer submissions. This, of course, does not preclude Ms Tanchel from making submissions about these allegations at other stages in the hearing process.

Also, for the avoidance of doubt, Ms Tanchel can proceed with a submission of no case to answer in respect of head of charge 4, which you deny in its entirety.

That concludes this determination."

Determination on the Rule 19(3) Submissions – 27 September 2022

"Mr Ahitan

This is a hearing of your case before the Professional Conduct Committee, which commenced on 20 September 2022. The hearing was conducted remotely by Microsoft Teams video-link from 20 to 23 September 2022. Yesterday, 26 September 2022, the hearing resumed in person at the Dental Professionals Hearings Service in London. This was in accordance with a preliminary decision, made prior to the start of the hearing, that your oral evidence could be given and heard in person, as opposed to in a remote setting.

However, before hearing from you, the Committee was tasked with concluding the matters outstanding from 23 September 2022, when it determined that a no case to answer submission could not be made in relation to heads of charge 1, 2 and 3. This was in light of the partial admissions you have made in relation to those allegations. The Committee accepted, however, that a no case to answer submission could be made in relation to head of charge 4, which is an allegation that you deny in its entirety.

Accordingly, when the hearing resumed yesterday, Ms Tanchel, Counsel on your behalf, proceeded with a submission of no case to answer in respect of head of charge 4, and the derivative allegation of dishonesty at head of charge 8.

Head of charge 4 alleges that:

"You made, or caused or allowed to be made, records which were inaccurate in that they purported that appointments had taken place on 31 March 2015 when they had taken place on a later date, including those set out in Schedule D".

Ms Tanchel referred the Committee to the test for approaching a submission of no case to answer, as set out in *R v Galbraith* [1981] 1 WLR 1039. She stated that the case of *Galbraith* was equally applicable to regulatory proceedings, as it was to criminal proceedings. Ms Tanchel set out the two limbs of the *Galbraith* test, which she adapted for the purpose of this hearing, as follows:

1. If there is no evidence that the facts alleged have been committed by the registrant, then there is no difficulty. The Committee will of course stop the hearing.

2. The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence. (a) Where the Committee comes to the conclusion that the GDC's evidence, taken at its highest, is such that a Committee properly directed could not properly find the alleged facts proved, it is the Committee's duty, on a submission being made, to stop the hearing. (b) Where however the GDC's evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the Committee and where on one possible view of the facts there is evidence upon which the Committee could properly come to the conclusion that the registrant is guilty, then the Committee should allow the matter to proceed in full to the finding of facts stage.

Ms Tanchel also drew the Committee's attention to the case of *Malhar Soni v General Medical Council* [2015] EWHC 364 (Admin), also stating that the principles from that case applied equally in this case. With reference to *Malhar Soni*, Ms Tanchel submitted that, in its considerations, the Committee had to be satisfied that it could safely exclude other possible explanations for what is alleged in head of charge 4.

Ms Tanchel made further submissions in relation to the cogency of the evidence, and referred to a number of other legal authorities, including the cases of *Re H (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563, *Sharma v General Medical Council* [2014] EWHC 1471 (Admin) and *Lawrence v General Medical Council* [2015] EWHC 586 (Admin).

Ms Tanchel asked the Committee to note that the test to be applied at this half-time stage was whether a *"Committee properly directed"* could find head of charge 4 proved on the GDC's evidence, when taken at its highest. She invited the Committee to consider the GDC's evidence in the context of the direction that it will eventually receive, at the end of the fact-finding stage, namely, that the standard of proof is whether the alleged facts are proved on the balance of probabilities.

In relation to the specific pieces of evidence presented by the GDC, it was Ms Tanchel's submission that the witness statements of Witness 1, Primary Care and Contract Manager for NHS England, and the witness statements provided by, or in respect of, two of the patients in this case, could not assist the Committee, one way or another, in reaching its findings in relation to head of charge 4.

Further, Ms Tanchel highlighted the oral evidence of Witness 2, former Assistant Primary Care Contract Manager for NHS England, who had drawn an inference from the discrepancies between the information in electronic appointment book

(containing the day lists of patients) and the patient record cards. Ms Tanchel submitted that in drawing that inference, Witness 2 had usurped the role of the Committee. Ms Tanchel stated that the Committee simply could not know, on the basis of the evidence available, whether the electronic appointment book was an accurate reflection of every patient that had attended the practice on the relevant dates.

In relation to the GDC's expert witness, Mr Julian Scott, Ms Tanchel told the Committee that she was *"troubled"* by his evidence. It was her submission that his evidence was *"unsatisfactory"* because he is not qualified to give evidence in relation to the alteration or otherwise of the clinical records. She noted that Mr Scott had conceded, during his oral evidence, that he is not an expert in handwriting or in the dating of records. Ms Tanchel referred the Committee to the case of *Kennedy v Cordia (Services) LLP* [2016] UKSC 6. She contended that Mr Scott had fallen into the trap of becoming an advocate for the GDC by giving evidence outside of his expertise. She made clear that she was not suggesting that Mr Scott had acted in bad faith, but that in view of some of the language and terminology used in his report, he had failed to abide by the rules governing expert evidence, which includes the requirement to remain impartial.

It was for all these reasons, that Ms Tanchel invited the Committee to conclude that there was no case to answer in respect of head of charge 4, and the derivative allegation at head of charge 8. It was her submission that, in reaching its decisions on the submission of no case to answer, the Committee was required to consider each, and every patient listed in Schedule D.

Ms Vanstone, Counsel on behalf of the GDC, opposed the submission of no case to answer. She stated that firstly, she wished to remind the Committee that the standard of proof to be applied at the fact-finding stage was the balance of probabilities. Ms Vanstone stated that she made this submission in response to Ms Tanchel's reliance on certain legal authorities, including the cases of *Re H* and *Lawrence*. In her submissions, Ms Vanstone referred to the case of *Byrne v General Medical Council* [2021] EWHC 2237 (Admin) which, she stated, is a case that confirms there is no heightened standard of proof in cases involving serious allegations, such as dishonesty.

In relation to the Committee's task at this half-time stage, Ms Vanstone disagreed that the Committee had to reach a decision on each individual patient listed in Schedule D. She stated that to do so, would be inconsistent with the Committee's determination of 23 September 2022. Ms Vanstone submitted that in considering whether there is a case to answer in relation to head of charge 4, the Committee only needed to be satisfied that there was sufficient evidence capable of proving the allegation.

Ms Vanstone took the Committee through the evidence which she said supported head of charge 4, and the associated allegation of dishonesty at head of charge 8. She noted Witness 2's evidence, that she was told by the Practice Manager, during

her visit to the practice in December 2015, that the electronic appointment book for 31 March 2015 may not be accurate, as some of the patients may not be listed, given that the information related to the previous financial year.

However, Ms Vanstone asked the Committee to note that other day lists from the previous financial year were obtained by Witness 2 at the same time, and that those day lists appeared to show a full list of patients, including for the day before, 30 March 2015. It was Ms Vanstone's submission that on one reading of the information provided, there is sufficient evidence before the Committee capable of proving that the allegation at head of charge 4, namely that the records made were inaccurate.

Ms Vanstone stated that the Committee may consider that it has not received any direct evidence to suggest that you made the records in question. She submitted, however, that the Committee may determine that there is sufficient evidence capable of proving one of the alternatives, namely that you caused or allowed the inaccurate records to be made. Ms Vanstone stated that, in reaching its decisions, the Committee could take into account your admissions made in respect of other allegations. These include your admissions to dishonestly causing or allowing inaccurate claims for courses of treatment to be made to the NHS, and dishonestly causing or allowing patient records to be amended retrospectively. She also highlighted the evidence that your practice had been underperforming under the NHS contract for six out of seven years, that you were the contract holder and practice principal, and that you had previously resisted a reduction in your contracted targets. Ms Vanstone contended that this was all evidence that went towards your motivation to attribute Units of Dental Activity (UDAs) incorrectly, and that a proper inference could be drawn that you caused or allowed inaccurate records to be made.

In relation to Ms Tanchel's submissions regarding the evidence of Mr Scott, Ms Vanstone stated that these were matters that she could address in her closing submissions at the end of the fact-finding stage. However, she did state that, as an expert witness, Mr Scott was entitled to give factual evidence on what he has observed, as well as his opinion. Ms Vanstone stated that Mr Scott had repeatedly said that he observed amendments to clinical records where the date '31 March 2015' is overwritten. She submitted that Mr Scott has many years' experience reading and interpreting clinical records, and that he is qualified to say what clinical records usually mean. She stated that, in his expert evidence, Mr Scott does not go as far to give an opinion on the purpose of the amended records he observed. Ms Vanstone submitted that the case of *Galbraith* makes clear that the credibility of witnesses is something to be dealt with at the conclusion of the evidence. She stated that it will be for the Committee to decide, in due course, what weight to attribute to Mr Scott's expert evidence.

It was Ms Vanstone's submission that neither head of charge 4, nor head of charge 8, fall into either of the two limbs in *Galbraith*, and therefore the submission of no case to answer should be dismissed.

The Committee had regard to Ms Tanchel's further submissions in response, including her reiteration that head of charge 4 is predicated on Schedule D, and therefore the Committee should consider the evidence provided in relation to each patient in that schedule, when deciding whether there is a case to answer.

The Committee decisions in respect of the submission of no case to answer

The Committee had regard to the evidence adduced by the GDC in support of the allegations in question. It took account of the submissions made by both Counsel.

The Committee accepted the advice of the Legal Adviser, who confirmed that the test to be applied in relation to a half-time submission of no case to answer was that set out in *Galbraith.* The Legal Adviser advised that, the only consideration for the Committee at this half-time stage, was whether the GDC's evidence, taken at its highest, is sufficient to establish a prima facie case in relation to heads of charge 4 and 8. That is to say, that the evidence is such that a reasonable Committee could find the charge(s) proved to the requisite standard. In accordance with his previous legal advice, given to the Committee on 23 September 2022, the Legal Adviser advised that it was not necessary, at this stage in the proceedings, for the Committee to reach individual decisions in respect of each patient listed in Schedule D. The Committee accepted the advice that the extent and nature of your alleged conduct would be matters for consideration at a later stage.

The Committee also accepted the Legal Adviser's advice that it could take into account your admissions in reaching its decisions at this half-time stage. The Committee noted that it was entitled to have regard to all the evidence, which includes the admissions you have made in relation to heads of charge 1, 2 and 3.

Taking all these factors into account the Committee considered head of charge 4 and head of charge 8 separately, and made the following decisions:

Head of charge 4

The Committee rejected the submission of no case to answer in respect of this head of charge.

The Committee did not consider it appropriate, at this half-time stage, to consider the evidence in relation to each and every patient listed in Schedule D. However, it did consider generally the evidence received in relation to the patients' appointments.

The Committee took into account the evidence received from Witness 2, which includes her schedule of the patient records that she checked as part of her review for NHS England, and the discrepancies that she identified. The Committee noted that it received no information to suggest that Witness 2's schedule does not accurately reflect the underlying documents, namely the electronic appointment book and the patient records cards. These underlying documents are also before the Committee.

It is unchallenged evidence in this case that the records cards for the patients in Schedule D indicate that they all attended appointments at the practice on 31 March 2015. The appointment book shows no appointments for these patients on 31 March 2015, but does show various appointments for the patients between 1 to 10 April 2015. In view of the discrepancies between the appointment book and the record cards, the committee considered that there is a prima facie case in relation to the alleged inaccuracy of the records at head of charge 4.

In reaching its conclusion, the Committee noted that the evidence concerning Patient AM appears to relate to an alleged amendment to the records, not an alleged inaccurate entry, and therefore, this matter should fall under head of charge 3 and not head of charge 4. The Committee also noted that there is additional material in relation to Patient AX, which has yet to be admitted into evidence, and as such, has not been considered by the Committee.

With regard to the extent of your alleged involvement, the Committee noted the evidence indicates that, although not all of the patients listed in Schedule D were treated by you at the material time, according to the records you did treat a number of the patients in question. The Committee had regard to the allocation of patients according to the appointment book and the fact that you are recorded as the performer according to the data analysed by Witness 2. Further, it is not disputed that you were the holder of the NHS contract. Taking these factors into account, the Committee concluded that there is sufficient evidence capable of proving the allegation that you made inaccurate records, or alternatively caused or allowed inaccurate records to be made.

Head of charge 8

The Committee rejected the submission of no case to answer in respect of this head of charge.

Having determined that there is a prima facie case in relation to head of charge 4, the Committee had regard to the derivative allegation of dishonesty at head of charge 8. In doing so, the Committee had regard to your admissions made in relation to heads of charge 1, 2 and 3, which includes your admissions to the allegations of dishonesty derived from those charges. You have admitted to dishonestly causing or allowing inaccurate claims for treatment to be made to the NHS, and dishonestly causing or allowing the amendment of records retrospectively. In the circumstances, the Committee considered that there was sufficient evidence capable of proving the alleged dishonesty at head of charge 8, by virtue of what may reasonably be inferred from the admissions you have made.

Accordingly, the Committee determined to reject the submission of no case to answer made in relation to heads of charge 4 and 8. The hearing will therefore continue to the fact-finding stage on all aspects of the charge.

That concludes this determination."

The hearing adjourned part-heard 30 September 2022.

On 21 November 2022 the hearing resumed and the Chairman announced the findings of fact:

"Mr Ahitan,

This is a Professional Conduct Committee hearing of your case. The hearing commenced on 20 September 2022 and has been conducted partly by remote means, using Microsoft Teams video-link, and partly in person. The hearing is currently proceeding remotely for the purpose of handing down this 'Findings of Fact' determination.

You are represented by Ms Vivienne Tanchel, Counsel. The Case Presenter for the General Dental Council (GDC) is Ms Rebecca Vanstone, Counsel.

Background and summary of the charge

At the material time you were the practice principal and NHS contract holder at a dental practice in Stoke-on-Trent ('the Practice').

This case arises from a referral made to the GDC by NHS England. The referral related to concerns following a review of activity under your NHS contract for the provision of dental services. The relevant period for the purposes of that review was the financial year 2014/15. Following an investigation of the concerns by the GDC, you face a charge, brought by the Council, relating to claims for treatment made under your NHS contract at the end of March 2015.

The evidence relied upon by the GDC includes the unchallenged witness statement of Witness 1, who was, at the relevant time, the Primary Care and Contract Manager for NHS England. In his witness statement, Witness 1 provides background information in relation to the matters raised. At the material time, his duties included managing NHS contracts in the Staffordshire region. Witness 1 explained that NHS dentists in England and Wales are paid according to how many Units of Dental Activity (UDAs) they deliver in a financial year. He explained that since 2006, each dental contract has a fixed number of UDAs which must be met for a particular contract value. Further, that each course of dental treatment has a UDA value. Witness 1 stated that a dentist's performance of their NHS contract is reviewed yearly, taking account of the dental activity from each financial year, 1 April to 31 March, and that a review would show whether a dentist has met their contractual target. If that target is not met, the NHS is able to collect payment via a 'claw back' for the shortfall.

In relation to your NHS contract, Witness 1's evidence is that he visited the Practice with a colleague on 26 November 2014, and there was a follow-up meeting on 17 December 2014. You were then sent a letter by NHS England, dated 19 December 2014, outlining the discussions from those meetings. The letter, a copy of which is exhibited by Witness 1, stated that it was reiterated to you during the discussions that, for six out of the seven preceding years, you had failed to deliver your NHS

contractual target. On that basis, an immediate contractual reduction of 10% was proposed, to which you agreed. The letter went on to state that, whilst the 10% was intended to be a recurrent annual deduction, you were informed that if you demonstrated that your original contract target was achievable, the activity would be reinstated. However, if this could not be demonstrated, the reduction would become permanent with effect from 1 April 2015.

According to Witness 1, it was subsequently noted in relation to your NHS contract, that a "spike" of activity was observed for March 2015. It was noted that a total of 79 claims for treatment were submitted for 30 and 31 March 2015. This led to a concern that you had inflated your delivery of services during this period, so that it would appear that you had met your UDA target before 31 March 2015. In response to this concern, an investigation was carried out into the dental treatment provided under your NHS contract. That investigation was conducted by Witness 2 who, at the material time, was employed as an Assistant Primary Care Contract Manager for NHS England. Witness 2 was responsible for managing your NHS contract for the Practice.

It is a feature in this case that the FP17 forms, on which the relevant claims for treatment were made, are no longer available. What has been made available as part of this case, is the NHS Business Services Authority (NHS BSA) claims data, which was collated from the original FP17 forms. Witness 2 relied on this claims data during her investigation. It is Witness 2's evidence, and the evidence of the GDC's expert witness, Mr Julian Scott, that forms the primary basis of the factual allegations set out in the charge against you.

In summary, the charge alleges that you submitted, or caused or allowed to be submitted, inaccurate and incomplete claims for courses of treatment with the intention of attributing UDAs to the financial year 2014/15 rather than 2015/16. There are also allegations that, with the same intention, you amended records retrospectively, or caused or allowed them to be amended retrospectively, and that you made inaccurate records, or caused or allowed inaccurate records to be made. The specific courses of treatment, and the specific records concerned, are set out in schedules to the charge, Schedules A, B, C and D, with reference to the individual patients. All the patients have been anonymised for the purposes of this hearing.

It is alleged by the GDC that your actions, if found proved, were misleading, inappropriate, and dishonest.

Admissions to the charge

Prior to the opening of the GDC's case, you made a number of admissions to the charge. Ms Tanchel took the Committee through each head of charge and its corresponding schedule, and she confirmed which of the matters were admitted.

In relation to head of charge 1, which alleges that you submitted, or caused or allowed to be submitted, inaccurate claims for courses of treatment, Ms Tanchel told the Committee that you denied submitting any of the alleged claims in Schedule A.

However, you admitted that you caused or allowed inaccurate claims to be made in relation to 21 of the 45 patients referred to in Schedule A, namely Patients U, V, X, Y, Z, AB, AC, AD, AE, AF, AG, AH, AJ, AL, AO, AP, AQ, AR, AS, AU and AV.

In relation to head of charge 2, which alleges that you submitted, or caused or allowed to be submitted, incomplete claims for courses of treatment, Ms Tanchel told the Committee that you denied submitting any of the alleged claims in Schedule B. However, you admitted that you caused or allowed incomplete claims to be made in relation to 4 of the 5 patients referred to in Schedule B, namely Patients F, I, T and W.

In relation to head of charge 3, which alleges that you amended records retrospectively, or that you caused or allowed them to be amended retrospectively, Ms Tanchel told the Committee that you denied amending any of the records yourself for the patients set out in Schedule C. However, you admitted that you caused or allowed retrospective amendments to the records for 25 of the 27 patients referred to in Schedule C, namely Patients M, T, U, V, W, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AJ, AL, AN, AO, AP, AQ, AR, AS, AU and AV.

With regard to the derivative allegations of misleading, inappropriate and dishonest conduct at heads of charge 5, 6 and 7, Ms Tanchel stated that you admitted these allegations to the extent that you admitted the underlying allegations at heads of charge 1, 2 and 3, and only in so far as having caused or allowed the actions to have occurred, but not in respect of submitting or amending the documents.

You denied head of charge 4 (and its corresponding schedule, Schedule D) in its entirety. This is the allegation that you made, or caused or allowed to be made, inaccurate patient records. You also denied the derivative allegations of misleading, inappropriate, and dishonest conduct at head of charge 8.

Whilst the Committee noted your admissions, it deferred making any findings in relation to the alleged facts until all the evidence had been adduced.

Evidence

The Committee received documentary evidence from the GDC which included a bundle of patient records, as well as the following witness statements with associated exhibits:

- The witness statement and supplementary witness statement of Witness 1 dated 21 February 2018 and 24 May 2018.
- The witness statement of Witness 2 dated 24 January 2018. Witness 2 provided with her written evidence the claims data she collated as part of her investigation into the activity under your NHS contract.
- The witness statement of Patient B dated 6 March 2018.
- The witness statement of Person A in respect of Patient Z dated 14 May 2018.

- The witness statement of Witness 3, a Dental Technician who has provided dental products to the Practice, dated 10 April 2018.

The Committee also received an expert report with appendices prepared by Mr Scott, dated 16 April 2018.

In addition to the documentary evidence provided by the GDC, the Committee heard oral evidence from Witness 2 and from Mr Scott. The remainder of the GDC's witness evidence was unchallenged, and the Committee was satisfied that it did not have any questions for those witnesses beyond what was included in their written evidence.

You also gave oral evidence in relation to the factual allegations. The Committee heard part of your evidence in private session, as you spoke about issues relating to your personal and family life around the material time.

During your oral evidence, including in response to questions from the GDC, you maintained that you had been unaware of the circumstances surrounding the alleged submission of inaccurate and incomplete claims for treatment, or the alleged retrospective amendments to patient records. However, you stated that, ultimately, it had been your responsibility to ensure that such things did not happen, and therefore you were duty bound to admit the allegations, including the alleged dishonesty.

In the light of your evidence, the Committee questioned you further on your admission to dishonesty. In response to the Committee's questions, you accepted that since you were saying that you were ignorant of the alleged facts, you could not in fact say that you had been dishonest. Although you said that you considered what had occurred as a "great source of shame and embarrassment". You accepted that causing or allowing the submission of claims and retrospective amendments to patient records was conduct that was misleading and inappropriate.

The Committee's findings of fact

The Committee considered all the evidence presented to it, both documentary and oral. It took account of the closing submissions made by Ms Vanstone on behalf of the GDC, and those made by Ms Tanchel on your behalf. The Committee accepted the advice of the Legal Adviser.

In her submissions, Ms Tanchel acknowledged the inconsistency between your oral evidence and the admissions that you had made through her at the outset of the hearing in relation to the alleged dishonesty. She told the Committee that it was her instruction that your admissions to the alleged dishonesty at heads of charge 5, 6 and 7 still stood. It was Ms Tanchel's submission that your oral evidence was a matter entirely within the province of the Committee.

The Committee also took into account the agreement of both parties in relation to the approach that should be taken in reaching its findings on each head of charge. The agreed position was that the Committee should consider each patient case listed in the corresponding schedules to the charge before reaching its decisions in relation to

the overriding allegations. Having noted and accepted the advice of the Legal Adviser that any approach to be taken would be a matter for the Committee, it adopted the approach suggested by the parties.

The Committee considered that the appropriate course in the circumstances would be to first consider each of the patient cases listed in a schedule charge, before reaching a conclusion on the relevant head of charge itself. The Committee considered that, if it found any heads of charge proved, this approach would make clear on what basis and to what extent those findings had been made.

Accordingly, the Committee considered each head of charge separately, following the course outlined. In doing so, it bore in mind that the burden of proof rests with the GDC, and that the standard of proof is the civil standard, that is, whether the alleged facts are proved on the balance of probabilities.

The Committee's findings are as follows:

1.	*You submitted, or caused or allowed to be submitted, claims for courses of treatment ("CoTs") which inaccurately purported to have been completed on or before 31 March 2015, including those set out in Schedule A.* **Admitted on the basis that you caused or allowed to be submitted claims in respect of 21 of the 42 patients in Schedule A, namely Patients: U, V, X, Y, Z, AB, AC, AD, AE, AF, AG, AH, AJ, AL, AO, AP, AQ, AR, AS, AU and AV.** **Found proved on the basis that you caused or allowed claims to be submitted in relation to all 42 patients in Schedule A.** The Committee was satisfied that the NHS BSA claims data reviewed by Witness 2 is accurate. It received no information to call into question the systems and processes that were used nationally by the NHS, at that time, to collate and review NHS claims for dental treatment. As set out in her exhibited Schedule 'JS02', Witness 2 highlighted that the claims data showed that every FP17 form submitted in relation to the patients in Schedule A to the charge, indicated that their treatment was completed on the same date, namely on 31 March 2015. This suggested that the patients in question were seen and treated in one day, with the FP17 forms indicating that a range of treatment was completed including several courses of Band 3 treatment, which are more complex courses of treatment. In deciding whether the provided date of 31 March 2015 on all the FP17 forms was inaccurate, as alleged, the Committee cross-referenced the information in Witness 2's Schedule 'JS02' with the other documentary evidence it received in relation to the patients'

	treatment. This included the clinical records for each patient, the electronic appointment book from the Practice (containing the day lists of patients), and where applicable, any medical history forms, treatment plans, radiographs, laboratory receipts, and witness statements. The Committee also took into account your oral evidence. The Committee found that the 'Treatment acceptance' dates listed in Witness 2's Schedule 'JS02', these being the dates when the patients' courses of treatments began, aligned with the treatment start dates included in the clinical records. The Committee noted however, that there was little or no evidence in the clinical records to support that all the patients' concerned had their treatment completed on 31 March 2015 as indicated in the FP17 claim data. The Committee found that this distinct lack of evidence in the records applied to all the patients specified in your admissions, as well as those that were not specified. Further, the Committee noted that, according to the electronic appointment book, neither you nor the dentist who worked with you, saw any patients on 31 March 2015. However, that there were appointments for all the patients listed in Schedule A elsewhere in the electronic appointment book on various dates between 1 and 10 April 2015. The Committee also found references to these April dates in the clinical records, and where relevant in the other clinical information available. The Committee also took into account the witness statement of Patient B, in which she recalls attending her appointment at the Practice on 1 April 2015. In this regard, Patient B exhibited evidence of a message on her mobile phone regarding the 1 April 2015 appointment, as well as a copy of her bank statement showing payment to the Practice on 2 April 2015. Patient B believed that this was payment taken the day after her appointment. The Committee further considered the Witness statement of Person A, who stated that she believed Patient Z's appointment at the Practice was on 8 April 2015. The evidence of both witnesses is corroborated by the information in the electronic appointment book. The Committee found that the information within the electronic appointment book remained consistent with the other evidence it received in respect of the patients' appointment, including the clinical records where unamended. The Committee considered that the consistency of the information in the electronic day book was at odds with your oral evidence. You described a chaotic appointments system at the practice with a high number of cancellations and changes which, you said, made the electronic day lists unreliable. The Committee did identify some information that appeared to give rise to the possibility that certain patient's appointments had taken

	place on 31 March 2015. However, on further exploration of the evidence, including the electronic appointment book, which it preferred over the clinical records, it concluded that it was more likely that the treatments in question were completed after 31 March 2015 For instance, the Committee noted the following: **Patient D** There is an entry dated 31 March 2015 in the clinical records for Patient D. However, that note states "*Bal not in – pt now getting some pain – rebooked 1.4.15",* suggesting that the planned appointment was cancelled. The electronic appointment book then shows that Patient D's mother attended the Practice at 10.15am on 1 April 2015 to collect Patient D's night guard. The Committee accepted the opinion of Mr Scott that Patient D's Band 3 course of treatment for a night guard could not be regarded as completed until 1 April 2015, which is when the patient's mother collected it. **Patient H** There is an entry dated 31 March 2015 in the clinical records for Patient H, which suggests that the patient had a denture fitted on that day. However, the Committee had regard to the relevant laboratory receipt, which indicated that the *'try in'* date was 19 March 2015, and the *'finish'* date was 31 March 2015. The Committee took into account your evidence that it was your usual practice to specify to the laboratory a *'finish'* date that was one or two days before an appliance was required. It considered your evidence on this issue to be consistent with the information in the electronic appointment book which indicates that Patient H attended the Practice for a "fit" on 1 April 2015. **Patient P** The Committee noted the presence of a clinical record dated 31 March 2015 for Patient P, and the presence of a radiograph with the date 31 March handwritten on it. However, it preferred the information in the electronic appointment book, which indicates that Patient P attended the Practice for an appointment on 1 April 2015, and not 31 March 2015. In preferring the electronic appointment, the Committee considered that accuracy of the information within compared with the clinical records which it found to be less reliable. Having taken into account all the evidence, the Committee was satisfied on the balance of probabilities that the courses of treatment for all the patients in Schedule A continued into April 2015, and

	therefore could not have been completed on 31 March 2015 as the FP17 forms suggested. In reaching its decision, the Committee noted the indications in the clinical records that a number of the appointments that were booked with you on 31 March 2015 had to be cancelled as you were not at the Practice. It was your oral evidence that you were there, but only for part of that day. Whilst the Committee noted your evidence that seeing a high number of patients on one day was not unusual considering how busy the Practice was generally, the Committee was not satisfied on the evidence that you did complete the courses of treatment for all the patients in Schedule A. Accordingly, the Committee concluded that the FP17 forms that were submitted inaccurately purported that courses of treatment were completed on 31 March 2015. In terms of the submission of the FP17 forms, the Committee noted the basis of your admissions, which it accepted. It considered that in the absence of the original FP17 forms, there is insufficient evidence on which it could conclude that you submitted the forms yourself. However, it was satisfied on the evidence, including the expert evidence of Mr Scott, that it was your responsibility as the NHS contract holder and practice principal to ensure that accurate NHS claims were made. Therefore, its findings are based on your having caused or allowed the FP17 forms to have been submitted.
2.	*You submitted, or caused or allowed to be submitted, claims for incomplete CoTs which inaccurately purported that the date of the last visit by the patient was on or before 31 March 2015, including those set out in Schedule B.* **Admitted on the basis that you caused or allowed to be submitted claims in respect of the following four patients listed in Schedule B, namely Patients F, I, T and W.** **Found proved on the basis that you caused or allowed to be submitted claims in respect of all five patients listed in Schedule B.** The Committee noted that you admitted that inaccurate claims for incomplete courses of treatment were submitted in respect of Patients F, I T and W. Having considered all the evidence, the Committee was satisfied that this was the case, and it accepted your admissions that these inaccurate claims were caused or permitted by you. In relation to Patient AM, the Committee noted that the electronic claims data indicates that this patient's Band 1 course of treatment was accepted and completed on the same day, namely on 31 March 2015. The Committee noted from the clinical records that there is an

	entry for 31 March 2015. That entry appears alongside the initials of the other dentist who worked with you at the Practice, and it indicates that Patient AM was seen at the Practice that day for an examination. However, the electronic appointment book indicates that neither you nor the other dentist saw any patients on 31 March 2015. It does, however, indicate that Patient AM was seen at the Practice on 2 April 2015, and there is evidence that the patient's medical history was reviewed on that date. A further note in the clinical records dated 24 April 2015 states that "FORM SENT INCOMPLETE". The Committee was satisfied, on the basis of the evidence, that the date of Patient AM's last visit to the Practice was 2 April 2015, and not 31 March 2015 as purported on the relevant FP17 form. Accordingly, this claim made for incomplete treatment was inaccurate, and this head of charge is also proved in respect of Patient AM. In the absence of the original FP17 forms, the Committee considered there was little or no evidence on which it could conclude that you submitted the forms yourself. Therefore, its findings are based on your having caused or allowed all the FP17 forms in this instance to have been submitted in your capacity as practice principal and the NHS contract holder.
3.	*You amended retrospectively, or caused or allowed to be amended retrospectively, records to indicate that appointments had taken place on 31 March 2015 when the appointments had taken place on a later date, including those set out in Schedule C.* **Admitted on the basis that you caused or allowed to be amended retrospectively records in respect of 25 of the 27 patients listed in Schedule C, namely: Patients M, T, U, V, W, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AJ, AL, AN, AO, AP, AQ, AR, AS, AU and AV.** **Found proved on the basis that you caused or allowed to be amended retrospectively records in respect of all 27 patients listed in Schedule C.** The Committee noted that you admitted that you caused or allowed to be amended retrospectively records in relation to 25 of the patients in question. Having considered all the evidence, the Committee was satisfied that this was the case, and it accepted your admissions, including the basis on which they were made. However, the Committee also found this head of charge proved in relation to the two remaining patients in Schedule C, Patient G and Patient X. It considered the clinical records for both patients, and it noted that the date 31 March 2015 appears in each instance as an amendment. In the clinical records for Patient X the Committee could

	clearly see that the date 8 April 2015 had been crossed out and the date 31 March 2015 written underneath. In the circumstances, the Committee was satisfied that this was a retrospective amendment. In the clinical records of Patient G, whilst the Committee could see that the date 31 March 2015 had been overwritten over a date that was there previously, it could not see what that initial date was. However, having taken all the evidence into account, including your admission that a large number of the patient records were amended retrospectively, the Committee was satisfied on the balance of probabilities that the record in respect of Patient G was also retrospectively amended. Whilst the Committee found that all the relevant clinical records had been amended to include the date 31 March 2015, and that these amendments were made retrospectively, it received little or no evidence to indicate who made the amendments. It therefore concluded that there was no basis for a finding that you made the amendments yourself. However, the Committee considered that it was your duty as practice principal and the NHS contract holder to ensure that any information used to support claims to the NHS was correct. It was therefore satisfied that you caused or allowed the retrospective amendments to be made to the clinical records.
4.	*You made, or caused or allowed to be made, records which were inaccurate in that they purported that appointments had taken place on 31 March 2015 when they had taken place on a later date, including those set out in Schedule D.* **Found proved in relation to all 13 patients in Schedule D** As previously noted, the electronic appointment book indicates that neither you nor the dentist who worked with you, saw any patients on 31 March 2015. However, the Committee found that there were appointments for all the patients listed in Schedule D elsewhere in the electronic appointment book on various dates in April 2015. This was inconsistent with the clinical records for the patients, all of which indicated that the relevant appointments had taken place on 31 March 2015. In finding that the clinical records were more likely to be inaccurate, the Committee preferred the information in the electronic appointment book, which it considered provided consistent and accurate information about patients' appointments at the Practice in general. The Committee also noted that other information, such as medical histories where available, corroborate the April dates seen in the electronic appointment book and not the 31 March 2015 dates in the

	clinical records. Whilst the Committee again took into account that there was some information which might have suggested the possibility of appointments on 31 March 2015, such as laboratory receipts, it concluded that it was more likely that the treatments in question were completed after 31 March 2015. The Committee noted that there were laboratory receipts for a number of the patients indicating finish dates of either 30 or 31 March 2015. However, having considered your evidence about the finish dates being one or two days before treatment, the Committee was satisfied that the April dates in the day lists were more likely to be the correct ones. Accordingly, the Committee determined that the clinical records indicating that the patients in Schedule D had appointments at the Practice on 31 March 2015 were inaccurate. In the absence of sufficient evidence to indicate who made the inaccurate records, the Committee decided that there was no basis for a finding that you made these records yourself. However, the Committee considered that it was your duty as practice principal and the NHS contract holder to ensure that any information used to support claims to the NHS was correct. It was therefore satisfied that you caused or allowed the inaccurate clinical records to made.
	Allegations of misleading, inappropriate, and dishonest actions: In reaching its decisions in respect of the following allegations, the Committee considered heads of charge 7 and 8 before heads of charge 5 and 6. It considered it logical to first consider what you knew about the clinical records before considering what your intentions were, if any, in relation to the submissions of the inaccurate claims for treatment to the NHS.
7.	*One or more of your actions set out at 3 and Schedule C were:*
7. a)	*Misleading; and/or* **Admitted to the extent of your admissions to the underlying allegations at 3 and Schedule C, in so far as you caused or allowed records to be amended retrospectively.** **Found proved in respect of all the actions set out at 3 and Schedule C, in so far as you caused or allowed records to be amounted retrospectively.** The Committee found this allegation proved on the basis that amended records which do not reflect the true dates of appointments are clearly misleading.

7. b)	*Inappropriate; and/or* **Admitted to the extent of your admissions to the underlying allegations at 3 and Schedule C, in so far as you caused or allowed records to be amended retrospectively.** **Found proved in respect of all the actions set out at 3 and Schedule C, in so far as you caused or allowed records to be amended retrospectively.** In finding this allegation proved, the Committee had regard to Standard 4.1. of the GDC's '*Standards for the Dental Team (Effective from September 2013),* which states that "*You must make and keep contemporaneous, complete and accurate patient records".* Whilst the Committee found that there was little or no evidence that you amended the records yourself, it took into account your overriding duty for the Practice records in your capacity as principal and the NHS contract holder. The Committee concluded that causing or allowing records to be amended retrospectively and misleadingly (as found by the Committee in 7a above) is inappropriate.
7. c)	*Dishonest in that:*
7. c) i)	*You knowingly represented, or knowingly caused, or knowingly allowed, to be represented those appointments had taken place on 31 March 2015 when they had not; and/or* **Admitted to the extent of your admissions to the underlying allegations at 3 and Schedule C, in so far as you caused or allowed records to be amended retrospectively.** **Found proved in respect of all the actions set out at 3 and Schedule C, in so far as you caused or allowed records to be amended retrospectively.**
7. c) ii)	*You intended UDAs to be attributed to the wrong financial year, namely 2014/2015.* **Admitted to the extent of your admissions to the underlying allegations at 3 and Schedule C, in so far as you caused or allowed records to be amended retrospectively.** **Found proved in respect of all the actions set out at 3 and Schedule C, in so far as you caused or allowed records to be amended retrospectively.** The Committee took into account the conflict between your admissions to dishonesty made at the outset of the case, by Ms Tanchel on your behalf, and what you said during your oral evidence. Having admitted dishonesty, you told the Committee that you had no knowledge of any

	retrospective amendments to the records. Your evidence was the same in relation to the inaccurate claims for treatment. You said that you did not know why the records were amended, and that you only became aware of the inaccurate claims after the event. You stated that your admissions to the dishonesty were based on your acknowledged responsibilities as the NHS contract holder for the Practice. In her closing submissions Ms Tanchel acknowledged the inconsistency between the evidence given and the admissions made, and she told the Committee that you stand by your admissions made at the outset. In the light of this conflict, the Committee considered that it could not rely on your admission alone or the basis on which you made them. Instead, it considered the evidence in the round to establish what you knew around the material time of all the events. The evidence was that the Practice had underperformed for six out of the seven previous years under your NHS contract. It was known to you that the NHS contract managers had concerns about whether your original contract target was achievable. You had been warned that there could be a permanent reduction in your contract value. The Committee heard from you in evidence about the significant impact that a permanent reduction would have had on the Practice, including in relation to staffing. It is against this factual background that inaccuracies and amendments appear in the clinical records, many of which, the Committee noted, were records for your patients. The Committee considered that it was inconceivable that you would not have noticed these changes in the circumstances and/or noted the significance of them. Specifically in relation to this head of charge, all the retrospective amendments to the clinical records were designed to make it appear as if the patients' appointments had taken place on 31 March 2015. Clearly, amending the clinical records in this way would have been beneficial to bolstering activity under your NHS contract for that financial year. Whilst you maintained that you had been unaware at the material time, the Committee asked you whether you had conducted an internal investigation when the matters concerning the records eventually came to your attention, and you said that you had not. The Committee considered this questionable, given the serious implications that such actions could have had for your NHS contract if discovered. The Committee also noted that you blamed your ignorance of what was going on at the Practice on your frequent absences from work because of ongoing personal matters around that time. However, until questioned by the Committee, you failed to mention that you worked

	two or three days per week at another practice. The Committee found that your evidence lacked credibility. It was satisfied that in your position as practice principal, and as the NHS contract holder, you must have known that retrospective amendments were being made to the clinical records, and it was satisfied that you knowingly caused or knowingly allowed it to be represented that appointments had taken place on 31 March 2015 because of the pressures of retaining your original contract value. The Committee was satisfied, having considered all the evidence, that you intended UDAs to attributed to the wrong financial year. The Committee was also satisfied that ordinary and decent people would consider what you knowingly caused or allowed to be dishonest. Accordingly, this allegation of dishonesty is found proved.
8.	*One or more of your actions set out at 4 and Schedule D were*
8. a)	*Misleading; and/or* **Found proved.** The Committee found this allegation proved on the basis that inaccurate records which do not reflect the true dates of appointments are clearly misleading.
8. b)	*Inappropriate; and/or* **Found proved.** For the same reasons given at head of charge 7b above.
8. c)	*Dishonest in that:*
8. c) i)	*You knowingly represented, or knowingly caused or knowingly allowed, to be represented that appointments had taken place on 31 March 2015 when they had not; and/or* **Found proved.**
8. c) ii)	*You intended UDAs to be attributed to the wrong financial year, namely 2014/2015.* **Found proved.** The Committee considered heads of charge 8(c)(i) and 8(c)ii and found them proved in respect of the inaccurate records for the same reasons given at 7(c)(i) and 7(c)ii above.
5.	*One or more of your actions set out at 1 and Schedule A were:*
5. a)	*Misleading; and/or*

	Admitted to the extent of your admissions to the underlying allegations at heads of charge 1 and Schedule A, in so far as you caused or allowed inaccurate claims to be submitted. **Found proved in respect of all the actions set out at 1 and Schedule A, in so far as you caused or allowed the inaccurate claims to be submitted.** The Committee found this allegation proved on the basis that claims that are inaccurate are clearly misleading.
5. b)	*Inappropriate; and/or* **Admitted to the extent of your admissions to the underlying allegations at heads of charge 1 and Schedule A, in so far as you caused or allowed inaccurate claims to be submitted.** **Found proved in respect of all the actions set out at 1 and Schedule A, in so far as you caused or allowed the inaccurate claims to be submitted.** The Committee also considered that the inaccurate claims were inappropriate. It accepted the evidence of Mr Scott that it would be inappropriate for a performer to give inaccurate information on a FP17 form. The Committee also had regard to the requirement to make and keep accurate records under Standard 4.1. of the GDC Standards. Whilst the Committee found that there was no evidence that you submitted the inaccurate claims yourself, it took into account that it was your NHS contract under which the inaccurate information was submitted.
5. c)	*Dishonest in that:*
5. c) i)	*you knowingly represented, or knowingly caused, or knowingly allowed, to be represented that CoTs had been completed on 31 March 2015 when they had not; and/or* **Admitted to the extent of your admissions to the underlying allegations at heads of charge 1 and Schedule A, in so far as you caused or allowed inaccurate claims to be submitted.** **Found proved in respect of all the actions set out at 1 and Schedule A, in so far as you caused or allowed the inaccurate claims to be submitted.**
5. c) ii)	*You intended UDAs to be attributed to the wrong financial year, namely 2014/2015.* **Admitted to the extent of your admissions to the underlying allegations 1 and Schedule A, in so far as you caused or allowed**

	inaccurate claims to be submitted. **Found proved in respect of all the actions set out at 1 and Schedule A, in so far as you caused or allowed the inaccurate claims to be submitted.** The Committee found this allegation of dishonesty proved in respect of the inaccurate claims for the same reasons as set out at heads of charge 7(c)(i) and 7(c)ii above. Having found that you must have known that clinical records were being amended retrospectively, and that inaccurate records were being made, and that you caused or allowed these actions to happen, the Committee was also satisfied that you knowingly caused, or knowingly allowed, to be represented that courses of treatment had been completed on 31 March 2015. In reaching its decision, the Committee took into account the that the evidence indicated that you did not attend the Practice on 31 March 2015, or that you were only there for half of that day, which was your own account. The Committee did not find your evidence credible that it would have been possible for you to see over 30 patients in the time that you were present at work, which on the evidence of the FP17 claims data, would have included the provision of a number of complex courses of treatment. Instead, the Committee considered that you knew what had happened with the submission of inaccurate claims, but were trying to portray otherwise. The Committee considered the submission of the inaccurate claims to be part of the same pattern aimed at inflating your UDAs for the financial year 2014/15. It was the view of the Committee, having considered the evidence, that you knew that the inaccurate records would serve to support the inaccurate claims, and that you caused or allowed these matters to occur with the intention of UDAs being attributed to the wrong financial year. The Committee was satisfied that ordinary and decent people would consider what you knowingly caused or allowed in respect of the inaccurate claims to be dishonest.
6.	*One or more of your actions set out at 2 and Schedule B were:*
6. a)	*Misleading; and/or* **Admitted to the extent of your admissions to the underlying allegations 2 and Schedule B, in so far as you caused or allowed claims for incomplete courses of treatment to be inaccurately made.**

	Found proved in respect of all the actions set out at 2 and Schedule B, in so far as you caused or allowed claims for incomplete courses of treatment to be inaccurately made. The Committee found this allegation proved on the basis that claims containing inaccurate information are clearly misleading.
6. b)	*Inappropriate; and/or* **Admitted to the extent of your admissions to the underlying allegations 2 and Schedule B, in so far as you caused or allowed claims for incomplete courses of treatment to be inaccurately made.** **Found proved in respect of all the actions set out at 2 and Schedule B, in so far as you caused or allowed claims for incomplete courses of treatment to be inaccurately made.** The Committee found this head of charge proved for the same reasons set out at head of charge 5b above.
6. c)	*Dishonest in that:*
6. c) i)	*you knowingly represented, or knowingly caused, or knowingly allowed, to be represented in relation to claims for incomplete CoTs that the date of the last visit was on or before 31 March 2015 when it was not;* **Admitted to the extent of your admissions to the underlying allegations 2 and Schedule B, in so far as you caused or allowed claims for incomplete courses of treatment to be inaccurately made.** **Found proved in respect of all the actions set out at 2 and Schedule B, in so far as you caused or allowed claims for incomplete courses of treatment to be inaccurately made.**
6. c) ii)	*You intended UDAs to be attributed to the wrong financial year, namely 2014/2015.* **Admitted to the extent of your admissions to the underlying allegations 2 and Schedule B, in so far as you caused or allowed claims for incomplete courses of treatment to be inaccurately made.** **Found proved in respect of all the actions set out at 2 and Schedule B, in so far as you caused or allowed claims for incomplete courses of treatment to be inaccurately made.** The Committee found this allegation of dishonesty proved for the same reasons given in respect of heads of charge 7(c)(i) and 7(c)ii

	and 5(c) (i) and 5(c)(ii) above.

We move to Stage Two."

On 21 November 2022, the hearing was adjourned part-heard. The Hearing re-opened on 11 April 2023.

On 11 April 2023, the Chair announced a determination on an application to adjourn the hearing:

"This Professional Conduct Committee hearing of Mr Ahitan's case was due to resume today to commence the second stage of the proceedings. The first stage of the hearing was concluded in November last year, when the Committee handed down its findings of fact. However, Mr Ahitan is not present today, and the Committee heard an application made on his behalf for the adjournment of the hearing under Rule 58(2) of the '*General Dental Council (Fitness to Practise) Rules Order of Council 2006'* ('the Rules').

The hearing is currently proceeding remotely by Microsoft Teams video-link. Mr Ahitan is represented by Ms Vivienne Tanchel, Counsel. The Case Presenter for the General Dental Council (GDC) is Ms Rebecca Vanstone, Counsel.

The application to adjourn the hearing was heard in private pursuant to Rule 53 of the Rules. The Committee was satisfied that this was an appropriate course of action, given that the matters under consideration relate to Mr Ahitan's health.

In making the application, Ms Tanchel referred the Committee to her written skeleton argument and to medical evidence in relation to Mr Ahitan's health, both provided in advance of this hearing.

[IN PRIVATE].

It was Ms Tanchel's submission that there is medical evidence of a compelling nature to support her application for an adjournment. She contended that the medical evidence meets the standard of evidence necessary for such an application, as set out in relevant case law. Further, that the medical evidence complies with the applicable sections of the GDC's *'Guidance for the Practice Committees including Indicative Sanctions Guidance (Effective from October 2016; last revised in December 2020)'* ('the Practice Committee Guidance')

Ms Vanstone told the Committee that the GDC's position on the application was neutral, and that it was entirely a matter for the Committee.

The Committee's decision on the application

The Committee had regard to the submissions made by Ms Tanchel on behalf of Mr Ahitan and that the GDC made no submissions on the application. It accepted the

advice of the Legal Adviser, who also drew the Committee's attention to the relevant legal authorities and the Practice Committee Guidance.

In reaching its decision, the Committee took into account the public interest in the expeditious disposal of the case against Mr Ahitan. It remained mindful that, at the first stage of this hearing, it found all of the alleged facts against him proved. The Committee also took into account the need to be fair to the GDC by considering whether any injustice would be caused to the Council by adjourning the hearing.

Having weighed the public interest and fairness to the GDC against Mr Ahitan's own interests, the Committee concluded that the balance was in favour of adjourning these proceedings [IN PRIVATE]. Mr Ahitan has participated in the hearing up until this stage, and the Committee considered that it would be unfair to now proceed in his absence. It also took into account that the GDC did not oppose the adjournment application.

In all the circumstances, the Committee was satisfied that no injustice would be caused to either party by the adjournment of this hearing. Accordingly, it is adjourned until further notice. The Committee asks that Mr Ahitan's legal representatives remain in contact with the GDC regarding possible future listing dates.

That concludes this determination."

On 11 April 2023 the Chair announced a determination on an application for an interim order:

"In light of the Committee's determination made earlier today to adjourn Mr Ahitan's substantive hearing part-heard until further notice, Ms Rebecca Vanstone, Counsel for the General Dental Council (GDC) applied for the imposition of an interim order on his registration.

Mr Ahitan is not present today at this remote hearing, but he is represented by Ms Vivienne Tanchel, Counsel.

The Committee had regard to its power to impose an interim order under Section 32(3) of the *Dentists Act 1984 (as amended)*.

In accordance with Rule 53 of the *GDC (Fitness to Practise) Rules Order of Council 2006*, the Committee heard matters relating to Mr Ahitan's health in private.

Application for an interim order and summary of parties' submissions

Ms Vanstone applied for the imposition of an interim order of suspension on Mr Ahitan's registration on the basis that an interim order is in the wider public interest. She invited the Committee to consider imposing an interim order for a period of 18 months, [IN PRIVATE].

Ms Vanstone submitted that Mr Ahitan's substantive case is one in which serious findings have been made in relation to his conduct in respect of NHS claims for

patients' treatment, including findings of dishonesty. Ms Vanstone submitted that a reasonable and informed observer would be shocked if Mr Ahitan could continue to practise unrestricted with such serious allegations having been found proved against him.

It was acknowledged by Ms Vanstone that the threshold is set high for the imposition of an interim order on wider public interest grounds alone. She also acknowledged that the Committee's findings were handed down in November 2022 and there has been no interim order on Mr Ahitan's registration to date. However, it was Ms Vanstone's submission that there is now a subtle difference from when the Committee's findings of fact were made last year. She submitted that, at that time, there were forthcoming dates for the substantive hearing to resume and be concluded, but now the hearing is not going to be relisted imminently and it is unlikely to be rescheduled before 2024. Therefore, Ms Vanstone submitted, public interest considerations are now engaged.

Ms Vanstone submitted that an interim order of suspension is both necessary and proportionate in the wider public interest. She stated that an interim order of conditions would not be workable given the serious matters that have been found proved.

Ms Tanchel told the Committee that the imposition of an interim order was not opposed in principle. However, she questioned why the GDC had not made such an application in November 2022 when the Committee's findings of fact were handed down, or at any point between then and now. She contended that the fair and proper course would have been for a health case to have been referred in respect of Mr Ahitan to allow for the proper statutory steps to be followed.

Ms Tanchel further submitted that the passage of time does not assist the GDC in this case, given that the substantive findings against Mr Ahitan do not relate to public safety issues. She submitted that it is irrelevant that there is now an indeterminate time for the substantive case to be concluded. However, having referred to these matters, Ms Tanchel reiterated that an interim order is not opposed and that this should be to Mr Ahitan's credit.

In the circumstances, Ms Tanchel made no submissions as to the length of any interim order. [IN PRIVATE].

The Committee's decision on an interim order

The Committee took account of the submissions made by both parties. It accepted the advice of the Legal Adviser. In accordance with that advice, the Committee took into account that, although the GDC's application was made solely on the basis of its findings of fact and associated wider public interest considerations, it was entitled to take into account all the information before it. This included the medical evidence it received today in support of the application to adjourn Mr Ahitan's substantive hearing.

Furthermore, in conducting its risk assessment, the Committee understood that it was entitled to consider all three of the statutory grounds. It therefore considered whether, in light of all the information before it today, an interim order on Mr Ahitan's registration is necessary for the protection of the public, is otherwise in the public interest, or is in his own interests.

In all its considerations, the Committee applied the principle of proportionality, balancing the public interest with Mr Ahitan's interests. It had regard to the *Interim orders guidance for decision makers – Interim Orders Committee (October 2016).*

The Committee first considered whether an interim order is in the wider public interest, given that this was the sole ground advanced by the GDC in making its application. In doing so, the Committee had regard to the serious and wide-ranging nature of its substantive findings, which relate to a large number of patients, and involve findings of dishonesty in respect of claim for treatment made to the NHS.

Whilst the Committee bore in mind that it has not yet made any determination in relation to Mr Ahitan's fitness to practise, it was satisfied on the basis of the gravity of its findings, that the wider public interest is engaged. It considered that a reasonable and informed observer would be shocked and alarmed if an interim order were not imposed on Mr Ahitan's registration pending the conclusion of the substantive hearing. In reaching this conclusion, the Committee took into account Ms Tanchel's observation as to the timing of this application, but as the substantive hearing is now subject to an open-ended adjournment, the circumstances have changed. In its view, an interim order is now required to maintain public confidence in the dental profession and to uphold proper professional standards.

The Committee was also satisfied that an interim order is in Mr Ahitan's own interests. [IN PRIVATE].

Finally, the Committee considered the issue of public protection. It took into account that this was not a ground put forward by the GDC. It also took into account that its substantive findings handed down in November 2022, did not feature any concerns relating to Mr Ahitan's clinical practice. However, taking into account all the information before it today, including the medical evidence provided, the Committee considered that this statutory ground is also engaged. [IN PRIVATE]. The Committee was satisfied that an interim order is necessary for the protection of the public.

The Committee next considered the type of interim order. It considered whether an interim order of conditions would be appropriate and proportionate to address the identified risks in this case. [IN PRIVATE]. It also took into account that serious findings of dishonesty have been made against Mr Ahitan. In all the circumstances, the Committee concluded that it could not formulate any practical or workable conditions that would protect the public and the wider public interest. It also did not consider that an interim order of conditions would be in Mr Ahitan's interests given the medical evidence before it.

Accordingly, the Committee determined to impose an interim order of suspension on Mr Ahitan's registration. It took into account that an interim suspension order would prevent him from working, albeit he is not working currently. However, the Committee was satisfied that an interim suspension is a proportionate response in this case.

The interim order of suspension will be imposed for a period of 18 months. [IN PRIVATE].

Review of the interim order

Unless there has been a material change of circumstances, the Interim Orders Committee will review the interim order on the papers at an administrative meeting within the next six months. That Committee will be invited by the GDC to confirm the order, and Mr Ahitan will be asked whether there are any written submissions to be put before the Committee on his behalf. He will then be notified of the outcome in writing following the decision of the Committee.

Alternatively, Mr Ahitan is entitled to have the interim order reviewed at a hearing. This means that he will be able to attend and make representations, send a representative on his behalf, or submit written representations about whether the order continues to be necessary. Mr Ahitan must inform the GDC if he would like the interim order to be reviewed at a hearing.

Even if Mr Ahitan does not request a hearing, where it is notified that there has been a material change of circumstances that might mean that the order should be revoked, or replaced, a Committee will review the order at a hearing to which he and any representative will be invited to attend.

That concludes this determination."

On 11 April 2023 the hearing was adjourned with an interim order. The hearing was scheduled to resume on 20 September 2024.

On 20 September 2024, the Professional Conduct Committee adjourned the hearing and issued case management directions. The hearing has been scheduled to resume from 30 June to 2 July 2025.

Schedule A

1	*In respect of Patient A for a band 3 course of treatment ("CoT") which was completed on or around 8 April 2015*
2	*In respect of Patient B for a band 3 CoT which was completed on or around 1 April 2015*
3	*In respect of Patient C for a band 2 CoT which was completed on or around 8 April*

	2015
4	*In respect of Patient D for a band 3 CoT which was completed on or around 1 April 2015*
5	*In respect of Patient E for a band 3 CoT which was completed on or around 1 April 2015*
6	*In respect of Patient G for a band 1 CoT which was completed on or around 1 April 2015*
7	*In respect of Patient H for a band 3 CoT which was completed on or around 1 April 2015*
8	*In respect of Patient J for a band 3 CoT which was completed on or around 22 April 2015*
9	*In respect of Patient K for a band 3 CoT which was completed on or around 1 April 2015*
10	*In respect of Patient L for a band 3 CoT which was completed on or around 2 April 2015*
11	*In respect of Patient M for a band 2 CoT which was completed on or around 8 April 2015*
12	*In respect of Patient N for a band 3 CoT which was completed on or around 1 April 2015*
13	*In respect of Patient O for a band 3 CoT which was completed on or around 1 April 2015*
14	*In respect of Patient P for a band 1 CoT which was completed on or around 1 April 2015*
15	*In respect of Patient Q for a band 2 CoT which was completed on or around 1 April 2015*
16	*In respect of Patient R for a band 3 CoT which was completed on or around 1 April 2015*
17	*In respect of Patient S for a band 2 CoT which was completed on or around 1 April 2015*
18	*In respect of Patient U for a band 1 CoT which was completed on or around 10 April 2015*
19	*In respect of Patient V for a band 2 CoT which was completed on or around 8 April 2015*
20	*In respect of Patient X for a band 1 CoT which was completed on or around 8 April 2015*
21	*In respect of Patient Y for a band 2 CoT which was completed on or around 8 April 2015*

22	*In respect of Patient Z for a band 1 CoT which was completed on or around 8 April 2015*
23	*In respect of Patient AA for a band 2 CoT which was completed on or around 8 April 2015*
24	*In respect of Patient AB for a band 2 CoT which was completed on or around 8 April 2015*
25	*In respect of Patient AC for a band 2 CoT which was completed on or around 8 April 2015*
26	*In respect of Patient AD for a band 1 CoT which was completed on or around 8 April 2015*
27	*In respect of Patient AE for a band 3 CoT which was completed on or around 1 April 2015*
28	*In respect of Patient AF for a band 1 CoT which was completed on or around 9 April 2015*
29	*In respect of Patient AG for a band 1 CoT which was completed on or around 9 April 2015*
30	*In respect of Patient AH for a band 1 CoT which was completed on or around 9 April 2015*
31	*In respect of Patient AI for a band 1 CoT which was completed on or around 2 April 2015*
32	*In respect of Patient AJ for a band 1 CoT which was completed on or around 9 April 2015*
33	*In respect of Patient AK for a band 1 CoT which was completed on or around 2 April 2015*
34	*In respect of Patient AL for a band 1 CoT which was completed on or around 10 April 2015*
35	*In respect of Patient AN for a band 1 CoT which was completed on or around 9 April 2015*
36	*In respect of Patient AO for a band 1 CoT which was completed on or around 9 April 2015*
37	*In respect of Patient AP for a band 1 CoT which was completed on or around 9 April 2015*
38	*In respect of Patient AQ for a band 1 CoT which was completed on or around 9 April 2015*
39	*In respect of Patient AR for a band 1 CoT which was completed on or around 2 April 2015*
40	*In respect of Patient AS for a band 1 CoT which was completed on or around 2 April 2015*

41	*In respect of Patient AT for a band 1 CoT which was completed on or around 2 April 2015*
42	*In respect of Patient AU for a band 1 CoT which was completed on or around 10 April 2015*
43	*In respect of Patient AV for a band 1 CoT which was completed on or around 2 April 2015*
44	*In respect of Patient AW for a band 1 CoT which was completed on or around 2 April 2015*
45	*In respect of Patient AX for a band 1 CoT which was completed on or around 10 April 2015*

Schedule B

1	*In respect of Patient F for an incomplete band 3 CoT in which the last visit had been on or around 5 May 2015*
2	*In respect of Patient I for an incomplete band 3 CoT in which the last visit had been on or around 6 May 2015*
3	*In respect of Patient T for an incomplete band 3 CoT in which the last visit had been on or around 8 April 2015*
4	*In respect of Patient W for an incomplete band 3 CoT in which the last visit had been on or around 8 April 2015*
5	*In respect of Patient AM for an incomplete band 1 CoT in which the last visit had been on or around 2 April 2015*

Schedule C

1	*In respect of Patient G's appointment of on or around 8 April 2015*
2	*In respect of Patient M's appointment of on or around 8 April 2015*
3	*In respect of Patient T's appointment of on or around 8 April 2015*
4	*In respect of Patient U's appointment of on or around 10 April 2015*
5	*In respect of Patient V's appointment of on or around 8 April 2015*
6	*In respect of Patient W's appointment of on or around 8 April 2015*
7	*In respect of Patient X's appointment of on or around 8 April 2015*
8	*In respect of Patient Y's appointment of on or around 8 April 2015*
8	*In respect of Patient Z's appointment of on or around 8 April 2015*
10	*In respect of Patient AA's appointment of on or around 8 April 2015*
11	*In respect of Patient AB's appointment of on or around 8 April 2015*

12	*In respect of Patient AC's appointment of on or around 8 April 2015*
13	*In respect of Patient AD's appointment of on or around 8 April 2015*
14	*In respect of Patient AE's appointment of on or around 1 April 2015*
15	*In respect of Patient AF's appointment of on or around 9 April 2015*
16	*In respect of Patient AG's appointment of on or around 9 April 2015*
17	*In respect of Patient AH's appointment of on or around 9 April 2015*
18	*In respect of Patient AJ's appointment of on or around 9 April 2015*
19	*In respect of Patient AL's appointment of on or around 10 April 2015*
20	*In respect of Patient AN's appointment of on or around 9 April 2015*
21	*In respect of Patient AO's appointment of on or around 9 April 2015*
22	*In respect of Patient AP's appointment of on or around 9 April 2015*
23	*In respect of Patient AQ's appointment of on or around 9 April 2015*
24	*In respect of Patient AR's appointment of on or around 2 April 2015*
25	*In respect of Patient AS's appointment of on or around 2 April 2015*
26	*In respect of Patient AU's appointment of on or around 10 April 2015*
27	*In respect of Patient AV's appointment of on or around 2 April 2015*

Schedule D

1	*In respect of Patient H's appointment of on or around 1 April 2015*
2	*In respect of Patient K's appointment of on or around 1 April 2015*
3	*In respect of Patient O's appointment of on or around 1 April 2015*
4	*In respect of Patient P's appointment of on or around 1 April 2015*
5	*In respect of Patient Q's appointment of on or around 1 April 2015*
6	*In respect of Patient R's appointment of on or around 1 April 2015*
7	*In respect of Patient S's appointment of on or around 1 April 2015*
8	*In respect of Patient AI's appointment of on or around 2 April 2015*
8 a	*In respect of Patient AK's appointment of on or around 2 April 2015*
10	*In respect of Patient AM's appointment of on or around 2 April 2015*
11	*In respect of Patient AT's appointment of on or around 2 April 2015*
12	*In respect of Patient AW's appointment of on or around 2 April 2015*

13	*In respect of Patient AX's appointment of on or around 10 April 2015*