

**HEARING PARTLY HEARD IN PRIVATE\***

\*The Committee has made a determination in this case that includes some private information. That information has been omitted from this text.

**GALLIMORE, Natalie Jane**

**Registration No: 127559**

**PROFESSIONAL CONDUCT COMMITTEE**

**AUGUST 2018 - AUGUST 2020\***

**Most recent outcome: Suspended indefinitely**

\*See page 12 for the latest determination

Natalie Jane GALLIMORE, a dental nurse, Qual- Cert in Dental Surgery Assisting NEBDSA 1990, was summoned to appear before the Professional Conduct Committee on 6 August 2018 for an inquiry into the following charge:

**Charge**

“That being a registered dental care professional:

1. Between July 2015 and June 2016, you misappropriated a quantity of 30/500mg Co-Codamol capsules from Woodvale Clinic, The Lodge, Toft Road, Knutsford, Cheshire, WA16 9SS.
2. Your conduct in relation to allegation 1 was dishonest.
3. From 17 February 2017 until at least 31 May 2018, you failed to cooperate with an investigation conducted by the General Dental Council in that you did not:
  - a. provide details of any indemnity arrangements you had in place,
  - b. provide details of your employment,
  - c. reply to requests to undergo a health assessment.
4. You have an adverse health condition as detailed in Schedule 1.

And that, by reason of the matters alleged above, your fitness to practise is impaired by reason of adverse mental health and/or misconduct.”

On 7 August 2018 the Chairman made the following statement regarding the finding of facts:

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

Ms Gallimore was neither present nor represented in this hearing. At the commencement of the hearing Ms Headley, Case Presenter for the General Dental Council (GDC) submitted that the notification of hearing had been sent to the Registrant in accordance with Rules 13 and 65 of the General Dental Council (Fitness to Practise) Rules 2006 (the Rules).

The Committee had before it a copy of the notification of hearing letter dated 5 July 2018 which was sent to Ms Gallimore's address as it appears on the Register, by special delivery. It was satisfied that the letter contained all the components necessary for a notice of hearing to be valid as set out in the Rules. The Committee noted the Royal Mail track and trace proof of delivery document which showed that the letter was delivered on 6 July 2018 at 12:12pm and signed for in the printed name "GALLIMORE".

The notification of hearing was also sent to Ms Gallimore via email. Having heard the advice of the Legal Adviser, the Committee was satisfied that the notification of hearing had been served in accordance with Rules 13 and 65.

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

Ms Headley then made an application under Rule 54 that the hearing should proceed in Ms Gallimore's absence. She referred to the case of *Regina v Jones* [2002] UKHL 5 and *General Medical Council v Adeogba*; *General Medical Council v Visvardis* [2016] EWCA Civ 162. The Committee bore in mind that its discretion to proceed with a hearing in these circumstances should be exercised with the utmost care and caution. It took account of Ms Headley's submissions and it accepted the advice of the Legal Adviser.

The Committee noted the multiple correspondence sent by the GDC to Ms Gallimore during the course of its investigations. Ms Gallimore has not responded to the notice of hearing she was sent. The Committee concluded that Ms Gallimore has waived her right to attend this hearing. There is no request for an adjournment or postponement from Ms Gallimore and the Committee concluded that, based on the information before it, an adjournment was unlikely to secure her attendance at a future date. It concluded that fairness to the GDC and the public interest in the expeditious disposal of this case require the hearing should proceed, notwithstanding that Ms Gallimore is absent.

#### **Decision on application to proceed in private**

Ms Headley made an application under Rule 53(2) for some of this hearing to be held in private because of the charges that relate to the Registrant's health. The Committee accepted the advice of the Legal Adviser, granted the application and directed that the hearing should proceed in private when considering matters relating to Ms Gallimore's health.

#### **Background**

Ms Gallimore worked as a dental nurse/receptionist at the Woodvale Clinic, The Lodge, Cheshire.

In a letter dated 25 January 2017 the GDC were informed that Ms Gallimore had been dismissed from the Clinic following an allegation that between July 2015 and June 2016 she had misappropriated a quantity of 30/500mg Co-Codamol capsules from the clinic. The clinic had undertaken audits following concerns being raised by colleagues as to the increased number of Co-Codamol being ordered at the Clinic.

[private]

In light of the concerns raised the GDC requested that Ms Gallimore provide details of her indemnity arrangements and her employment. [private].

The Committee was informed that Ms Gallimore had no previous fitness to practice history or convictions and was otherwise of good character.

[private]

### **Witnesses**

The Committee heard oral evidence from two colleagues Witness JS and Witness JB .In the absence of the registrant, Ms Headley made every attempt to present alternative explanations for the behaviour of the registrant in her questioning of those witnesses. The Committee found the oral evidence of Witness JS to be at times vague and evasive, however, the Committee did take into account the passage of time since the events. The Committee found the oral evidence of Witness JB to be consistent and credible.

The Committee received a witness statement from one GDC employee YM who had tried to contact Ms Gallimore during the GDC's investigation of the case. The GDC sought to rely on their witness statement as their evidence in chief. The Committee did not have questions for this witness as their evidence was predominantly to produce documents that showed the attempts by the GDC to contact Ms Gallimore.

Ms Headley made an application, made under Rule 57(1), to admit in evidence the witness statement of Witness CE, who is currently travelling across America and is unable to be contacted. She submitted that it would be fair to admit these documents in accordance with Rule 57(1).

The Committee has considered the submissions made. It has accepted the advice of the Legal Adviser. The Committee was satisfied that the documents the GDC sought to rely on were relevant to the matters under consideration, and accordingly allowed Ms Headley's application under Rule 57.

[private]

The Committee carefully considered all the evidence before it. It took account of the submissions made by Ms Headley on behalf of the GDC. The Committee accepted the advice of the Legal Adviser. In accordance with that advice it considered each head of charge separately.

In relation to the allegation that Ms Gallimore's conduct was dishonest, the Committee was referred to the recent Supreme Court judgment in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 where the legal test for dishonesty was revisited. This was as follows:

*"When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest."*

The burden of proving the facts alleged is on the GDC and the standard of proof is the civil standard which is "on the balance of probabilities". Ms Gallimore is not required to prove anything. The Committee draw no adverse inferences from the absence of Ms Gallimore.

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

<p>1.</p>	<p>Proved.</p> <p>The Committee has sight of witness statements from colleagues at Woodvale Clinic, Witness JS and Witness JB. The Committee noted these witness statements and the oral evidence from both witnesses which confirmed that only three people had access to the locked drugs cupboard; JS, JB and the registrant.</p> <p>Witness JS states that following concerns raised by colleagues, he contacted the supplier and made enquiries in relation to deliveries from them between July 2015 and June 2016. The invoices confirmed that 2900 30/500mg Co-Codamol tablets had been ordered. Witness JS, having checked the patent records found that 2600 capsules had been unaccounted for. The invoices in question cover a period between July 2015 and June 2016.</p> <p>The Committee notes that in the investigatory meeting on 28 July 2016 Ms Gallimore had stated that her boyfriend had a fractured ankle and she wanted to give him some pain killers. She admitted to taking the Co-Codamol capsules from the Clinic and stated that “ I have given him a lot” and later stated “but I did not realise it was that many”.</p> <p>The two witnesses also confirm that only three colleagues could order the Co-Codamol capsules, and that having undertaken audits of patient records, were satisfied that Ms Gallimore was responsible for misappropriating Co-Codamol capsules.</p> <p>The Committee noted that subsequent audits for the next two years confirm that on average around 300 capsules a year were dispensed, which is a huge difference from the period referred to in the Head of Charge.</p> <p>The Committee notes that there was some allowance for other colleagues to take some medication for their personal use, however, the Committee is satisfied that Ms Gallimore had misappropriated a quantity of 30/500mg Co-Codamol capsules from Woodvale Clinic and finds this charge proved.</p> <p>Accordingly, having had careful regard to all the evidence, the Committee finds Head of Charge 1 proved.</p>
<p>2.</p>	<p>Proved.</p> <p>The witness statement of JS confirms that apart from one occasion when he gave Ms Gallimore permission to take one strip of Co-Codamol, he never gave permission to Ms Gallimore to take any more capsules.</p> <p>Ms Gallimore, in an internal investigatory meeting on 28 July 2016, admitted to taking the medication and destroying the itemised invoices. However, she later retracted her admissions stating that she was bullied into making these admissions.</p> <p>The Committee consider that the taking of prescribed drugs without permission from your employer is a dishonest act.</p> <p>The Committee, taking into account the circumstances of this case, is satisfied that the GDC has discharged the burden of proof. In considering the test in the</p>

	<p>case of <i>Ivey</i>, the Committee was satisfied that Ms Gallimore did knowingly misappropriate a quantity of Co-Codamol from the Woodvale Clinic. The Committee is further satisfied that her conduct was dishonest by the standards of ordinary decent people.</p> <p>Accordingly, having had careful regard to all the evidence, the Committee finds Head of Charge 2 proved.</p>
3. a)	<p>Proved.</p> <p>Ms Gallimore was asked to provide details of her indemnity arrangements and, details of her employment in a letter dated 3 February 2017. This also included a health assessment consent form. This was the first request made by the GDC. Ms Gallimore rang the GDC on 16 February 2017 to confirm receipt of delivery and that she refuted all allegations made against her. The Committee noted that this initial request and subsequent reminder on 22 February 2017, were sent to Ms Gallimore’s registered address. This letter was also emailed to Ms Gallimore at the email address from which she had been communicating.</p> <p>Numerous reminders were sent by the GDC to Ms Gallimore to provide the required information. The information was not provided by Ms Gallimore.</p> <p>The Committee noted the GDC Standards, and in particular;</p> <p>9.4.1 <i>If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter. You should seek advice from your indemnity provider or professional association.</i></p> <p>The Committee is satisfied that Ms Gallimore had a duty to cooperate with an investigation conducted by the GDC but had failed to do so.</p>
3. b)	<p>Proved.</p> <p>For the reasons as given in Head of Charge 3(a).</p>
3. c)	<p>Proved.</p> <p>For the reasons as given in Head of Charge 3(a).</p>
4.	<p>Proved.</p> <p>[private]</p> <p>The Committee found his diagnosis and prognosis to be well reasoned and supported by the medical records available and therefore accepts his view. It therefore finds this head of charge proved.</p>

We move to Stage Two.”

On 7 August 2018 the Chairman announced the determination as follows:

“The Committee having announced its decision on the facts, Ms Headley proceeded to make submissions pursuant to Rule 20 of the General Dental Council (GDC) (Fitness to Practise) Rules 2006. She informed the Committee that Ms Gallimore has no previous fitness to practise history. She then made submissions on misconduct and impairment in relation to

the charges found proved. She submitted that the facts found proved amount to misconduct and that Ms Gallimore's fitness to practise is impaired by reason of her misconduct and her adverse health condition and that the appropriate sanction to impose is one of erasure.

The Committee took account of the submissions made by Ms Headley on behalf of the GDC. It accepted the advice of the Legal Adviser.

The Committee bore in mind that its decisions on misconduct and impairment are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings. The Committee was referred to several authorities including *Roylance (no 2) v GMC* [2000] AC 311 and *Nandi v GMC* [2004] EWHC 2317 (Admin).

### **Misconduct**

The Committee took into account that a finding of misconduct in the regulatory context requires a serious falling short of the professional standards expected of a registered dental professional. It had regard to the GDC's standards, as contained in the publication '*Standards for the Dental Team (30 September 2013)*'. The Committee considered that the following standards are engaged in this case:

1.3 Be honest and act with integrity.

1.7.7 If you believe that patients might be at risk because of your health, behaviour or professional performance or that of a colleague, or because of any aspect of the clinical environment, you must take prompt and appropriate action.

1.8 Have appropriate arrangements in place for patients to seek compensation if they suffer harm.

9.2. You must protect patients and colleagues from risks posed by your health, conduct or performance.

9.4.1 If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter. You should seek advice from your indemnity provider or professional association.

The Committee has found proved that between July 2015 and June 2016 Ms Gallimore misappropriated a quantity of Co-Codamol capsules from Woodvale Clinic as well as failing to co-operate with the GDC's investigation between 17 February 2017 to 31 May 2018. It also found her conduct to be dishonest.

The Committee has reminded itself that in order to make a finding of misconduct, it must be satisfied that the findings against Ms Gallimore constitute acts or omissions falling short of what is proper in the circumstances.

The Committee took into account that the findings that have been made, which include an instance of dishonesty, and failing to engage with her regulator, raise serious and fundamental concerns about Ms Gallimore's adherence to the professional standards.

Having itself taken into account all the aspects of Ms Gallimore's behaviour, including the associated instance of dishonesty, the Committee was in no doubt that her actions and omissions, both individually and cumulatively represented serious breaches of the relevant standards. It is satisfied the members of the dental profession would find her conduct to be deplorable.

Accordingly, the Committee has determined that the facts found proved amount to misconduct.

#### **Impairment by reason of Misconduct**

The Committee considered whether Ms Gallimore's misconduct is remediable, has been remedied and whether it is likely to be repeated. The Committee considered that it is very difficult to remedy the type of misconduct found in this case, which involves aspects of her behaviour including dishonesty, as opposed to issues of a clinical nature. However, there is no current evidence before it from Ms Gallimore of any steps she has taken towards addressing her failings. There is also no current evidence of Ms Gallimore's insight into her dishonest behaviour or the importance of complying with directions from her regulator. Ms Gallimore's engagement with the GDC ceased in February 2017 and no further communication has been received from her. In the absence of any recent evidence from Ms Gallimore, the Committee could not conclude that she has remedied her failings or that she has developed sufficient insight into those failings. It therefore considers that there is a potential risk of repetition. There was and may remain a risk to the public in the availability of prescription drugs without proper control. Furthermore, the Committee is of the view that public confidence would be undermined if a finding of impairment was not made in the light of the dishonest misconduct found proved and the absence of any evidence to demonstrate remediation. It concluded that a finding of impairment is required in the public interest, to maintain public confidence in the profession and to uphold and maintain professional standards. The Committee therefore determined that Ms Gallimore's fitness to practise is impaired by reason of her misconduct.

#### **Impairment by reason of Adverse Health**

[private] It concluded that a finding of impairment is also in the public interest. It therefore determined that Ms Gallimore's fitness to practise is impaired by reason of her adverse health condition [private].

#### **Sanction**

The Committee next considered what action, if any, to take in relation Ms Gallimore's registration. It reminded itself that the purpose of a sanction is not to be punitive although it may have that effect. The Committee has considered carefully the submissions made by Ms Headley. It also had regard to the evidence of Dr Garvey. The Committee bore in mind the principle of proportionality. The Committee then considered the available sanctions in ascending order. It had regard to the Guidance for the Practice Committees, including Indicative Sanctions Guidance (1 October 2016).

In its consideration of the appropriate sanction, the Committee took into account the following aggravating and mitigating features it identified in this case.

Aggravating:

- Dishonest behaviour
- Breach of trust
- Sustained conduct over a period of time
- Wilfull disregard to her regulatory body
- Lack of insight

Mitigating:

- Previous good character
- The time elapsed since the events
- Lack of drug control within the Clinic.

[private]The Committee determined that it could not allow Ms Gallimore to practise unrestricted.

[private]

The Committee took into account the GDC Sanctions Guidance and in particular 7.28 that suspension is appropriate for more serious cases and that many of the factors listed were engaged. The Committee then went onto consider the possibility of erasure, but took into account that there was an absence of formal written policies on the use of drugs by staff at the clinic, it therefore determined that erasure would be disproportionate.

The Committee therefore determined that a period of suspension was the appropriate sanction available to it.

The Committee considered that Ms Gallimore's actions were fundamentally incompatible with being a dental professional. Ms Gallimore has shown a blatant and wilful disregard for the important regulatory role of the GDC. She has flouted fundamental ethical standards. Her dishonest misconduct was sustained over a period of time. She has brought the profession into disrepute through her dishonest behaviour in respect of her practice as a dental nurse.

In considering the period of suspension [private]

Accordingly, the Committee determined that the suspension should be for a period of 12 months [private]

A Committee will review Ms Gallimore's case shortly before expiration of the suspension [private]It would also be necessary for Ms Gallimore to engage with the GDC and demonstrate insight and remediation into the misconduct found proved in this case.

The Committee now invites submissions from Ms Headley as to whether Ms Gallimore's registration should be suspended immediately."

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### **Decision on immediate order of suspension**

The Committee took account of the submissions made by Ms Headley on behalf of the GDC that an immediate order should be imposed on Ms Gallimore's registration. The Committee accepted the advice of the Legal Adviser.

The Committee considered that given the nature of its findings on misconduct, impairment and sanction, the lack of current evidence on Ms Gallimore's health and the need to protect patients and the wider public interest, an immediate order is necessary for the protection of the public, and is otherwise in the public interest. It therefore determined to impose an immediate order of suspension on Ms Gallimore's registration pursuant to Section 36U(1) of the Dentists Act 1984, as amended.

The effect of the foregoing direction and this order is that Ms Gallimore's registration will be suspended with immediate effect and unless she exercises her right to appeal, the

substantive direction of suspension for 12 months will take effect 28 days from when notice is deemed served on her. Should she exercise her right to appeal, this order for immediate suspension will remain in place pending the resolution of any appeal proceedings.

The interim order for suspension currently on Ms Gallimore's registration is hereby revoked.

That concludes the case."

At a review hearing on 12 August 2019 the Chairman announced the determination as follows:

"Ms Gallimore is neither present nor represented at this resumed hearing of the Professional Conduct Committee (PCC). Ms Headley is the Case Presenter for the General Dental Council (GDC).

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

In Ms Gallimore's absence the Committee first considered whether the GDC had complied with service of the Notice of Hearing in accordance with Rules 28 and 65 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules). In so doing, it took into account the submissions made by Ms Headley on behalf of the GDC. It accepted the advice of the Legal Adviser.

The Committee has received a copy of the Notification of Hearing, dated 15 July 2019, which was sent to Ms Gallimore's registered address, by way of special delivery and by secure email. The Committee is satisfied that the letter contains proper notification of today's hearing, including its time, date and location, as well as notification that the Committee has the power to proceed with the PCC hearing in Ms Gallimore's absence. Further, the letter was sent 28 days in advance of today's hearing in accordance with the rules. The Committee was provided with an emailed copy of the Notification of Hearing sent to Ms Gallimore's email address. Taking all this information into account, the Committee is satisfied that notification of this hearing had been served on Ms Gallimore in compliance with the rules.

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

The Committee then considered whether to exercise its discretion under Rule 54 to proceed in Ms Gallimore's absence. In so doing, it has borne in mind the submissions made by Ms Headley on behalf of the GDC. It has accepted the advice of the Legal Adviser.

The Committee is aware that its discretion to proceed in the absence of Ms Gallimore must be exercised with the utmost care and caution. It also had regard to the need for fairness to both parties, as well as the public interest in the expeditious disposal of the hearing.

The Committee is satisfied that Ms Gallimore has been sent notification of today's hearing. The Committee noted that Ms Gallimore has not requested an adjournment of this hearing and in the Committee's view, there is nothing before it to suggest that if it adjourned today Ms Gallimore might attend a future hearing. Further, the Committee considers that there is a clear public interest in reviewing the order today. Having weighed the interests of Ms Gallimore with those of the GDC, the Committee has determined to proceed with today's review hearing in Ms Gallimore's absence.

### **Decision on application to proceed in private**

Ms Headley made an application under Rule 53 for this hearing to be held in private as it concerned matters relating to Ms Gallimore's health. The Committee granted the application and directed that the hearing should proceed in private.

### **Background to Ms Gallimore's case**

Ms Gallimore's case was first considered by the PCC at a hearing in August 2018. That Committee found proved that while Ms Gallimore worked as a dental nurse/receptionist at the Woodvale Clinic, between July 2015 and June 2016 she had misappropriated a quantity of 30/500mg Co-Codamol capsules from the clinic. **[PRIVATE]**.

The Committee that considered the case in August 2018 determined

*"that it is very difficult to remedy the type of misconduct found in this case, which involves aspects of her behaviour including dishonesty, as opposed to issues of a clinical nature. However, there is no current evidence before it from Ms Gallimore of any steps she has taken towards addressing her failings. There is also no current evidence of Ms Gallimore's insight into her dishonest behaviour or the importance of complying with directions from her regulator. Ms Gallimore's engagement with the GDC ceased in February 2017 and no further communication has been received from her. In the absence of any recent evidence from Ms Gallimore, the Committee could not conclude that she has remedied her failings or that she has developed sufficient insight into those failings. It therefore considers that there is a potential risk of repetition. There was and may remain a risk to the public in the availability of prescription drugs without proper control. Furthermore, the Committee is of the view that public confidence would be undermined if a finding of impairment was not made in the light of the dishonest misconduct found proved and the absence of any evidence to demonstrate remediation. It concluded that a finding of impairment is required in the public interest, to maintain public confidence in the profession and to uphold and maintain professional standards. The Committee therefore determined that Ms Gallimore's fitness to practise is impaired by reason of her misconduct. the breaches of the GDC's standards, as highlighted by its findings, were serious and were capable of undermining public confidence in the profession. That Committee found that the facts found proved against Ms Gallimore amounted to misconduct and it determined that her fitness to practise was impaired by reason of that misconduct".*

In regard to Ms Gallimore's health that Committee determined that

**[PRIVATE]**.

*Ms Gallimore's fitness to practise is impaired by reason of her adverse health".*

That Committee determined to suspend Ms Gallimore's registration for a period of 12 months and imposed an immediate order of suspension. It directed a review of her case prior to the end of the 12 month period.

### **Submissions**

Ms Headley on behalf of the GDC submitted that there is no evidence that Ms Gallimore has practised in contravention of her current suspension order. She stated, however, that to date, there is no evidence that Ms Gallimore has remedied any of the failings identified by the previous Committee nor has she taken up the recommendations made. Ms Headley informed the Committee that Ms Gallimore has not given the GDC consent to access her

medical records. Ms Headley stated that Ms Gallimore has not engaged with the GDC for nearly two years. In light of the circumstances, Ms Headley invited the Committee to find that Ms Gallimore's fitness to practise remains impaired. Ms Headley further invited the Committee, if it found current impairment, to extend Ms Gallimore's suspension order by a period of 12 months with a review.

### **Today's review**

In comprehensively reviewing Ms Gallimore's case today, the Committee considered all the evidence before it. It took account of the submissions made by Ms Headley on behalf of the GDC and accepted the advice of the Legal Adviser. No material or written submissions were received from, or on behalf of, Ms Gallimore.

### **Impairment**

The Committee has determined that Ms Gallimore's fitness to practise remains impaired. It notes that Ms Gallimore has provided no information about any steps that she may have taken to remedy the misconduct that was previously found, or to develop and demonstrate insight into her actions. Save for providing the GDC with information stating that "she has not had anything to do with dentistry for a couple of years and she would like to be taken off the register". The Committee is of the view that Ms Gallimore has not engaged in these proceedings, and in particular has not presented any evidence of any steps taken to remedy her dishonest conduct.

The Committee also notes that Ms Gallimore has not provided any evidence of her having taken steps to address her health condition. **[PRIVATE]**.

The Committee has therefore concluded that the same risks to public safety and to public trust and confidence in the profession persist, and that accordingly Ms Gallimore's fitness to practise remains impaired by reason of her misconduct and her adverse health condition.

### **Sanction**

The Committee considered what action, if any, to take in respect of Ms Gallimore's registration. It had regard to its powers under Section 27C(1) of the *Dentists Act 1984 (as amended)*, which sets out the options available to it. The Committee took into account that the purpose of any sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest.

The Committee had regard to the '*Guidance for the Practice Committees including Indicative Sanctions Guidance (effective from October 2016)*'. It applied the principle of proportionality, balancing the public interest with Ms Gallimore's own interests. It considered the available sanctions in ascending order.

In the light of the Committee's outstanding concerns about public safety, it determined that it would be inappropriate to terminate the current suspension order or to allow it to lapse. It decided that some ongoing restriction of Ms Gallimore's registration is necessary to safeguard the public and to uphold the wider public interest.

The Committee next considered whether it would be appropriate to revoke the suspension and instead impose a period of conditional registration. The Committee considered whether it could formulate conditions which would be workable and which would address the risks that have been identified. The Committee concluded that it could not formulate any conditions which would be practicable or workable, given that Ms Gallimore has not

substantively engaged with today's hearing and there is a lack of evidence as to her current employment and circumstances.

The Committee then went on to consider whether it would be appropriate to extend the current period of suspension. It has determined that suspension remains the proportionate and appropriate sanction in the circumstances of this case. There remains a risk of harm to the public and to trust and confidence in the profession arising from Ms Gallimore's continued impairment. A further period of suspension is required to continue to protect the public, to declare and uphold proper standards of conduct and behaviour and to maintain trust and confidence in the profession.

In view of the risks to patients and to the wider public interest, as well as the absence of any evidence of remediation, the Committee hereby directs that Ms Gallimore's registration be suspended for a further period of 12 months. This period of time is commensurate with the ongoing risks that have been identified. Such a period of time will also provide a further time for Ms Gallimore to demonstrate insight into, and remediation of, the matters that have precipitated these proceedings.

In accordance with section 36Q (1) of the Act this extended period of suspended registration will take effect from the date on which the existing period of suspension would otherwise expire. The Committee has further determined that the suspension should be reviewed prior to its expiry.

### **Recommendations**

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

- Any evidence to demonstrate the further steps Ms Gallimore has taken to address the failings identified in relation to her dishonest conduct.
- Any evidence to demonstrate the steps that Ms Gallimore has taken to address her health condition.

### **Right of appeal**

Ms Gallimore will have 28 days from the date on which notice of this decision is deemed to have been served on her to appeal against this decision. Should she decide to appeal, the existing suspension will remain in force until the resolution of any such appeal. Should she decide not to appeal, the current suspension will be extended for a period of 12 months from the date on which it would otherwise expire.

That concludes this case for today."

At a review hearing on 11 August 2020 the Chairman announced the determination as follows:

"This was a review hearing before the Professional Conduct Committee in accordance with Section 36Q the Dentists Act 1984 (as amended) ('the Act'). The purpose of this hearing was for this Professional Conduct Committee (PCC) to review Ms Gallimore's case and determine what action to take in relation to her registration. Ms Gallimore was neither present nor represented at this hearing. Ms Vanya Headley appeared on behalf of the General Dental Council (GDC). The hearing was held remotely in line with current GDC guidance and all parties attended via video-link on Microsoft Teams.

**Preliminary Matters****Decision on Service of the Notice of Hearing**

The Committee first considered whether notice of the hearing had been served on Ms Gallimore in accordance with Rules 28 and 65 of the GDC's Fitness to Practise Rules 2006 ('the Rules') and Section 50A of the Dentists Act 1984 (as amended) ('the Act'). The Committee received from the GDC an indexed hearing bundle of 60 pages, which contained a copy of the Notice of Hearing ('the notice'), dated 2 July 2020, thereby complying with the 28-day notice period. The hearing bundle also contained a Royal Mail 'Track and Trace' receipt confirming that the notice was sent to Ms Gallimore's registered address by Special Delivery. A copy of the notice was also sent by first-class post and emailed to Ms Gallimore on 2 July 2020.

The Committee was satisfied that the notice sent to Ms Gallimore contained proper notification of today's hearing, including its time, date and that it will be held remotely by Microsoft Teams, and the other prescribed information including notification that the Committee had the power to proceed with the hearing in Ms Gallimore's absence.

On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Gallimore in accordance with the Rules and the Act.

**Decision on Proceeding in the Registrant's Absence**

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Ms Gallimore. It first concluded that all reasonable efforts had been taken to send the notification of hearing to Ms Gallimore in accordance with the Rules. It noted that the Royal Mail 'Track and Trace' receipt showed that the notice had been delivered to Ms Gallimore's registered address on 3 July 2020 and signed for.

The Committee approached the issue of proceeding in absence with the utmost care and caution. It took into account the factors to be considered in reaching its decision, as set out in the case of *R v Jones [2003] 1 AC 1HL* and *GMC v Adeogba & Visvardis [2016] EWCA Civ 162*. It remained mindful of the need to be fair to both Ms Gallimore and the GDC, taking into account the public interest and Ms Gallimore's own interests in the expeditious review of the suspension order imposed.

The information before the Committee indicates that there has been no response from Ms Gallimore. She has not provided a reason for her non-attendance, either in person or remotely. The Committee has not received any request for an adjournment from Ms Gallimore and it considers that adjourning the hearing would be unlikely to secure Ms Gallimore's future attendance. The Committee further noted that Ms Gallimore did not attend either the initial hearing or the previous review hearing. Therefore, the Committee determined that it was fair and appropriate to proceed with the hearing in the absence of Ms Gallimore.

**Application for Hearing to be held in Private**

Ms Headley made an application under Rule 53 of the Rules to hold this hearing entirely in private. She stated that the matters in this case relate largely to Ms Gallimore's health and that the misconduct in this case is intrinsically linked to these health matters.

Following advice from the Legal Adviser, the Committee had regard to its power under Rule 53. The Committee noted that the previous hearings were conducted partly in private and

there has been no further evidence of Ms Gallimore's health status since the previous review hearing. The Committee also considered that it was in the public interest for the misconduct matters to be heard in public. The Committee, therefore, decided that only the matters relating to Ms Gallimore's health should be heard in private and the rest of the case should be heard in public.

### **Background**

Ms Gallimore's case was first considered by a PCC at a hearing in August 2018. Ms Gallimore did not attend the hearing and was not represented. The charges against Ms Gallimore were that whilst working as a dental nurse/receptionist at a clinic in Cheshire, she misappropriated a quantity of 30/550 mg of Co-Codamol capsules from the clinic. It was also alleged that she failed to co-operate with the GDC's investigation into these matters from February 2017 until May 2018 by not providing the GDC with her indemnity and employment information, and not responding to its request to undergo a health assessment. **[IN PRIVATE]**. The Committee found all the charges proved.

The Committee determined that Ms Gallimore's fitness to practise was impaired by reason of misconduct and adverse health. In considering misconduct, the Committee "*was in no doubt that her actions and omissions, both individually and cumulatively represented serious breaches of the relevant standards. It is satisfied the members of the dental profession would find her conduct to be deplorable.*"

When considering impairment by reason of misconduct, the Committee noted that there was no evidence before it of any steps that Ms Gallimore had taken to address her failings. Furthermore, there was no current evidence of her insight into her dishonest behaviour. It therefore determined that Ms Gallimore's fitness to practise was impaired by reason of misconduct as it was required in the public interest, to maintain public confidence in the profession and to uphold and maintain professional standards.

**[IN PRIVATE]**. The Committee had no current evidence of the state of Ms Gallimore's health or whether she had any insight into her health condition. It therefore determined that Ms Gallimore's fitness to practise was also impaired by reason of her adverse health condition. The Committee determined that the appropriate sanction was one of suspension for 12 months with a review before the end of the period.

The PCC reviewed Ms Gallimore's case on 12 August 2019. Ms Gallimore did not attend and was not represented at this hearing. The Committee noted that Ms Gallimore had continued not to engage in these proceedings and had not taken any steps to remedy her dishonest conduct. The Committee also noted that Ms Gallimore had not provided any evidence that she had taken steps to address her health condition. The Committee therefore determined that Ms Gallimore's fitness to practise remained impaired by reason of her misconduct and her adverse health condition. It directed that her suspension be extended for a further period of 12 months with a review before the expiry of the order.

The PCC considered that a reviewing Committee may find it helpful to have sight of the following:

- Any evidence to demonstrate the further steps Ms Gallimore has taken to address the failings identified in relation to her dishonest conduct.

- Any evidence to demonstrate the steps that Ms Gallimore has taken to address her health condition.

### **Today's Review**

It is the role of the Committee today to undertake a comprehensive review of this case. In so doing, the Committee had careful regard to all the documentary evidence before it and it took account of the submissions made by Ms Headley on behalf of the GDC. No material or written submissions were received from, or on behalf of, Ms Gallimore. The Committee also heard and accepted the advice of the Legal Adviser. The Committee had regard to the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016, updated May 2019) ("the Guidance").

Ms Headley submitted that there has been no material change in the case since the previous review hearing. She further submitted that Ms Gallimore has continued not to engage with the GDC regarding these proceedings and has, therefore, not provided any of the evidence recommended by the previous Committee. Ms Gallimore has also not paid her annual retention fee and there is a clear intention that she no longer wishes to be on the register. She invited the Committee to find that Ms Gallimore's fitness to practice remains impaired by reason of misconduct and adverse health and that the sanction should be one of indefinite suspension.

### **Decision on Current Impairment**

In making its decision, the Committee first sought to determine whether Ms Gallimore's fitness to practise is currently impaired by reason of her misconduct and adverse health. It exercised its independent judgement and was not bound by the decision of the previous committee. It balanced Ms Gallimore's interests with those of the public and bore in mind that its primary duty is to protect the public, including maintaining public confidence in the profession and declaring and upholding proper standards and behaviour.

In considering whether Ms Gallimore's fitness to practise is currently impaired the Committee bore in mind that this is a matter for its own independent judgement. It also had regard to its duty to protect the public, declare and uphold proper standards of conduct and competence and maintain public confidence in the profession. The Committee accepted the advice of the Legal Adviser.

The Committee noted that there has been no material change in the case since the previous review hearing. Ms Gallimore has continued not to engage with the GDC and has provided no evidence to show that she has remediated her misconduct, as recommended by the previous Committee. The Committee concluded that as there was no evidence of remediation or insight, the risk that she would repeat her misconduct remained and, therefore, there was a real risk to the safety and well-being of the public if a finding of impairment was not made.

In relation to Ms Gallimore's health, the Committee noted that there is no evidence of the state of her health as recommended by the previous Committee. The Committee also noted that Ms Gallimore did not respond to the GDC's request to access her medical records. In the absence of any evidence, therefore, that Ms Gallimore had insight into her adverse health condition and was seeking the appropriate help and support to address it, the Committee concluded that her fitness to practise was also impaired by reason of her adverse health.

In relation to the public interest, the Committee concluded that, in the absence of any evidence of remediation and insight from Ms Gallimore with regard to her misconduct and adverse health, public confidence in the profession would be undermined if a finding of impairment was not made.

Accordingly, the Committee determined that Ms Gallimore's fitness to practise remains impaired by reason of her misconduct and adverse health.

### **Decision on Sanction**

The Committee next considered what sanction, if any, should be imposed on Ms Gallimore's registration. It bore in mind the need to protect the public, to uphold the reputation of the profession and to maintain public confidence in the profession. The Committee had regard to the principle of proportionality, weighing the interests of the public with her own interests.

The Committee has found that Ms Gallimore's fitness to practise remains impaired. In these circumstances, the Committee concluded that terminating the current suspension order would not be appropriate or sufficient for the protection of the public.

The Committee considered whether to replace the current suspension order with one of conditions. In so doing, it noted that Ms Gallimore has continued not to engage with these proceedings and has provided no evidence that she is seeking to address the [IN PRIVATE] health condition she was found to be suffering from. In these circumstances, the Committee is not satisfied that conditions would be appropriate, workable or sufficient for the protection of the public.

The Committee considers that it is necessary to maintain the current suspension in order to protect the public and safeguard public confidence in the dental profession. However, the Committee considers that it would not be in the public interest for the suspension to be subject to a review in 12 months' time as Ms Gallimore has not engaged with the GDC since February 2017 and there is no indication that she intends to engage in the future. Furthermore, the Committee has taken into account that Ms Gallimore has stated previously that she no longer wished to remain on the register. The Committee considers, therefore, that further reviews of Ms Gallimore's suspension would be unlikely to serve any purpose.

Accordingly, the Committee directs that Ms Gallimore's registration be indefinitely suspended. It is satisfied that the provisions of Section 36Q(1)(d)(i) and (ii) of the Act are met. It notes that this direction means that a review of the order can only take place if Ms Gallimore requests a review and a minimum of two years has elapsed since the direction took effect. Given Ms Gallimore's intentions not to practise anymore it is satisfied that this direction is appropriate and proportionate.

The effect of the foregoing direction is that, unless Ms Gallimore exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect.

That concludes this case for today."