

HEARING PART-HELD IN PRIVATE**Professional Conduct Committee
Initial Hearing****4 to 13 March 2024****Name:** SOHI, Neelam Kaur**Registration number:** 191797**Case number:** CAS-192097

General Dental Council: Daniel Mansell, Counsel
Instructed by Nicole Meehan, IHLPS**Registrant:** Present
Represented by Stephen McCaffrey, Counsel
Instructed by Sam Flew, Weightmans solicitors

Facts: Heads of charge proved:
1, 2 (a), 2 (b), 3 (a), 3 (b), 4, 5 (a), 5 (b) 6, 7 (a) and 7 (b)**Fitness to practise:** Impaired by reason of misconduct**Outcome:** Suspension (with a review)**Duration:** Nine months**Immediate order:** Immediate suspension order

Committee members: Peter Ommer (Dentist) (Chair)
Catherine Pease (Lay)
Angela Wragg (Dental Care Professional)**Legal adviser:** Julian Weinberg**Committee Secretary:** Gareth Llewellyn

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

Miss Sohi

1. This is a hearing before the Professional Conduct Committee (PCC). The hearing is being held remotely using Microsoft Teams in line with the Dental Professionals Hearings Service's current practice.
2. You are present and are represented by Stephen McCaffrey, instructed by Sam Flew of Weightmans solicitors. Daniel Mansell of Counsel, instructed by Nicole Meehan of the General Dental Council's (GDC's) In-House Legal Presentation Service (IHLPS), appears for the GDC.

**Determination on preliminary matters and submission of no case to answer –
6 March 2024**

Preliminary matters – 4 March 2024

3. At the outset of the hearing on 4 March 2024 Mr Mansell applied to amend the charge by way of correcting a typographical error at the stem of head of charge 3. Mr Mansell made the application pursuant to Rule 18 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). Mr McCaffrey on your behalf did not oppose the application. The Committee, having accepted the advice of the Legal Adviser, determined to accede to the application. The schedule of charge was duly amended.
4. On that same day, namely 4 March 2024, Mr McCaffrey on your behalf tendered admissions to some of the heads of charge that you face. The heads of charge were, namely, 1, 3 (a), 3 (b), 4, 5 (a), 6 and 7 (a). The Committee noted the admissions, and announced that those heads of charge were found proved on the basis of your admissions. The Committee, having accepted the advice of the Legal Adviser, determined that the heads of charge that you admitted were proved on the basis of your admissions.

Submission of no case to answer – 6 March 2024

5. On 6 March 2024, at the conclusion of the GDC's case on the facts, Mr McCaffrey on your behalf submitted that there is no case for you to answer in respect of head of charge 7 (b). Mr McCaffrey made the submission pursuant to Rule 19 (3) of the Rules.
6. Head of charge 7 (b) arises from the allegation at head of charge 6 that you created and emailed an incorrect invoice to a patient, who is referred to for the purposes of these proceedings as Patient A, on 10 June 2019. The Committee found that head of charge, namely head of charge 6, proved on the basis of your admission at the preliminary stage of these proceedings. Head of charge 7 (a) further alleged that your conduct was misleading. The Committee also found that head of charge proved at the preliminary stage on the basis of the admission that you tendered. These two factual findings are set out above.
7. Head of charge 7 (b) alleges that your proven conduct at head of charge 6 was dishonest, in that you knew that the invoice or invoices in question were incorrect.

8. Mr McCaffrey submitted that, in short, the GDC has not adduced coherent evidence upon which the Committee could find that you acted in a dishonest manner. Mr McCaffrey submitted in particular that the Committee cannot rely on the evidence of Witness 2 and Witness 3, and that there is '*a lacuna of evidence*' in respect of Patient A. Mr McCaffrey submitted that the GDC's case on head of charge 7 (b) is '*misconceived*', is speculative, and is based on '*suspicion and theory*'. Mr McCaffrey therefore submitted that, '*the GDC case is now so undermined, incoherent, and unsatisfactory that to proceed with this allegation would be unfair, unjust and contrary to the legal requirement of burden placed on the Council. Their case on dishonesty is nothing more than the accepted case on misleading. There is nothing in addition and nothing new.*'
9. Mr Mansell on behalf of the GDC invited the Committee to refuse Mr McCaffrey's submission that there is no case to answer at head of charge 7 (b). Mr Mansell submitted that, in summary, the GDC has adduced sufficient evidence for the Committee to find in due course that you acted in a dishonest manner in respect of the proven facts at head of charge 6. Mr Mansell submitted in conclusion that '*the evidence which has been presented cannot be characterised as so unsatisfactory in nature that the Committee could not find the allegation proved. Nor is this a case where the strength of the evidence rests upon the Committee's assessment of the reliability of a witness, and that witness is so unreliable or discredited that the allegation is not capable of being proved.*'
10. The Committee accepted the advice of the Legal Adviser. The Committee considered the written and oral submissions prepared and presented by Mr McCaffrey on your behalf and Mr Mansell on behalf of the GDC. The submissions of Counsel, which the Committee considered in full, are summarised in the two preceding paragraphs.
11. The Committee has been careful not to determine the facts, but instead has considered whether it could find the facts alleged at head of charge 7 (b) proved once it has been properly directed as to the facts. The Committee applied the test for no case to answer set out in the case of *R v Galbraith* [1981] EWCA Crim J0519-1. This test is that there is no evidence and therefore the case should be stopped, or that there is some evidence, but it is weak, vague or inconsistent and, looked at in the round, a Committee could not properly find the case proved. The Committee was also mindful of the test for dishonesty set out in *Ivey v Genting Casinos (UK) Ltd. t/a Crockfords* [2017] UKSC 67. The test is that the Committee must decide subjectively the actual state of an individual's knowledge or belief as to the facts, and must then apply the objective standards of ordinary and decent people to determine whether the conduct was dishonest by those standards.
12. The Committee has determined that at this stage there is some evidence to support the facts alleged at head of charge 7 (b). The Committee notes in particular the patient records relating to Patient A, which includes the invoices in question and email correspondence between you and Patient A. The Committee also notes the oral and documentary evidence of Witness 2 and Witness 3. It considers that the evidence is not so weak, vague or inconsistent to mean that it could not find the alleged facts proved.
13. The Committee has therefore determined to reject the submission made on your behalf that there is no case for you to answer at head of charge 7 (b). The Committee will subsequently consider whether head of charge 7 (b), as well as the other heads of charge to which admissions have not been tendered, are proved.

Findings of fact – 11 March 2024

14. The Committee's decisions on preliminary matters and the submission of no case to answer in respect of head of charge 7 (b) were set out in a separate determination which was handed down in session on 6 March 2024.
15. At the outset of your case on the facts, Mr McCaffrey invited the Committee to hold part of the hearing in private where matters relating to your private life would be discussed. The Committee directed that the hearing be part-held in private where such private matters are discussed.

Background to the case and summary of allegations

16. The allegations giving rise to this hearing arise out of two matters, namely a travel insurance claim and the creation of inaccurate invoices at your then place of work.
17. It is alleged that, on 26 December 2016, having submitted a travel insurance claim to a travel company, namely Thomson, you submitted a completed form to accept their offer of £755.00 in settlement of your insurance claim. This settlement sum included the amount of £675.00 for clothing items, and the amount of £80.00 for shoes. It is alleged that these sums of £675.00 for clothing items and £80.00 for shoes were also the subject of a separate travel insurance claim that you submitted ten days later to a different company, namely HSBC, underwritten by Aviva. The GDC further alleges that you failed to disclose to HSBC that you had already accepted the final settlement offer from Thomson for the same or similar items. The GDC contends that such conduct was misleading, and was also dishonest, in that you knew that you had accepted a final settlement offer from Thomson.
18. The second area of concern relates to your creation of an incorrect invoice or invoices. It is specifically alleged that on 10 June 2019 you created an incorrect invoice and then emailed the invoice or invoices to a patient, who is referred to for the purposes of these proceedings as Patient A. The GDC alleges that the invoice or invoices reflect that treatment had been completed and paid for, when in fact treatment had not been completed and paid for. It is alleged that your conduct was misleading, and was also dishonest, in that you knew that the invoice or invoices were incorrect.

Evidence

19. The Committee has been provided with documentary material in relation to the heads of charge that you face, including the witness statements and documentary exhibits of an investigator with Aviva, who is referred to for the purposes of this hearing as Witness 1; a dental nurse colleague at the time of the events giving rise to these proceedings, who is referred to as Witness 2; the practice manager at the time, who is referred to as Witness 3; a dentist colleague at the time, who is referred to as Witness 4; and a paralegal with knowledge of the case, namely Umay Kalsoom. The Committee has also received a witness statement and documentary exhibits from you; and from a dental nurse colleague at the time, who is referred to as Witness 6. The Committee has also received a bundle of character testimonials submitted on your behalf.

IN PRIVATE

20. [text omitted].

IN PUBLIC

21. The Committee heard oral evidence from Witness 2, Witness 3, Witness 4, you, and Witness 5.

Committee's findings of fact

22. The Committee has taken into account all the evidence presented to it, both written and oral. It has considered the submissions made by Mr Mansell on behalf of the GDC and those made by Mr McCaffrey on your behalf.
23. The Committee has accepted the advice of the Legal Adviser. The Committee is mindful that the burden of proof lies with the GDC, and has considered the heads of charge against the civil standard of proof, that is to say, the balance of probabilities. The Committee has considered each head of charge separately, although some of its findings will be announced together.
24. I will now announce the Committee's findings in relation to each head of charge:

1.	<i>Between 17 October 2016 and 23 December 2016, you submitted a travel insurance claim to Thomson.</i> Admitted and proved
	As set out above, at the preliminary stage the Committee found this head of charge, and the other heads of charge to which you made admissions, proved on the basis of your respective admissions.
2.	<i>On or around 26 December 2016, you submitted a completed 'Release and Indemnity' form to Thomson, accepting an offer of £755.00 in full and final settlement of your claim, which included:</i>
2. (a)	<i>£675 for clothes;</i> Proved
2. (b)	<i>£80 for shoes.</i> Proved
	<p>The Committee notes that the 'Release and Indemnity Form' referred to at these heads of charge was signed by you on 26 December 2016 and declares that you accepted the offer made by Thomson of the sum of £755.00 as full and final settlement of your insurance claim.</p> <p>In your written evidence you accepted that you completed the form in question, but you stated that the form was submitted to Thomson by someone other than you, namely Witness 5, albeit from your own email address. Your evidence is corroborated by that of Witness 5. The Committee also notes that you accepted, and the Committee has already found proved at head of charge 4, that you accepted a final settlement offer from Thomson for these same items.</p>

	<p>The Committee has therefore sought to determine whether the form was submitted by you.</p> <p>IN PRIVATE</p> <p>[text omitted].</p> <p>IN PUBLIC</p> <p>The Committee finds the facts alleged at heads of charge 2 (a) and 2 (b) proved. The Committee found that it was not able to rely on your evidence and that of Witness 5 that Witness 5, rather than you, submitted the form that you accepted you completed. The Committee instead preferred the contemporaneous evidence presented to it, as it found that this evidence was more likely to be accurate and reliable. The Committee placed particular weight on the content of an email that you sent to HSBC on 4 May 2017 in which you stated that, <i>'the facts are that [...] as you quite correctly have stated that Thomson got me to sign and return forms on 26 December 2016'</i>. The Committee considers that this is evidence that you, rather than Witness 5, submitted the form to Thomson on the date in question. In assessing the common evidence of you and Witness 5 that he, rather than you, submitted the form, the Committee considers that it is unlikely that Witness 5 would have been so directly involved in the claim, given that you had been actively communicating with Thomson about the claim in the period leading up to you signing the form. The Committee also notes that references to Witness 5's apparent role in the submission of the claim to Thomson have only been made relatively recently, namely in the respective oral and written evidence to the Committee, and do not feature in the contemporaneous documents relating to the claim.</p> <p>The Committee also considers that it is more likely than not that you were aware of the contents of the form that you signed. Although your evidence is that you were unaware of those contents when signing the form, the Committee again prefers the contemporaneous evidence presented to it as being more credible and reliable. That evidence further suggests that you, rather than Witness 5, submitted the form, as you made some amendments to the form, namely crossing through the word 'we' so that the form correctly reflected the fact that the claim was an individual rather than joint claim. The Committee also finds that, even if your reading of the form had been cursory, its contents and nature were unmistakable, particularly given the rendering in bold typeface of the amount of the offer that was being accepted. The form was also headed, again in bold typeface, 'Release and Indemnity Form'.</p> <p>For these reasons, the Committee finds that you, rather than Witness 5, submitted the form in question.</p> <p>Accordingly, the Committee finds the facts alleged at heads of charge 2 (a) and 2 (b) proved.</p>
3.	<p><i>On or around 5 January 2017, you submitted a travel insurance claim to HSBC (underwritten by Aviva) for £1824.99, which included:</i></p>
3. (a)	<p><i>£675 for clothes;</i></p>

	Admitted and proved
3. (b)	<i>£80 for shoes.</i> Admitted and proved
4.	<i>Between 5 January 2017 and 13 March 2017, you failed to disclose to HSBC that you had accepted a final settlement offer from Thomson for the same or similar items.</i> Admitted and proved
5.	<i>Your conduct in relation to charge 3 and/or 4 above was:</i>
5. (a)	<i>misleading;</i> Admitted and proved
5. (b)	<i>dishonest, in that you knew that you had accepted a final settlement offer from Thomson for the same or similar items.</i> Proved
	<p>In approaching this head of charge the Committee applied the test set out in <i>Ivey v Genting Casinos (UK) Ltd. t/a Crockfords</i> [2017] UKSC 67. The test is that the Committee must decide subjectively the actual state of an individual's knowledge or belief as to the facts, and must then apply the objective standards of ordinary and decent people to determine whether the conduct was dishonest by those standards.</p> <p>The Committee has also taken into account that you are of good character.</p> <p>The Committee therefore first of all considered your actual state of your knowledge or belief as to the facts. In doing so it took particular and close account of the evidence that you provided to the Committee.</p> <p>In your written evidence you stated that, whilst you accept that your conduct was misleading, you did not act in a dishonest manner. You stated that you did not realise that you had accepted an offer, and received payment, from Thomsons until you spoke to HSBC on 6 March 2017.</p> <p>You stated that, having returned to the UK from a holiday on 7 October 2016, you collected your luggage and saw that the padlock on the luggage had been broken, with items missing. You stated that the airline, Thomson, informed you that only missing clothing items and damage to the luggage would be covered, and that any claim for valuable missing items would need to be made under your own travel insurance policy. You contacted your travel insurers, namely HSBC, in relation to a potential claim and that you had already submitted a claim to Thomson. You stated in your witness statement that you, and indeed HSBC, were confused as to whether Thomson or HSBC would be covering the claim, that you were open with HSBC about having approached Thomson, and that you were not intending to make duplicate claims.</p>

You stated that, following the telephone conversation with HSBC, you emailed Thomson to inform them that you had been advised by HSBC that Thomson would be responsible for checked-in items of luggage. Thomson replied to state that you had been misinformed by HSBC. In your oral evidence to the Committee you accepted that HSBC had not so advised you.

You stated in your written evidence that you submitted a claim form to Thomson but did not submit the claim form that HSBC had sent to you for completion.

You stated that you are now aware that on 23 December 2016 a 'Release and Indemnity Form' was received in your email inbox from Thomson as set out at heads of charge 2 (a) and 2 (b). The form was seen in the first instance by Witness 5, who had access to your email account and who mentioned the form to you. You stated that you did not fully appreciate the contents of the offer, and that you signed the form without reading it. Witness 5's evidence is that he, rather than you, then submitted the form from your email address to Thomson on 26 December 2016. The Committee has found above at heads of charge 2 (a) and 2 (b) that you, rather than Witness 5, submitted the form in question.

On 5 January 2017 you submitted a claim to HSBC, having realised that you had previously forgotten to send the completed claim form back to HSBC. You state in your written evidence that an email chasing payment from Thomson dated 10 January 2017 was sent by Witness 5 rather than by you. However, in that email to HSBC of 4 May 2017 you state that you, rather than Witness 5, chased Thomson on 10 January 2017, and that you had not received a response. The GDC also submits, and you accept, that you made no reference in that email to Witness 5's involvement in this matter, or in your earlier response to the allegation at an earlier stage of the GDC's investigation.

In your written evidence you stated that when speaking to HSBC on 6 March 2017 you had not realised that you had received payment from Thomson and that you did not appreciate that the document that you had signed was an offer acceptance form. You stated in your evidence that you were informed by HSBC that Thomson had informed them that they had made payment to you. You stated that you accept that you failed to disclose to HSBC that you had accepted an offer from Thomson, and that such conduct was misleading, but that it was not your intention to mislead. You stated that you were confused about which company would settle your claim, that you were distracted by private matters, and that you only knew about parts of the claim that had been submitted to Thomson.

Having taken into account the evidence that you provided to the Committee as summarised above, the Committee carefully considered your actual state of your knowledge or belief as to the facts. The Committee finds that you knew that you had accepted a final settlement offer from Thomson when pursuing a claim with HSBC for the same items. As set out in respect of head of charge 2 (b), you made some amendments to the form that you submitted to Thomson on or around 26 December 2016, namely crossing through the word 'we' so that the form correctly reflected the fact that the claim was an individual rather than joint claim. The Committee also found that, even if your reading of the form had been cursory, its contents and nature were unmistakeable, particularly given the rendering in bold typeface of the amount of the offer that was being accepted. The form was also headed, again in bold typeface, 'Release and Indemnity Form'.

	<p>This evidence that you knew that you had accepted an offer from Thomson is supported by the evidence referred to above that you, rather than Witness 5, chased payment from Thomson in an email to Thomson of 10 January 2017.</p> <p>As set out at head of charge 2 (b), the Committee rejects your evidence and that of Witness 5, that he, rather than you, submitted the form. As set out in its findings concerning that head of charge, the Committee considers that it is unlikely that Witness 5 would have been so directly involved in the claim, given that you had been actively communicating with Thomson about the claim in the period leading up to you signing the form. The Committee also again notes that references to Witness 5's apparent role in the submission of the claim to Thomson have only been made relatively recently, namely in the respective oral and written evidence to the Committee, and do not feature in the contemporaneous documents relating to the claim.</p> <p>Therefore, in assessing your actual state of knowledge and belief as to the facts, the Committee was not able to rely on your evidence, and instead preferred the more contemporaneous evidence presented to it as being more credible, accurate and reliable. The Committee finds that your state of mind was that you knew that you had accepted an offer from Thomson offer only ten days earlier. The Committee finds that, when accepting that offer from Thomson on or around 26 December 2016, you could not have been in any doubt as to what it was that you were accepting. When pursuing a claim with HSBC for the same items beginning on 5 January 2017, it is unlikely that your memory of you accepting an offer from Thomson would have receded to the extent that you were not cognisant of having already accepted their offer. Instead, the matter would have been relatively fresh in your mind.</p> <p>Having determined your actual state of knowledge and belief as to the facts, and having found that you knew that you had already accepted an offer from Thomson when pursuing a claim with HSBC for the same items, the Committee went on to apply the objective standards of ordinary and decent people to determine whether the conduct was dishonest by those standards. After careful consideration, the Committee determines that your conduct would be viewed as being dishonest by reference to those standards. The Committee considers that ordinary and decent people would view your conduct as an attempt to claim a second time for items which had already been the subject of a successful claim settlement. The Committee is in no doubt that these actions, when judged according to the objective standards of ordinary and decent people, would be seen as being dishonest.</p> <p>The Committee therefore finds that you acted dishonestly by pursuing a claim with HSBC without informing them of your earlier acceptance of an offer in respect of the same items. Accordingly, the Committee finds the facts alleged at head of charge 5 (b) proved.</p>
6.	<p><i>On 10 June 2019, you created and emailed Patient A an incorrect invoice or invoices.</i></p> <p>Admitted and proved</p>
7.	<p><i>Your conduct in relation to charge 6 was:</i></p>

7. (a)	<p><i>Misleading;</i></p> <p>Admitted and proved</p>
7. (b)	<p><i>Dishonest, in that you knew the invoice or invoices were incorrect.</i></p> <p>Proved</p>
	<p>In approaching this head of charge the Committee again applied the test set out in <i>Ivey v Genting Casinos (UK) Ltd. t/a Crockfords</i> [2017] UKSC 67. As set out above at head of charge 5 (b), the Committee must decide subjectively the actual state of an individual's knowledge or belief as to the facts, and must then apply the objective standards of ordinary and decent people to determine whether the conduct was dishonest by those standards.</p> <p>The Committee has also again taken into account that you are of good character. The Committee has not drawn an inference from its finding of dishonesty at head of charge 5 (b) above. Instead, it has considered the evidence relating to this head of charge independently of head of charge 5 (b).</p> <p>The Committee therefore first of all considered the actual state of your knowledge or belief as to the facts. In doing so it took particular and close account of the evidence that you provided to the Committee.</p> <p>In your written evidence you stated that, whilst you accept that your conduct was misleading, you did not act in a dishonest manner. You stated that, at the time at which you sent the invoices to Patient A, you assumed that Patient A had paid for all the treatment recorded on the invoices, and that you did not know that you should not have created an invoice for treatment that had not been completed. You stated in oral evidence that you did not check whether Patient A had in fact paid for the treatment. You stated that you only subsequently found out that Patient A had not in fact paid for the treatment. You also stated that you later realised there were other errors on the invoices, which included a date of scheduled treatment. You stated in oral evidence that you were simply trying to assist Patient A with his insurance claim, insofar as you could within the confines of his insurance policy.</p> <p>Having taken into account the evidence that you provided to the Committee as summarised above, the Committee carefully considered the actual state of your knowledge or belief as to the facts. The Committee finds that you knew that the invoices that you sent to Patient A were incorrect.</p> <p>The Committee prefers the contemporaneous evidence presented to it, which demonstrates that it was more likely than not that you knew that the invoices that you sent to Patient A were incorrect.</p> <p>The Committee has taken account of the correspondence and conversations that you were having with Patient A in which it was made known to you that Patient A's insurance cover was due to expire at the end of May 2019.</p> <p>The Committee also notes that some of the dates and details of treatment that appear in the invoices do not correlate with the entries made in the patient's</p>

notes. The Committee notes in particular that on an invoice you recorded a date of treatment as being 27 May 2019, and that in your evidence to the Committee you stated that this was a simple error and that you had meant to refer to 27 June 2019. However, the Committee was not able to accept your evidence on this point, as the sentence in which that date appeared was written in the past tense, as it referred to treatment that had apparently already taken place. The Committee considers that this evidence was an attempt to conceal your deception.

The Committee also noted some inconsistencies in your evidence. It considers that it cannot place reliance on your assertion that it was your belief that Patient A had paid for the treatment set out on the invoices and that your mistake was an honest one, as it considers that it is more likely than not that you would have checked that he had paid. The Committee was also mindful that in your oral evidence you were taken to a reference on the invoice to Patient A having paid for treatment, and that you responded by saying that you had not scrolled down to that point, rather than maintaining that it was your understanding that the treatment had been paid for. The Committee also took particular account of a letter that was sent to you by the practice dated 16 July 2019, containing a summary of a meeting that you had attended a few days earlier on 11 July 2019. In that summary you were reported as having stated that you submitted the incorrect invoices to assist Patient A. The Committee notes that this differs from your more recent claim, namely that your understanding was that Patient A had paid. This is also consistent with the oral and written evidence of Witness 3, who informed the Committee that you had said at a meeting on 13 June 2019 that you provided the incorrect invoices to help Patient A. This evidence is consistent with Witness 3's initial referral of her concerns about these matters to the GDC on 25 June 2019.

Having determined the actual state of your knowledge and belief as to the facts, and having found that you knew that the invoices that you sent to Patient A were incorrect, the Committee went on to apply the objective standards of ordinary and decent people to determine whether the conduct was dishonest by those standards. After careful consideration, the Committee determines that your conduct would be viewed as being dishonest by reference to those standards. The Committee considers that ordinary and decent people would view your conduct as an attempt to provide Patient A with inaccurate and misleading information in order to assist him with seeking reimbursement from his insurance company in light of the imminent expiry of his insurance policy. The Committee finds that your actions, when judged according to the objective standards of ordinary and decent people, would be seen as being dishonest.

The Committee therefore finds that you acted dishonestly by providing Patient A with incorrect invoices. Accordingly, the Committee finds the facts alleged at head of charge 7 (b) proved.

25. We move to stage two.

Determination on misconduct, impairment and sanction – 12 March 2024

26. Following the handing down of the Committee's determination on the facts on 11 March 2024, the hearing resumed on the morning of 12 March 2024. The hearing then proceeded to stage two; that is to say, to consider misconduct, impairment and sanction.

Proceedings at stage two

27. The Committee has considered all the evidence presented to it, both oral and documentary. It has taken into account the submissions made by Mr Mansell on behalf of the GDC and those made by Mr McCaffrey on your behalf. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020). The Committee has accepted the advice of the Legal Adviser.

Evidence at stage two

28. The Committee received no further oral or documentary evidence following its findings of facts.

Fitness to practise history

29. Mr Mansell addressed the Committee in accordance with Rule 20 (1) (a) of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). He stated that you have no fitness to practise history with the GDC.

Misconduct

30. The Committee first considered whether the facts that it has found proved constitute misconduct. The Committee has heard that Mr Mansell on behalf of the GDC submits that those facts amount to misconduct. Mr McCaffrey on your behalf submitted that you accept that the Committee's factual findings amount to misconduct. In considering this and all other matters, the Committee has exercised its own independent judgement.

31. In its deliberations the Committee has had regard to the following paragraphs of the GDC's *Standards for the Dental Team* (September 2013) in place at the time of the incidents giving rise to the facts that the Committee has found proven. These paragraphs state that as a dentist you must:

1 *Put patients' interests first.*

1.3 *Be honest and act with integrity.*

1.3.1 *[...] justify the trust that patients, the public and your colleagues place in you by always acting honestly and fairly in your dealings with them. This applies to any business or education activities in which you are involved as well as to your professional dealings.*

1.3.2 *[...] make sure you do not bring the profession into disrepute.*

4 *Maintain and protect patients' information.*

9 *Make sure your personal behaviour maintains patients' confidence in you and the dental profession.*

9.1 Ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.

32. The Committee's findings relate to you having acted in a misleading and dishonest manner in two respects. First, you submitted a travel insurance claim to HSBC despite having already accepted a settlement offer for the same items from another company, namely Thomson, and without informing HSBC that you had accepted that offer. Second, you provided inaccurate invoices to a patient, who is referred to for the purposes of these proceedings as Patient A, in order to assist him with making an insurance claim prior to the expiry of his insurance policy.
33. In light of the findings of fact that it has made, the Committee has determined that the proven facts amount to misconduct. The Committee's findings of dishonesty arise out of your conduct in a workplace setting in relation to a patient, as well as your conduct outside of work. Your repeated dishonest actions represent conduct which fell far below the standards reasonably to be expected of a registered dental practitioner. Your misconduct relates to breaches of a fundamental tenet of the profession, namely the need to act with honesty and integrity. The Committee considers that a reasonable and informed member of the public, as well as your fellow practitioners, would consider your conduct to be deplorable.
34. The Committee has therefore determined that the facts that it has found proved amount to misconduct.

Impairment

35. The Committee next considered whether your fitness to practise is currently impaired by reason of the misconduct that it has found. In doing so, the Committee again exercised its own independent judgment. The Committee heard that Mr Mansell on behalf of the GDC submits that your fitness to practise is currently impaired by reason of your misconduct. Mr McCaffrey on your behalf submitted that you accept that your fitness to practise is currently impaired.
36. Throughout its deliberations, the Committee has borne in mind that its overarching objective is to protect the public, which includes the protection of patients and the wider public, the maintenance of public confidence in the profession and in the regulatory process, and the declaring and upholding of proper standards of conduct and behaviour.
37. The Committee has determined that your fitness to practise is currently impaired. The Committee is mindful that you made some admissions to the facts that the Committee went on to find proved, and in particular that you accepted that you acted in a misleading manner. You did not accept that you acted in a dishonest manner in relation to either the travel insurance claims or to you providing inaccurate invoices to a patient. You made some admissions and accepted that all of the facts that the Committee has found proved amount to misconduct. You also accepted that your fitness to practise is impaired as a consequence. This goes some way to suggesting that you have a certain amount of insight into some, but not all, of the Committee's findings.
38. However, the gravamen of this case relates to dishonesty. The Committee is mindful that dishonesty might be more difficult for a registrant to remediate than, for instance, discreet clinical shortcomings. In any event, the Committee has not been provided with sufficient evidence to suggest that you have properly understood, have developed insight into, and have taken steps to remedy, your dishonest conduct. The Committee therefore considers that you are liable to repeat your dishonest conduct. The Committee recognises that there is

no evidence of harm being caused to patients, but it finds that your unremediated dishonest conduct means that the public is at potential risk of harm. Your dishonest conduct is highly damaging to your fitness to practise, and the Committee finds that your fitness to practise is currently impaired.

39. The Committee further considers that a finding of impairment is also, and undoubtedly, required to maintain public confidence in the profession and to declare and uphold proper professional standards of conduct and behaviour. As set out above, the Committee's findings of dishonesty relate to breaches of a fundamental tenet of the profession, namely the need to act with honesty and integrity. In the Committee's judgment the public's trust and confidence in the profession, and in the regulatory process, would be significantly undermined if a finding of impairment was not made given the serious nature of the Committee's findings of repeated dishonest conduct.
40. For the reasons set out above, the Committee finds that your fitness to practise is currently impaired by reason of your misconduct.

Sanction

41. The Committee then determined what sanction, if any, is appropriate in light of the findings of facts, misconduct and impairment that it has made. The Committee recognises that the purpose of a sanction is not to be punitive, although it may have such an effect, but is instead imposed to protect patients and safeguard the wider public interests mentioned above.
42. In reaching its decision the Committee has again taken into account the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020). It has also had regard to the submissions made by Mr Mansell on behalf of the GDC that the appropriate and proportionate sanction is one of erasure. Mr McCaffrey on your behalf submitted that a direction of suspension, with a review prior to the end of the period of suspended registration, would represent a suitable and proportionate disposal. The Committee has applied the principle of proportionality, balancing the public interest with your own interests. The Committee has once more exercised its own independent judgment.
43. The Committee has paid careful regard to the mitigating and aggravating factors present in this case.
44. In terms of mitigation, the Committee notes that a considerable period of time has elapsed since the matters giving rise to its factual findings occurred, and especially the dishonesty relating to your travel insurance claims. The Committee notes the difficult personal circumstances at the time of those earlier matters, as referred to in the Committee's findings of fact. The Committee notes that no actual financial gain resulted in relation to either instance of dishonesty, although it was mindful that there was the potential for a financial gain in respect of the travel insurance matter. You also made a number of admissions to facts which the Committee went on to find proved, including that your conduct was misleading, and it is mindful that you have engaged fully with these proceedings. You have also accepted that the Committee's findings of fact amount to misconduct, and that your fitness to practise is impaired as a result. The Committee also notes that no patient harm arose from your conduct, and that you are otherwise of good character, with no fitness to practise history. The Committee has also taken into account the supportive testimonials submitted on your behalf. There has also been no suggestion that there has been a repeat of the facts that the Committee has found proved, although, as set out above, you pose a risk to the public on account of your unremediated dishonest conduct.

45. In respect of the aggravating factors that are present, the Committee notes that its findings relate to repeated dishonesty across different settings. The Committee finds that there was an element of premeditated misconduct inherent in your dishonest travel insurance claims. The Committee also notes that, as referred to above, you lack insight into your dishonesty.
46. The Committee has considered the range of sanctions available to it, starting with the least serious. In the light of its findings, the Committee considers that it would be wholly inappropriate to conclude this case with no action. The seriousness of the Committee's findings, which involve dishonesty, means that some action must be taken. If the Committee were to take no action, the public would be insufficiently protected, and public trust and confidence in the profession and in the regulatory process would be significantly undermined.
47. The Committee next considered whether it would be appropriate to conclude the case with a reprimand. The Committee has similarly determined that it would not be proportionate or appropriate to conclude this case with a reprimand in light of the serious nature of its findings. The Committee considers that a reprimand would place the public at unwarranted risk of harm and would also have the effect of undermining public trust and confidence in the profession and in the regulatory process.
48. The Committee next considered whether a period of conditional registration would be appropriate. The Committee considers that conditions cannot be formulated to protect the public. The Committee also considers that a direction of conditions would not be sufficient to declare and uphold proper professional standards of conduct and behaviour or to declare and uphold proper professional standards of conduct and behaviour in light of the serious nature of its findings.
49. The Committee then went on to consider whether to suspend your registration. After careful consideration, the Committee considers that a period of suspended registration is the appropriate and proportionate sanction in the particular circumstances of this case.
50. The Committee's factual findings of repeated dishonesty are serious. The Committee has found that you lack insight into your dishonest conduct, and that you pose an ongoing risk of repeating such conduct. The Committee considers that the public protection and public interest considerations that it has identified mean that a sanction lesser than that of suspension would place the public and the public interest at unwarranted risk of harm. In particular, a sanction short of suspension would not be sufficient to declare and uphold proper professional standards of conduct and behaviour and maintain public trust and confidence in the profession in the particular, and serious, circumstances of this case.
51. The Committee gave very careful consideration to whether the higher, and ultimate, sanction of erasure is appropriate. The Committee is in no doubt as to the seriousness of your misconduct, relating as it does to two instances of dishonest and misleading conduct, both in and outside of work. You have breached a fundamental tenet of the profession, namely the need to act with honesty and integrity, and your dishonest conduct has placed your registration in serious jeopardy. However, in the final analysis, the Committee does not find that, as serious as your dishonesty was, you have a harmful deep-seated professional or personal attitudinal problem which would require the direction of erasure from the register. The Committee considers that a direction of suspension is sufficient to protect the public, and that a reasonable and informed member of the public would not be, for instance, shocked or troubled, by the Committee deciding that suspension can meet the public protection and public interest considerations engaged in this case.

52. The Committee hereby directs that your registration be suspended for a period of nine months, with a review hearing to take place prior to the end of that period. The Committee considers that a lesser period of time would not be sufficient to declare and uphold proper professional standards of conduct and behaviour, and would not be enough to maintain public trust and confidence in the profession and in the regulatory process. Although the Committee recognises that the purpose of a sanction is not to rehabilitate a registrant, the Committee is mindful of the practical considerations that arise from your lack of insight, and considers that a period of time of less than nine months would not be sufficient for you to develop and demonstrate the required insight into, and remediation of, your misconduct.
53. Although the Committee in no way wishes to bind or fetter a future reviewing Committee which will review your suspension in approximately nine months' time, it considers that a future reviewing Committee may be assisted by evidence of you having developed insight into your dishonest conduct, as well as you having remedied your misconduct. This should include, but is not limited to, a written reflective statement, and appropriate and targeted continuing professional development (CPD), with particular regard to the topics of ethics, honesty and integrity.

Immediate order

54. The hearing is now adjourned until the morning of 13 March 2024, at which time the Committee will invite submissions as to whether it should impose an immediate order of suspension in accordance with section 30 (1) of the Dentists Act 1984 (as amended).

Determination on immediate order – 13 March 2024

Immediate order

55. The hearing resumed on the morning of 13 March 2024. The Committee proceeded to consider whether it should impose an immediate order of suspension in accordance with section 30 (1) of the Dentists Act 1984 (as amended).
56. The Committee has again had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated December 2020).
57. Mr Mansell on behalf of the GDC submitted that an immediate order of suspension is necessary to protect the public and is otherwise in the public interest. Mr McCaffrey on your behalf submitted that an immediate order of suspension is not required.
58. The Committee accepted the advice of the Legal Adviser. In particular the Committee accepted the Legal Adviser's advice in respect of the case of *Aga v GDC* [2023] EWHC 3208 (Admin). The Legal Adviser reminded the Committee of a GDC practice note dated 12 January 2024 which was previously circulated to panellists. The Legal Adviser advised that it was held in the case of *Aga* that two separate, consecutive orders are not created when a substantive direction of suspension and an immediate order of suspension are imposed. Instead, it was held that the time spent, as it were, under an immediate order should be deducted from the time spent under the substantive direction and that the period of suspension cannot be extended beyond the 12-month maximum period by way of an immediate order. The practice note stated that it was also held in *Aga* 'that the PCC's determination in Mr Aga's case was therefore wrong in law, for failing to include a direction that time spent under the S.30 immediate order was to be "set off" or deducted from the total suspension order'.

59. The Legal Adviser advised the Committee that periods of suspension imposed by way of a substantive direction and an immediate order effectively run concurrently, and that a direction such as that proposed in the case of *Aga* should be made. The Legal Adviser advised that, in light of *Aga*, it would not be lawful for the two periods to run sequentially rather than effectively concurrently.
60. The Committee noted the advice of the Legal Adviser that the GDC disputes the ruling in *Aga*, and also noted that Mr Mansell on behalf of the GDC adopts the GDC's approach. The Committee notes that the ruling in *Aga* is currently subject to appeal by the GDC.
61. In all the circumstances, the Committee considers that an immediate order of suspension is necessary to protect the public and is otherwise in the public interest. The Committee has determined that, given the risks to the public and the public interest that it has identified, it would not be appropriate to permit you to practise before the substantive direction of suspension takes effect. The Committee considers that an immediate order for suspension is consistent with the findings that it has set out in its foregoing determination.
62. The Committee, having accepted the advice of the Legal Adviser, directs that any time served under the immediate order of suspension be credited against the duration of the direction for suspension.
63. That concludes this case.