

HEARING HEARD IN PUBLIC

WELLS, Gemma Louise

Registration No: 205688

PROFESSIONAL CONDUCT COMMITTEE

June 2015-JULY 2017

Most recent outcome: Suspended indefinitely*

* See page 11 for the latest determination.

Gemma Louise WELLS, a dental nurse, NVQ L3 Dental Nursing & VRQ L3 Dental Nursing City & Guilds 2010, was summoned to appear before the Professional Conduct Committee on 18 June 2015 for an inquiry into the following charge:

Charge

“That being a registered dental care professional:

1. In December 2008, at Hampshire Constabulary in Gosport, you were cautioned by the police for battery.
2. On 3 March 2011 you signed the application form for registration with the General Dental Council and ticked the box 'no' in response to the question: 'Have you been convicted of a criminal offence and/or cautioned and/or are you currently the subject of any police investigations which might lead to a conviction or a caution in the UK or any other country?'
3. Your conduct in relation to allegation 2 was:
 - a. Misleading;
 - b. Dishonest.
4. You informed the General Dental Council on the Details of Employment and Indemnity Insurance Form on 23 September 2013 that you were 'currently unemployed' when in fact you were employed.
5. Your conduct in relation to allegation 4 was:
 - a. Misleading;
 - b. Dishonest.

By reason of the matters alleged, your fitness to practise is impaired by reason of caution and your misconduct.”

Ms Wells was not present and not represented. On 18 June 2015 the Chairman made the following statement regarding proof of service, proceeding in absence and the finding of facts:

“Mr Coke-Smyth,

You are presenting the General Dental Council (GDC) case against Ms Wells. Ms Wells is neither present nor represented at today's Professional Conduct Committee (PCC) hearing. The Committee first considered whether notification of this hearing had been sent to Ms Wells in accordance with Rules 13 and 65. It has seen a copy of the Notification of Hearing (NOH), dated 20 May 2015, which confirms the date, time and venue of the hearing, as well as the charges against Ms Wells. The NOH was sent to Ms Wells' registered address in Hampshire by Special Delivery with 28 days' notice of today's hearing and the Committee is satisfied that the NOH complies with Rule 13. The Royal Mail track and trace receipt confirms that the item was delivered to Ms Wells' registered address on 21 May 2015, and was also signed for in the name of 'Wells'. On the basis of the information before it, the Committee is satisfied that service has been effected in accordance with the Rules.

The Committee next considered whether to proceed with the hearing in Ms Wells' absence, in accordance with Rule 54. You submitted that it would be proper to proceed in her absence on the basis that Ms Wells has received the NOH and is well aware of today's hearing. In addition, you referred the Committee to Ms Wells' emails to the GDC dated 25 March 2015 and 13 June 2015 in which she confirms that she is not able to attend today's hearing. In her email dated 13 June 2015 Ms Wells states that she is unable to attend the hearing as she is out of the country. Ms Wells further states "I am happy for the hearing to go ahead in my absence. Due to time difference, my location and lack of Internet, I will not be requesting to Skype." You also asked the Committee to have regard to the serious nature of the allegations in this case, and the public interest in the expeditious disposal of this case.

The Committee has accepted the advice of the Legal Adviser. It is aware that the discretion to proceed in the absence of the Registrant should be exercised with the utmost care and caution. In exercising this discretion, the Committee has borne in mind the fairness to the registrant as well as to the GDC. The Committee has had regard to the email dated 9 June 2015 from the GDC In-House Legal Team to Ms Wells, regarding today's hearing. Enclosed with the email was a copy of the GDC's updated disclosure bundle index, together with the caution and associated documents. Ms Wells was asked whether she wished to attend the hearing by Skype or video link, or alternatively, submit written representations before the PCC for their consideration. The email also stated that it was the GDC's intention for each of the witness statements, which had been served on her, to be read as evidence in chief. Ms Wells was asked to confirm whether she wished for the witnesses to attend the hearing for live cross examination. In response to that email, Ms Wells advised the GDC on 13 June 2015 that she was unable to attend the hearing due to her being out of the country and that she was happy for it to go ahead in her absence. She also stated that due to the time difference, her location and lack of internet, she will not be requesting to Skype. The Committee has concluded that Ms Wells has voluntarily absented herself from these proceedings, either by attending the hearing in person, or by participating in it via Skype. Further, she has not provided the GDC with written representations, even though she was afforded the opportunity of doing so.

The Committee notes that throughout the various email exchanges between Ms Wells and the GDC that she has not requested an adjournment of the hearing. There is no indication that Ms Wells would attend a hearing if it was adjourned to a later date and she has indicated that she will not return to this country until next year.

Furthermore, the Committee has had regard to the serious nature of the allegations against Ms Wells, including allegations that Ms Wells' conduct was misleading and dishonest. In all the circumstances, the Committee is satisfied that it is fair to both parties and is in the public

interest to hear this case in the absence of Ms Wells. The Committee has not drawn any adverse inference by the non-attendance of Ms Wells.

The GDC’s case

The GDC’s case concerns Ms Wells’ failure to inform the GDC that she had received a police caution for battery in December 2008 when she applied for registration as a dental nurse in March 2011. It is alleged that Ms Wells’ conduct was misleading and dishonest in not declaring this when she applied. During the course of the GDC’s investigation into Ms Wells, when asked for details of her employer and indemnity insurance, she stated that she was currently unemployed when this was not the case as she was at this time (September 2013) working for SCA Trafalgar Dental Services Ltd. It was initially thought that Ms Wells was uninsured in September 2013 due to her policy only beginning in October 2013. On further investigation by the GDC with SCA Trafalgar Dental Services Ltd, the GDC was provided with a copy of its corporate insurance which covered all employees and therefore the issue of her indemnity insurance was not pursued by the GDC. However, the GDC alleges that Ms Wells’ conduct in informing the GDC that as of September 2013 she was unemployed when in fact she was employed, was misleading and dishonest.

Findings of Fact

In considering the charges, the Committee has had regard to the documentary evidence in the main prosecution bundle which contains the witness statements and exhibits of KM (HR manager at SCA Group); MS (GDC employee, Registrations Team); RS (GDC employee, Caseworker); and SJ (HR Officer at the SCA Group). It notes that none of these witnesses have been called to give evidence in this case as there has been no response from Ms Wells that she wishes to challenge any of the evidence in their witness statements. The Committee has had regard to the email from Ms Wells to the GDC dated 25 July 2013 in which she confirms that she received a caution dated 7 December 2008. She goes on to state that she did not report her caution to the GDC as this was before she became a dental nurse and registered with the GDC. Further, she states, she did not inform the GDC of her caution as “I did not now(sic) myself that they were on my record”.

The Committee has accepted the advice of the Legal Adviser. It has borne in mind that the burden of proof is on the GDC and that it must decide the facts according to the civil standard of proof, namely on the balance of probabilities. In accordance with that advice it has considered each head of charge separately. I will now announce the Committee’s findings in relation to each head of charge:

1.	<p>Found proved</p> <p>The Committee has seen a copy of the caution for battery dated 7 December 2008, which was signed by Ms Wells. The details of the facts which led to the caution are set out in the police records. Further, in Ms Wells’ email to the GDC dated 25 July 2013 she confirmed that she had received a caution on 7 December 2008.</p>
2.	<p>Found proved</p> <p>The Committee has seen from the bundle the relevant page of the declaration form for registration with the GDC where the form asks in section 6, question 1, the following:</p> <p><i>“1. Have you been convicted of a criminal offence and/or cautioned and/or are you currently subject of any police investigations which might lead to a conviction or a</i></p>

	<p><i>caution in the UK or any other country?"</i></p> <p>Below this the box "No" has been ticked. The Committee notes that the form makes clear that even if a caution or conviction is "spent" under the Rehabilitation of Offenders Act 1974, an applicant is still required to declare it.</p>
3.(a)	<p>Found proved</p> <p>The GDC alleges that by not declaring her caution Ms Wells' conduct was misleading (3(a)) and dishonest (3(b)). This is on the basis that Ms Wells must have been aware firstly, that she had been cautioned and secondly, that this was on her record and she was under a duty to declare it. The Committee has seen a copy of the caution, signed by Ms Wells, which states: <i>"I understand that this caution forms part of a criminal record"</i> and that <i>"I also understand that, in certain circumstances, it may be disclosed for employment or vetting purposes."</i> The Committee has also seen the GDC's application form for registration which makes it clear that even spent cautions would need to be declared. The Committee is satisfied that Ms Wells' action in ticking 'no' on the application form for registration in response to the question 'Have you been convicted of a criminal offence and/or cautioned...', and signing it as a true declaration was misleading.</p>
3.(b)	<p>Found proved</p> <p>The Committee considers that the GDC's form for registration makes it very clear that a caution must be declared. The form also makes it clear that a registrant's professional registration may be at risk if he/she makes a false statement in this declaration and undertaking, and may be used by the GDC in fitness to practise proceedings against the registrant. The Committee has concluded that Ms Wells knew at the time when she completed the application form in March 2011, that she had a caution as recently as December 2008 and that she had to declare it. The Committee is also aware that Ms Wells was aged 24 at the time when she received the caution and would have been aware of the significance of it when completing an official form for registration with her regulatory body a little over two years later. It is satisfied that Ms Wells acted dishonestly in concealing her caution from the GDC in an official form when directly asked to declare it.</p>
4.	<p>Found proved</p> <p>The Committee notes that the GDC wrote to Ms Wells on 19 September 2013 requesting information, including her employment details. Ms Wells responded to this request, which was received by the GDC on 24 September 2013, in which she stated that she was unemployed, did not have indemnity insurance and did not need it as she was unemployed. The Committee has seen from the witness statement of SJ that Ms Wells was employed by SCA Trafalgar Dental Services as a dental nurse. The Committee has also seen a copy of Ms Wells' contract of employment with SCA Trafalgar Dental Services which states that her continuous employment began on 3 September 2013 and she was still in employment with the company by 7 October 2013, which is the date when the employment contract was signed. The Committee is therefore satisfied that as at 23 September 2013, Ms Wells was in employment.</p>
5.(a)	<p>Found proved</p> <p>The Committee is satisfied that Ms Wells' actions were misleading because as a</p>

	matter of fact she was employed as at 23 September 2013.
5.(b)	<p>Found proved</p> <p>The Committee is satisfied that Ms Wells must have known that she was not telling the truth on that form as she knew that she was under a contract of employment at that time. The Committee notes that Ms Wells has written in manuscript on two parts of the employment details form that she is “unemployed”. The Committee is satisfied that this was quite deliberate as she was being investigated in respect of her indemnity cover.</p>

We move to Stage Two”.

On 19 June 2015 the Chairman announced the determination as follows:

“Misconduct

Mr Coke-Smyth: The Committee has considered whether the facts found proved in charges 2, 3, 4 and 5 amount to misconduct. In so doing, it has considered all the evidence presented to it and has kept in mind the General Dental Council’s (GDC) ‘Standards for Dental Professionals (May 2005)’ and ‘Standards’ (September 2013). The Committee has taken into account the submissions you have made on behalf of the GDC. It has accepted the advice of the Legal Adviser.

You have submitted that that the findings against Ms Wells, which concern dishonest conduct on two separate occasions, amount to misconduct. During the course of your submissions you referred the Committee to the GDC’s Standards (2005 and 2013) that were relevant at the time.

The facts found proved are as follows: on 7 December 2008, at Hampshire Constabulary in Gosport, Ms Wells was cautioned by the police for battery. On 3 March 2011 Ms Wells signed an application form for registration with the GDC and ticked the box ‘no’ in response to the question: *‘Have you been convicted of a criminal offence and/or cautioned and/or are you currently the subject of any police investigations which might lead to a conviction or a caution in the UK or any other country?’* Ms Wells’ conduct in not declaring her police caution to the GDC when she applied for registration was misleading and dishonest.

During the course of the GDC’s investigation into Ms Wells, the GDC wrote to her on 19 September 2013 in which she was asked to provide details of her employment and her indemnity insurance. Ms Wells stated on the Details of Employment and Indemnity Insurance Form, which was received by the GDC on 24 September 2013, that she was ‘currently unemployed’. In fact she was employed by SCA Trafalgar Dental Services Ltd as a dental nurse. Ms Wells’ conduct in this regard was misleading and dishonest.

The Committee has taken into account the mitigating and aggravating features in this case. It notes that there was no financial gain on the part of Ms Wells in respect of her dishonest conduct and that it took place at an early stage of her career. However, it has borne in mind that her dishonest conduct in respect of two separate matters took place in the context of her dealings with GDC, both in relation to her registration as well as its investigation into her fitness to practise. The public and regulatory bodies such as the GDC must be able to rely on the honesty of dental professionals. Ms Wells’ conduct undermined that process.

In assessing the severity of the misconduct, the Committee has had regard to the GDC's 'Standards for Dental Professionals' and 'Standards' which refer to the requirement to be honest and to act with integrity. It emphasises the need to justify the trust that patients, the public and colleagues have in a dental professional by always acting honestly and fairly. Ms Wells breached these fundamental standards. The Committee considers that Ms Wells' conduct raises significant concerns regarding the behaviour to be expected of a dental care professional. Accordingly, the Committee has concluded that the matters found proved are so serious as to amount to misconduct.

Impairment

The Committee next considered whether Ms Wells' fitness to practise is currently impaired by reason of her caution and her misconduct. It has borne in mind that its duty is to consider the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

You referred to the serious nature of the caution for battery, as well as her dishonest conduct to the GDC, which was not an isolated incident. You made several points that could amount to mitigation, including the fact that there was no evidence of financial gain on her part. Further, you referred to the fact that she notified the GDC on 25 July 2013, following a CRB check, that she had been issued with a caution in December 2008, and asked what steps she should take. You confirmed that Ms Wells has not been subject to any other adverse findings or warnings issued by the GDC. However, you also referred to the aggravating factors, including the absence of any evidence of insight or remediation. In short, you submitted that Ms Wells' fitness to practise is currently impaired by reason of her caution and her misconduct.

The Committee has firstly considered whether Ms Wells' fitness to practise is currently impaired by reason of her caution for battery in 2008. The facts which led to the caution are recorded in the police record as follows: *"The offender is alleged to have grabbed the aggr face with her right hand and bent her over a brick wall. This occurred after having an argument with her. The offender fully admits this allegation and is aware that there is no consent. She does not regret her actions and that she did this as the aggr had interfered in a family matter and had made her angry. The aggr has supported any police action or prosecution."* The Committee considers that the caution for battery is serious, involving the assault of another person and for which Ms Wells appeared to have shown no remorse. However, it has taken into account the fact that this incident took place over seven years ago, before she became a dental nurse and became registered with the GDC. While not diminishing from the fact that battery is a serious offence, given the age of the caution, with no evidence of any repetition of this offending behaviour, the Committee has concluded that Ms Wells' fitness to practise is not currently impaired by reason of her caution.

In terms of the misconduct, the Committee has borne in mind that Ms Wells' dishonest conduct was not an isolated episode but rather that it took place on two separate occasions and in the context of her dealings with the GDC. It was deliberate and in the Committee's view, demonstrated a disregard of the role of the GDC and its regulatory function. The Committee has had regard to the fact that she notified the GDC on 25 July 2013, following a CRB check, that she had been issued with a caution in December 2008. In that email she says that she did not inform the GDC of her caution as it had occurred before she became a dental nurse and she did not realise it was on her record. However, the Committee considers that the GDC's application form for registration makes it very clear that the applicant has a

duty to disclose the caution. Furthermore, her dishonest conduct to the GDC was repeated in September 2013 when she stated on her Details of Employment and Indemnity Insurance Form that she was currently unemployed when she knew that this was not the case. The Committee has concerns about Ms Wells' lack of insight into her dishonest conduct.

In the light of the serious nature with which the Committee views her dishonest conduct, its concerns regarding her lack of insight, and having regard to the need to maintain public confidence in the profession and declare and uphold proper standards of conduct and behaviour, the Committee has determined that Ms Wells' fitness to practise is currently impaired by reason of her misconduct.

Sanction

The Committee next considered what sanction, if any, to impose on Ms Wells' registration. It recognises that the purpose of a sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest. The Committee has taken into account the GDC's "Guidance for the Professional Conduct Committee, including Indicative Sanctions Guidance" (April 2015) (the Guidance). It has applied the principle of proportionality, balancing the public interest with Ms Wells' own interests.

The Committee has noted that there have been no previous findings against Ms Wells by any other GDC Committee.

You submitted that the appropriate sanction would be a period of suspension of Ms Wells' registration for a period of 12 months, with a review hearing to take place before the expiry of the order. You also invited the Committee to consider whether the sanction of erasure is appropriate, given the findings of dishonesty. During the course of your submissions you drew the Committee's attention to relevant sections of the GDC's Guidance. The Committee notes the absence of any written representations made by Ms Wells, despite her being given the opportunity to do so. However, Ms Wells has engaged with the GDC and the regulatory process.

The Committee has considered the range of sanctions available to it, starting with the least restrictive. In view of the serious nature of Ms Wells' dishonest conduct, the Committee has determined that it would be wholly inappropriate to conclude this case without taking any action in respect of her registration or with a reprimand.

The Committee considered whether to impose conditions on Ms Wells' registration, bearing in mind that any conditions imposed would have to be clear, workable, measurable and enforceable. The Committee concluded that conditions would not be appropriate or sufficient given that the misconduct found proved relates to dishonesty.

The Committee then considered whether to suspend Ms Wells' registration. In so doing, the Committee has borne in mind that there is no evidence of any further repetition of the dishonest conduct or any financial gain on the part of Ms Wells. Further, it notes that albeit sometime after she had initially applied for registration with the GDC, Ms Wells herself raised the issue of her caution with the GDC in July 2013 following her CRB check. Nevertheless, the Committee considers that her dishonest conduct was serious. In all the circumstances her behaviour represented a serious falling short of the standards expected of registered dental care professionals.

Accordingly, the Committee considers that it necessary to mark the gravity of Ms Wells' misconduct and to send a clear message to the profession. It has therefore determined to suspend Ms Wells' registration for 12 months, which is the maximum period, with a review

hearing to take place before the expiry of the order. This period of time is sufficient for her to reflect on her conduct and to demonstrate that she has understood the seriousness of the matters found proved. The Committee considered that erasure would be disproportionate given the circumstances of this case.

A Committee will review Ms Wells' case at a resumed hearing to be held shortly before the end of the period of suspension. That Committee will consider what action to take in relation to her registration. She will be informed of the date and time of that resumed hearing. The Committee reviewing Ms Wells' case may find it helpful to receive the following:

- Evidence by reflective piece as to what she has learnt about her behaviour and the issues raised in this case.
- Testimonials from any employer for whom she has worked, or is working.

Unless Ms Wells exercises her right of appeal, her registration will be suspended 28 days from the date when notice of this determination is deemed to have been served upon her.

The Committee now invites submissions from you as to whether Ms Wells' registration should be suspended immediately, pending the taking effect of its substantive direction."

"Decision on immediate order

Mr Coke-Smyth: Having directed that Ms Wells' registration be suspended for a period of twelve months, the Committee has considered whether to impose an order for immediate suspension in accordance with Rule 22 of the GDC (Fitness to Practise) Rules 2006.

You, on behalf of the General Dental Council (GDC), have submitted that such an order is in the public interest in the light of the Committee's findings and its determination to suspend Ms Wells' registration.

The Committee has considered the submissions you have made. It has accepted the advice of the Legal Adviser. Taking all these factors into account, the Committee has determined that it is in the public interest to impose an order for the immediate suspension of Ms Wells' registration forthwith. It has made serious findings in this case and as a result, has suspended Ms Wells' registration. Given these findings, the Committee is satisfied that it would be inconsistent to allow Ms Wells the opportunity to continue to practise during the intervening appeal period.

The effect of the foregoing determination and this immediate order is that Ms Wells' registration will be suspended from the date on which notice of this decision is deemed served upon her. Unless Ms Wells exercises her right of appeal, her registration will be suspended for a period of twelve months from the date of deemed service. Should Ms Wells exercise her right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

That concludes this case."

At a review hearing on 8 July 2016 the Chairman announced the determination as follows:

"Mr Round

This is a resumed hearing for the purposes of section 36Q of the Dentists Act 1984 ('the Act').

Service of notice of hearing and proceeding in the absence of the respondent

Ms Wells was neither present nor represented at this hearing. The Committee first considered whether the Notice of Resumed Hearing had been sent to Ms Wells in accordance with Rules 28 and 65 of the General Dental Council (Fitness to Practise) Rules Order of Council 2006. It saw a copy of the notice of hearing letter dated 7 June 2016 which was sent to Ms Wells's registered address via special delivery. It also saw a copy of the Royal Mail track and trace print out which confirmed that delivery was attempted on 8 June 2016. A copy of the notice of hearing was also sent to Ms Wells by email to an address held by the GDC. The Committee was satisfied that the notice of hearing had been duly sent to Ms Wells in accordance with the Rules.

The Committee then went on to consider whether to exercise its discretion under Rule 54 to hear this case in the absence of Ms Wells. You submitted that the notice of hearing was sent well in advance and that all reasonable efforts had been made by post, email and telephone to notify Ms Wells of this hearing. Ms Wells responded to the GDC in an email dated 22 June 2016 in which she stated "I shall not be attending the hearing, and am happy for it to go ahead in my absence, nor will I be represented". The Committee had regard to the legal advice that it must exercise its discretion with the utmost care and caution. The Committee concluded that Ms Wells has voluntarily absented herself from this hearing. It concluded that an adjournment was unlikely to secure her attendance at a future date and that it was in the public interest to proceed with the hearing.

On 19 June 2015 the Professional Conduct Committee (PCC) found that Ms Wells' fitness to practise was impaired by reason of her misconduct. That Committee directed an order of suspension for 12 months.

On 7 December 2008, at Hampshire Constabulary in Gosport, Ms Wells was cautioned by the police for battery. On 3 March 2011 Ms Wells signed an application form for registration with the GDC and ticked the box 'no' in response to the question: *'Have you been convicted of a criminal offence and/or cautioned and/or are you currently the subject of any police investigations which might lead to a conviction or a caution in the UK or any other country?'* Ms Wells' conduct in not declaring her police caution to the GDC when she applied for registration was misleading and dishonest.

During the course of the GDC's investigation into Ms Wells' conduct, the GDC wrote to her on 19 September 2013 in which she was asked to provide details of her employment and her indemnity insurance. Ms Wells stated on the Details of Employment and Indemnity Insurance Form, which was received by the GDC on 24 September 2013, that she was 'currently unemployed'. In fact, she was employed by SCA Trafalgar Dental Services Ltd as a dental nurse. Ms Wells' conduct in this regard was misleading and dishonest.

Today, the Committee reviewed the order of suspension. In doing so, it has considered all the evidence that has been presented to it. It has taken account of the submissions made by you on behalf of the General Dental Council (GDC). The Committee accepted the advice of the Legal Adviser.

The Committee considered whether Ms Wells' fitness to practise remains impaired by reason of the matters determined against her by the PCC. In reaching its decision, the Committee exercised its own independent judgement. It bore in mind that its duty is to protect the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

Impairment by reason of misconduct

The Committee first considered whether Ms Wells' fitness to practise remains impaired. In reaching its decision, the Committee exercised its own independent judgement. It bore in mind that its duty is to consider the public interest which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

In assessing whether Ms Wells' fitness to practise remains impaired by reason of her misconduct, the Committee had regard in particular to her level of insight, any remediation and the risk of repetition. It is for Ms Wells to satisfy this Committee that she has addressed all aspects of impairment found by the initial PCC.

The Committee has had sight of a recent email dated 5 July 2016, in which Ms Wells appears to express remorse for her dishonest actions. However, the Committee is not satisfied that she has demonstrated that she fully understands the seriousness of her misconduct and has developed insight into it. The findings against Ms Wells relate to misleading and dishonest behaviour, which undermines public confidence in the profession. The Committee considered that in the absence of evidence of any insight and remediation, there remains a real risk of repetition. Ms Wells had disregarded the regulatory requirements of her profession.

There is no evidence before this Committee that she now understands and accepts the importance of her obligations to her regulatory body and the risk of repetition therefore remains high.

The Committee notes that Ms Wells has complied with the current order in that she has not been practising since, and that she has been spending time travelling. However, as Ms Wells has not provided a reflective piece as to what she has learned about her behaviour, the Committee has not been able to assess her level of reflection and insight into her dishonest behaviour.

In the light of all of the above, and in the absence of any evidence to demonstrate that she has addressed the issues, the Committee decided that Ms Wells' fitness to practise remains impaired. Further, public confidence in the profession and this regulatory process would be seriously undermined if a finding of impairment were not made today.

Disposal

The Committee has considered what sanction if any to impose on Ms Wells' registration. It reminded itself that the purpose of sanctions is not to be punitive, but to protect patients and the wider public interest. The Committee applied the principle of proportionality, balancing the public interest with Ms Wells' own interests. The means of disposal available to this Committee are set out in section 36Q of the Act.

The Committee was of the view that it would be inappropriate to revoke the suspension and make no order in light of the serious nature of the misconduct found and the lack of information about Ms Wells' insight and reflection.

The Committee considered that conditions would not be appropriate or workable given her lack of engagement with these proceedings.

The Committee concluded that given the serious nature of the impairment found, the absence of any evidence of remediation and insight, it is appropriate to suspend Ms Wells' registration.

The next Committee would be assisted by;

- Your attendance.
- Evidence by reflective piece that you have insight and that you understand the impact that your behaviour has had on you and the profession
- Written references by others confirming good character.

Accordingly, the Committee directed that Ms Wells' registration be suspended for a further period of 12 months with a review prior to the end of that period.

That concludes the case for today.”

At a review hearing on 5 July 2017 the Chairman announced the determination as follows:

“Mr Middleton

This is a resumed hearing for the purposes of section 36Q of the Dentists Act 1984 (‘the Act’).

Service of notice of hearing and proceeding in the absence of the respondent

Ms Wells was neither present nor represented at this hearing. The Committee first considered whether the Notice of Resumed Hearing had been sent to Ms Wells in accordance with Rules 28 and 65 of the General Dental Council (Fitness to Practise) Rules Order of Council 2006. It saw a copy of the notice of hearing letter dated 5 June 2017 which was sent to Ms Wells' registered address via special delivery. It also saw a copy of the Royal Mail track and trace print out which confirmed that delivery was effective on 8 June 2016. A copy of the notice of hearing was also sent to Ms Wells by email to an address held by the GDC. The Committee was satisfied that the notice of hearing had been duly sent to Ms Wells in accordance with the Rules.

The Committee then went on to consider whether to exercise its discretion under Rule 54 to hear this case in the absence of Ms Wells. You submitted that the notice of hearing was sent well in advance and that all reasonable efforts had been made by post and email to notify Ms Wells of this hearing. Ms Wells responded to the GDC in an email dated 22 June 2017 in which she stated “I shall not be attending the hearing, and am happy for it to go ahead in my absence, nor will I be represented”. The Committee had regard to the legal advice that it must exercise its discretion with the utmost care and caution. The Committee concluded that Ms Wells has voluntarily absented herself from this hearing. It concluded that an adjournment was unlikely to secure her attendance at a future date and that it was in the public interest to proceed with the hearing.

On 19 June 2015 the Professional Conduct Committee (PCC) found that Ms Wells' fitness to practise was impaired by reason of her misconduct. That Committee directed an order of suspension for 12 months. The matter was reviewed on 8 June 2016 when it was determined that Ms Wells' fitness to practise remained impaired by reason of her misconduct. That Committee directed that the order of suspension should continue for a further period of 12 months.

On 7 December 2008, at Hampshire Constabulary in Gosport, Ms Wells was cautioned by the police for battery. On 3 March 2011 Ms Wells signed an application form for registration with the GDC and ticked the box 'no' in response to the question: *'Have you been convicted of a criminal offence and/or cautioned and/or are you currently the subject of any police investigations which might lead to a conviction or a caution in the UK or any other country?'*

Ms Wells' conduct in not declaring her police caution to the GDC when she applied for registration was misleading and dishonest.

During the course of the General Dental Council's (GDC) investigation into Ms Wells' conduct, the GDC wrote to her on 19 September 2013 asking her to provide details of her employment and her indemnity insurance. Ms Wells stated on the Details of Employment and Indemnity Insurance Form, which was received by the GDC on 24 September 2013, that she was 'currently unemployed'. In fact, she was employed by SCA Trafalgar Dental Services Ltd as a dental nurse. Ms Wells' conduct in this regard was misleading and dishonest.

Today, the Committee reviewed the order of suspension. In doing so, it has considered all the evidence that has been presented to it. It has taken account of the submissions made by you on behalf of the GDC. The Committee accepted the advice of the Legal Adviser.

Impairment by reason of misconduct

The Committee first considered whether Ms Wells' fitness to practise remains impaired. In reaching its decision, the Committee exercised its own independent judgement. It bore in mind that its duty is to consider the public interest which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

In assessing whether Ms Wells' fitness to practise remains impaired by reason of her misconduct, the Committee had regard in particular to her level of insight, any remediation and the risk of repetition. It is for Ms Wells to satisfy this Committee that she has addressed all aspects of impairment found by the initial PCC. The last reviewing Committee requested that the next Committee would be assisted by;

- Your attendance.
- Evidence by reflective piece that you have insight and that you understand the impact that your behaviour has had on you and the profession
- Written references by others confirming good character.

The Committee has had sight of an undated letter dated from Ms Wells, in which Ms Wells appears to express some remorse for her dishonest actions and has reflected during this period of suspension. The Committee noted that Ms Wells' reflective piece was very short in detail and did not provide sufficient evidence of insight into her past failings. The Committee wished to see a more insightful reflective piece. It has also had sight of two references from ex colleagues. The testimonials do not provide confirmation that the referees are aware of the reasons why this reference was required. However, the Committee is not satisfied that she has demonstrated that she fully understands the seriousness of her misconduct or that she has adequately addressed the requirements of the previous Committee.

The Committee notes that Ms Wells has complied with the current order in that she has not been practising since, and has been spending time travelling. The Committee would have been assisted by her attendance to hear about any insight into her past behaviour. Therefore, this Committee has not been able to assess her level of reflection and insight into her dishonest behaviour.

Ms Wells has been given more than one opportunity to engage with these proceedings fully, but has failed to do so. The findings against Ms Wells relate to misleading and dishonest behaviour, which undermines public confidence in the profession. The Committee considered that in the absence of sufficient evidence of insight and remediation, there

remains a real risk of repetition. Ms Wells has not provided evidence that she fully appreciates the seriousness of these proceedings.

In the light of all of the above, and in the absence of sufficient evidence to demonstrate that she has addressed the issues, the Committee decided that Ms Wells' fitness to practise remains impaired. Further, public confidence in the profession and this regulatory process would be seriously undermined if a finding of impairment were not made today.

Disposal

The Committee next considered what action, on this second review under s36Q of the Act, to impose on Ms Well's registration. It reminded itself that the purpose of any sanction is not to be punitive although it may have that effect. The Committee bore in mind the principle of proportionality. It carefully considered the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016) ("the PCC Guidance").

The Committee first considered whether to revoke the suspension order. It was of the view that because of the serious nature of the proven allegations together with the sparse evidence of Ms Well's insight or remediation, there was a continued risk to patients. Therefore, it would be inappropriate to revoke the suspension order.

The Committee then considered whether to revoke the suspension and replace it with a direction for conditional registration. The Committee noted that at numerous intervals, the GDC, had sent correspondence to her inviting her to engage and reminding her of the previous Committees' recommendations. The Committee concluded that any conditions would not be workable, appropriate or sufficient to protect patients and to uphold the wider public interest, in the circumstances of this case.

The Committee went onto consider whether to further extend the suspension order for a maximum period of 12 months. Given Ms Wells' limited engagement with the GDC, her non-attendance at this and previous hearings, the lack of sufficient evidence of insight, remorse or remediation and the seriousness of the failings identified, the Committee was of the view that a further period of suspension with a review would not be likely to achieve an outcome of Ms Wells being fully remediated, unimpaired and fit to practise without restriction. She has had nearly two years to demonstrate appropriate remediation and has failed to do so.

The Committee therefore determined that the only appropriate and proportionate order to make was one of indefinite suspension. It was satisfied that the criteria for making such an order as set out in section 36Q of the Act. Ms Wells will have been suspended for at least 2 years on the date this direction takes effect. The Committee concluded that to further extend the existing order of suspension for a fixed period would serve no useful purpose. The Committee considered the severity of this outcome. However, in the circumstances, the Committee was satisfied that an indefinite suspension was the only appropriate, sufficient and proportionate order to make so as to protect the public and uphold the wider public interest, for the reasons given.

Accordingly, the Committee directed that Ms Wells registration be suspended indefinitely pursuant to section 36Q of the Dentists Act 1984, as amended.

That concludes this hearing."