

HEARING HEARD IN PUBLIC

BRUWER, Hendrik Carel

Registration No: 68839

PROFESSIONAL CONDUCT COMMITTEE

JUNE 2021

Outcome: Erased with Immediate Suspension

BRUWER, Hendrik Carel, a dentist, MChD Stell 1992, BChD Stell 1983, was summoned to appear before the Professional Conduct Committee on 1 June 2021 for an inquiry into the following charge:

Charge

“That being registered as a Dentist:

- 1) On 15 February 2020, you sexually touched Witness 1 without consent.
- 2) Between 20 February 2017 and 11 April 2019, you:
 - a) Frequently called Witness 2 ‘stupid woman’ or ‘silly girl’ in front of patients;
 - b) Frequently touched Witness 2 without consent;
 - c) Touched Witness 2 on or around the buttocks on more than one occasion without consent;
 - d) Tried to kiss Witness 2 on two occasions without consent;
 - e) Approached Witness 2 from behind whilst she was in a crouched position and tried to lift her on a single occasion without consent;
 - f) Approached Witness 2 from behind and tried to lift her up by putting your arms around her waist on a single occasion without consent
 - g) Pinched Witness 2 on approximately three occasions without consent;
 - h) Placed a hot teaspoon on Witness 2’s arm on two occasions without consent;
 - i) Flicked liquid from a toothbrush you had used onto Witness 2 on a single occasion without consent;
 - j) Punched Witness 2 in the stomach on two or more occasions without consent;
 - k) Sent unsolicited videos to Witness 2 via social media on two or more occasions.
- 3) In respect of 2)a) and / or 2)b) and / or 2)e) and /or 2)f) and/or 2)g) and /or 2)h) and / or 2)i) and / or 2)j) and / or 2)k), your conduct was:
 - a) Inappropriate;
 - b) Unprofessional;
 - c) Harassing.
- 4) In respect of 2)c) and / or 2)d), your conduct was:

- a) Sexual;
 - b) Harassing.
- 5) Between October 2016 and 17 January 2019 you:
- a) Bit Witness 3's arm on a single occasion without consent;
 - b) Punched Witness 3 in the stomach on a single occasion without consent;
 - c) Kissed Witness 3 on the back of the neck on a single occasion without consent;
 - d) Pinched Witness 3 on three or more occasions without consent;
 - e) Bent Witness 3 over and smacked her buttocks on a single occasion without consent;
 - f) In the presence of a patient, said to Witness 3 'you need to ask another nurse because you are crap at it. All nurses are rubbish here' or words to that effect.
- 6) In respect of 5)a) and / or 5)b) and / or 5)d) and / or 5)f), your conduct was:
- a) Inappropriate;
 - b) Unprofessional;
 - c) Harassing.
- 7) In respect of 5)c) and /or 5)e) your conduct was:
- a) Sexual;
 - b) Harassing.
- 8) Whilst attending a meeting on 06 August 2019 you bit Witness 4 on the arm without consent;
- 9) In respect of 8) your behaviour was:
- a) Inappropriate;
 - b) Unprofessional;
 - c) Harassing.
- 10) Between 06 March 2017 and 28 March 2019 you:
- a) Pinched Witness 5 on the back of the arm on at least five occasions without consent;
 - b) Flicked liquid from a toothbrush you had used onto Witness 5 on several occasions without consent;
 - c) Bit Witness 5 on or around the upper limbs on at least five occasions without consent;
 - d) Followed Witness 5 into the toilet and locked the door behind you without invitation on a single occasion;
 - e) Punched Witness 5 in the stomach on approximately three occasions without consent;
 - f) Placed a hot teaspoon on Witness 5's arm on one occasion without consent;
 - g) Pulled Witness 5's hair on at least one occasion without consent;
- 11) In respect of 10) your conduct was:
- a) Inappropriate;

- b) Unprofessional;
- c) Harassing.

And that, in consequence of the matters set out above, your fitness to practise is impaired by reason of your misconduct.”

As Mr Bruwer did not attend and was not represented at the hearing, the Chairman made the following statement regarding proof of service and other preliminary matters on 1 June 2021.

“Decision on service of the Notification of Hearing

Ms Gates on behalf of the GDC made an application that effective service of the Notice of Hearing has been made. The Committee first considered whether notice of the hearing had been served on Mr Bruwer in accordance with Rules 13 and 65. It received a bundle of documents containing a copy of the Notice of Hearing letter, dated 29 April 2021. The letter was sent only via email, at the request of the Registrant and his representatives. The Committee took into account that there is no requirement within the Rules for the GDC to prove receipt of the letter. However, it noted the letter from his representatives dated 26 May 2021 confirming receipt of the Notice of Hearing.

The Committee was satisfied that the Notice of Hearing letter of 29 April 2021 contained proper notice of the hearing, including its start date, time and venue, as well as notification that the Committee could proceed with the hearing in Mr Bruwer’s absence. On the basis of the information provided to it, the Committee was satisfied that notice of the hearing had been served on Mr Bruwer in accordance with the Rules.

Decision on whether to proceed with the hearing in the absence of Mr Bruwer

Ms Gates made an application that the Committee should proceed in the Registrant’s absence. The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Mr Bruwer and/or any representative on his behalf. It approached the issue with the utmost care and caution, noting his right to attend and participate. The Committee had regard to the factors to be considered in reaching its decision as set out in the case of *R v Jones [2003] 1 AC 1HL*, and the public interest considerations referred to in *Adeogba v GMC [2016] EWCA CIV 162* as well as the obligation on professionals to engage with their regulator. It took into account that fairness to Mr Bruwer was of primary importance, but also remained mindful of the need to be fair to the GDC. The Committee also took into account the public interest in dealing with Mr Bruwer’s case expeditiously.

The Committee noted that solicitors acting for Mr Bruwer confirmed in a letter dated 26 May 2021 to the GDC stating *“We write to confirm that Mr Bruwer will not attend the hearing that is listed to start on 1 June 2021, nor will he be represented at that hearing. He means no disrespect to the Committee, the public nor the profession in reaching this decision. Mr Bruwer understands that the Committee hearing will take place notwithstanding his absence and that of a representative....We wish to make it very clear that Mr Bruwer does not seek an adjournment of the hearing that is listed to start on 1 June 2021 – he is anxious that this process is not prolonged”*

The Committee was satisfied from the information before it, that Mr Bruwer has voluntarily decided not to attend the hearing and not be represented. The Committee considered that Mr Bruwer had had opportunities to ask the GDC for an adjournment, but he had indicated that he would oppose such a request. In the circumstances, the Committee concluded that it was unlikely that an adjournment of the hearing would secure Mr Bruwer’s attendance on a future occasion.

The Committee was satisfied that in effect that Mr Bruwer had chosen to disengage with the process. The Committee was mindful that all professionals have an obligation to engage with their regulator, and that it would run entirely counter to the protection, promotion and maintenance of the health and safety of the public if a practitioner could effectively frustrate the regulatory process. Bearing in mind the number and complexity of the allegations and the public interest in the expeditious conduct of the GDC's regulatory function, the Committee had no hesitation that it was fair and in the interests of justice for the hearing to proceed in the absence of Mr Bruwer.

Application for anonymity of the witnesses

The Committee then considered an application by Ms Gates on behalf of the GDC for some of the hearing to be held in private in order for the anonymity of the witnesses and in particular Witness 1, given some of these matters relate to alleged sexual conduct. The starting point for the Committee is for all hearings to be held in public as it is in the interests of justice to do so. However, a hearing may be heard in private where some background matters are linked to the private and family life of any the participants, under Rule 53(2) of the Rules. Witness 1 has indicated to the GDC that exposure of her identity could have a detrimental impact on her. Given the nature of the allegations, the Committee agreed that it is in the interests of the witnesses concerned, particularly Witness 1, that some of the hearing should be heard in private in order to protect their identities. The Committee, therefore, acceded to the application.

Application for witnesses' statements to stand alone as witness in chief

Ms Gates made a further application for the witnesses, who were warned to give live evidence, to have their written statements as evidence in chief evidence and for them to be stood down. Ms Gates also made an application that, if the Committee determined that they want to ask the witnesses questions, that additional time be allowed in order to make arrangements for the witnesses to answer questions via a telephone link.

The Committee having considered the matters very carefully, is satisfied that it is fair to accept all of the witnesses' statements as evidence in chief. However, when considering the application for the witnesses to be stood down, the Committee considers that they are somewhat restrained from asking questions if all the witnesses were to be stood down. It notes that the registrant and representatives are not present, and the Committee are unable to hear any submissions from them. The Committee would like the opportunity to ask questions where it feels appropriate. Therefore, the Committee considers that, as the onus is on the GDC to prove all matters, it would be helpful for the Committee to have the opportunity to ask relevant questions, if required, to any of the 5 witnesses.

It therefore rejects the GDC's application to stand down witnesses 1-5."

On 4 June 2021 the Chairman made the following statement regarding the finding of facts:

"This is a Professional Conduct Committee hearing. The members of the Committee, as well as the Legal Adviser and the Committee Secretary, conducted the hearing remotely via Microsoft Teams in line with current GDC practice. Mr Bruwer is neither present or represented at this hearing. Ms Gates, Case Presenter for the GDC attended via Microsoft Teams.

Background

This case before this Committee involves allegations of behaviour between October 2016 to 15 February 2020 which are referred to in 9 witness statements. It is alleged that on 15 February 2020 Mr Bruwer touched a work colleague in an inappropriate manner, whilst in the reception area of the practice where they were both working, and the touching was sexual in nature. There are also allegations from four other former colleagues that Mr Bruwer behaved inappropriately and in an unprofessional manner towards them. The matters were investigated by the NHS Local Area Team.

Evidence

The Committee received documentary evidence which included nine written witness statements from former colleagues. It heard oral evidence from 6 witnesses, Witness 1, Witness 2, Witness 3, Witness 4, Witness 7 and Witness 9.

The Committee received written correspondence from Mr Bruwer's representatives, Radcliffes Le Brasseur Solicitors to the GDC dated 26 May 2021, 14 April 2021 and 18 June 2020, where they provide the Registrant's observations in response to the allegations.

The Committee when considering all the charges, particularly those relating to sexual and harassing conduct were guided to the following relevant cases of law, GMC v Haris [2020] EWHC 2518 (Admin), and PSA v HCPC Yong [2021] EWHC 52 (Admin). The Committee took these into account when deliberating relevant heads of charge.

The Committee has taken into account all the evidence presented to it. It has accepted the advice of the Legal Adviser. 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><i>On 15 February 2020, you sexually touched Witness 1 without consent.</i></p> <p>Proved.</p> <p>The Committee noted the observations from Mr Bruwer and gave it appropriate weight as untested hearsay evidence. The Committee took into the account the written and oral evidence of Witness 1. The Committee found her oral evidence to be credible and straight forward. The Committee accepted the written and oral evidence of Witness 1 in respect of this head of charge.</p> <p>The Committee notes that separate initial practice interviews were conducted by Witness 7 and were held with Witness 1 and Mr Bruwer on 18 February 2020 shortly after the alleged events. It took into account the written reports of the practice manager interviews. The Committee also took account of the note of the Registrant's meeting with his employer on 11 March 2020. The Committee noted that Mr Bruwer had admitted in these interviews to the touching of Witness 1 and that '<i>he had squeezed her bum but not underneath</i>'. The Committee also took into account the written statement of Witness 1 where she states that she was touched by Mr Bruwer, was alarmed and did not invite this.</p> <p>In respect of consent, Witness 1 was very clear in her evidence that she did not invite this and did not want this. The Committee notes that Mr Bruwer was a senior colleague, and this occurred in a work context. Witness 1 was a junior to Mr Bruwer in both age and professionally. The Committee is satisfied that in this</p>
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	<p>context she was surprised, had frozen and felt unable to speak to him about this. The Committee considers that her lack of action does not imply consent. The Committee is satisfied that Mr Bruwer sexually touched Witness 1 and that she did not give her consent to being touched sexually. It therefore finds this head of charge proved.</p>
2.	<p><i>Between 20 February 2017 and 11 April 2019, you:</i></p>
2.a	<p><i>Frequently called Witness 2 ‘stupid woman’ or ‘silly girl’ in front of patients;</i></p> <p>Proved.</p> <p>The Committee took into account the written and oral evidence of witness 2. The Committee found her oral evidence to be credible and straight forward.</p> <p>The Committee accepted the written and oral evidence of Witness 2 in respect of this head of charge. In particular, Witness 2’s written account where she states “<i>The Registrant was also frequently rude to me in front of patient’s and used names such as stupid woman or silly girl.</i>”</p> <p>The Committee is therefore satisfied that Mr Bruwer did frequently call Witness 2 ‘stupid woman’ or ‘silly girl’ in front of patients and finds this head of charge proved.</p>
2.b	<p><i>Frequently touched Witness 2 without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2’s written account where she states, “<i>The Registrant first put his hands around my waist. This was not an isolated incident</i>”.</p> <p>The Committee is therefore satisfied that Mr Bruwer did frequently touch Witness 2 without consent and finds this head of charge proved.</p>
2.c	<p><i>Touched Witness 2 on or around the buttocks on more than one occasion without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2’s written account where she states, “<i>There were occasions where he tried to touch me further down towards my bum for which I can see no other explanation than sexual gratification.</i>” It also noted her oral evidence where she stated that Mr Bruwer did touch her bum.</p> <p>The Committee is therefore satisfied that Mr Bruwer did touch Witness 2 on or around the buttocks on more than one occasion without consent and finds this head of charge proved.</p>
2.d	<p><i>Tried to kiss Witness 2 on two occasions without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of</p>

	<p>this head of charge.</p> <p>In particular, Witness 2's written account where she states "<i>Towards the end of my time at the Practice, I remember the Registrant tried to kiss me on two separate occasions. On the first occasion, I was cleaning up his surgery whilst he was doing paperwork at this desk. He approached me and tried to kiss me on the forehead to which I said 'I am not a child'....A month or so later, the Registrant did the same thing. I was finishing for the day and cleaning up the surgery whilst he was doing paperwork at this desk. He approached and tried to kiss me on the cheek</i>". It also noted her oral evidence where she confirmed that she was very clear that Mr Bruwer had kissed her on two occasions and that she did not give her consent to this.</p> <p>The Committee is therefore satisfied that Mr Bruwer did try to kiss Witness 2 on two occasions without consent and finds this head of charge proved.</p>
2.e	<p><i>Approached Witness 2 from behind whilst she was in a crouched position and tried to lift her on a single occasion without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2's written account where she states "<i>I was sweeping the floor and I think the Registrant was seated doing paperwork. He came from behind and tried to pick me up by my knees whilst I was in a crouched in a ball like position. This was unpleasant and not nice. I told him his behaviour was unacceptable, inappropriate, and said 'do not do that..'</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer did approach Witness 2 from behind whilst she was in a crouched position and tried to lift her on a single occasion without consent and finds this head of charge proved.</p>
2.f	<p><i>Approached Witness 2 from behind and tried to lift her up by putting your arms around her waist on a single occasion without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2's written account where she states "<i>On one occasion around two or three months before I left the Practice, I was sweeping the surgery floor when the Registrant approached and tried to pick me up from behind by putting his arms around my waist. I said 'do not pick me up, do not touch me'. When I said this to him, he stopped and walked off without saying anything. I was upset and angry..'</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer did approach Witness 2 from behind and tried to lift her up by putting his arms around her waist on a single occasion without consent and finds this head of charge proved.</p>
2.g	<p><i>Pinched Witness 2 on approximately three occasions without consent;</i></p> <p>Proved.</p>

	<p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2's written account where she states "<i>I remember the Registrant pinched me on three occasions whilst I was working at the Practice. The first time occurred when I was fairly new. I was getting stock from the cupboard when I felt the back of my neck being squeezed. I jolted forward and bumped my head on the inside frame of the cupboard. I had not seen the Registrant approach me and he did not say anything..</i>"</p> <p>It also accepted Witness 9's written statement and in particular "<i>About a year after the Registrant started [Witness 2] told me that the Registrant would pinch her sometimes. I didn't really think about it at first but then I recall she showed me a bruise on her arm.</i>" Witness 9 also confirmed in oral evidence that he did see a bruise on Witness 2's arm.</p> <p>The Committee is therefore satisfied that Mr Bruwer did pinch Witness 2 on approximately three occasions without consent and finds this head of charge proved.</p>
2.h	<p><i>Placed a hot teaspoon on Witness 2's arm on two occasions without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2's written account where she states "<i>I remember that on two occasions that Registrant made a cup of tea whilst we were at the laboratory, took the hot teaspoon out of the cup and put it on my arm. The teaspoon was hot enough to cause a painful burning sensation in my arm. There was a gap of about two weeks in between the incidents. He did not ask permission to do this and did not apologise for hurting me. I did not say anything as I was scared. I feel the Registrant behaved inappropriately as he deliberately hurt me whilst I was working</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer did place a hot teaspoon on Witness 2's arm on two occasions without her consent and finds this head of charge proved.</p>
2.i	<p><i>Flicked liquid from a toothbrush you had used onto Witness 2 on a single occasion without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2's written account where she states "<i>...the Registrant brushed his teeth and flicked the bristles at me on two occasions with a couple of months in between. I am sure his actions were deliberate....I felt grossed out but did not say anything as I was scared and did not feel able to.</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer did flick liquid from a toothbrush he had used onto Witness 2 on a single occasion without her consent</p>

	and finds this head of charge proved.
2.j	<p><i>Punched Witness 2 in the stomach on two or more occasions without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2's written account where she states "<i>I remember that registrant punched me in the stomach on two or three different occasions with a couple of weeks in between incident... On each occasion the Registrant would jump towards me pretending to be a kangaroo and then punched me in the stomach. He would then laugh and walk away. He did not punch me really hard but enough to hurt a little. I did not say anything to him in response and I do not recall if anyone else was present. I felt uncomfortable and humiliated at the time.</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer did punch Witness 2 in the stomach on two or more occasions without consent and finds this head of charge proved.</p>
2.k	<p><i>Sent unsolicited videos to Witness 2 via social media on two or more occasions.</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 2 in respect of this head of charge.</p> <p>In particular, Witness 2's written account where she states "<i>The Registrant used to send me videos by WhatsApp every now and again throughout the time I was at the Practice. I do not recall how many videos he sent but I remember two videos in particular that I found to be inappropriate... I did not ask for the Registrant to send me videos and they were unwelcome. I found the content to be inappropriate.</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer did send unsolicited videos to Witness 2 via social media on two or more occasions and finds this head of charge proved.</p>
3	<i>In respect of 2)a) and / or 2)b) and / or 2)e) and /or 2)f) and/or 2)g) and /or 2)h) and / or 2)i) and / or 2)j) and / or 2)k), your conduct was:</i>
3.a	<p><i>Inappropriate;</i></p> <p>Proved for the reasons given in head of charge 3.b.</p>
3.b	<p><i>Unprofessional;</i></p> <p>Proved.</p> <p>The Committee took into account the meaning of both inappropriate and unprofessional.</p> <p>The Committee considered the circumstances, that the conduct took place in a professional working environment, and related to a wide range of behaviour involving verbal and physical behaviour in a way that caused distress to Witness 2.</p>

	<p>The Committee noted that there was also no consent given by Witness 2. It also noted that on some occasions patients were in the chair, and that Mr Bruwer was a senior professional in a position of authority within the practice. He was a much more mature colleague than Witness 2.</p> <p>In the judgement of the Committee, Mr Bruwer's conduct was both inappropriate and unprofessional. It therefore finds this head of charge proved in respect of 2)a), 2)b), 2)e), 2)f), 2)g), 2)h), 2)i), 2)j) and 2)k).</p>
3.c	<p><i>Harassing.</i></p> <p>Proved.</p> <p>The Committee took into account the meaning of harassing, which includes alarming the person or causing the person distress, and whether the registrant's conduct constitutes harassment in the regulatory context.</p> <p>The Committee having applied their own judgement is satisfied that Mr Bruwer's conduct in respect of the above heads of charge was harassing. Witness 2 states regularly throughout her statement that <i>"This was unpleasant and not nice... I felt very uncomfortable and thought his conduct was completely inappropriate...it did hurt and I feel it was inappropriate for the Registrant to act as he did.... I did not report the incident as I was scared to do so and did not want to cause trouble.....I found this stressful and would frequently cry at home. Almost every day I arrived at home upset about something the Registrant had done, but I had to come back to work the next day... Whilst at the Practice I was scared that the Registrant would make my life difficult and rightly or wrongly felt I might lose my job"</i></p> <p>The Committee noted that there were several occasions where Witness 2 had felt uncomfortable and the Committee is satisfied that Mr Bruwer's behaviour found proved in head of charge 2 caused Witness 2 distress and made her feel uncomfortable and vulnerable. The Committee considers that professional boundaries were crossed.</p> <p>The Committee is therefore satisfied that Mr Bruwer's conduct was harassing in respect of 2)a), 2)b), 2)e), 2)f), 2)g), 2)h), 2)i), 2)j) and 2)k), and finds this head of charge proved.</p>
4.	<p><i>In respect of 2)c) and / or 2)d), your conduct was:</i></p>
4.a	<p>Sexual;</p> <p>Proved.</p> <p>The Committee took into account the guidance given to it about the meaning of 'sexual'. As part of this the Committee considered whether Mr Bruwer's conduct was consensual or unintentional.</p> <p>The Committee took into account the witness statement of Witness 2 and in particular <i>"I assumed the Registrant was acting sexually as there was no other reasonable explanation for his behaviour."</i></p> <p>The Committee has received no information to confirm that Mr Bruwer's conduct was accidental and there is no other obvious and reasonable explanation for his behaviour. The Committee is satisfied he touched her body on more than one occasion, including her bottom, which was a private part. The Committee</p>

	<p>considers that there is no possible motivation for doing so, other than it being sexual.</p> <p>The Committee notes that there was more than one occasion where Mr Bruwer had touched Witness 2's private area and kissed her without consent.</p> <p>The Committee is therefore satisfied that Mr Bruwer's conduct was sexual in respect of 2)c) and 2)d, and finds this head of charge proved.</p>
4.b	<p>Harassing.</p> <p>Proved.</p> <p>The Committee took into account the meaning of harassing, which includes alarming the person or causing the person distress, and whether the registrant's conduct constitutes harassment in the regulatory context.</p> <p>The Committee notes Witness 2's distress and that Mr Bruwer's conduct made her feel uncomfortable and vulnerable. The Committee considers that professional boundaries were crossed.</p> <p>Witness 2 stated in her witness statement <i>"I felt really uncomfortable and vulnerable. My own family or friends would not cross personal boundaries like this."</i></p> <p>The Committee is therefore satisfied that Mr Bruwer's conduct was harassing in respect of 2)c) and 2)d, and finds this head of charge proved.</p>
5.	<p><i>Between October 2016 and 17 January 2019 you:</i></p>
5.a	<p><i>Bit Witness 3's arm on a single occasion without consent;</i></p> <p>Proved.</p> <p>The Committee found Witness 3's oral evidence to be credible and straight forward. The Committee accepted the written and oral evidence of witness 3 in respect of this head of charge.</p> <p>In particular, Witness 3's written account where she states <i>"The Registrant bit me once on my forearm whilst we were in his surgery not long after he started at the Practice... I was shocked and I said to him 'I cannot believe you have bitten me' or words to that effect"</i></p> <p>The Committee is therefore satisfied that Mr Bruwer did bite Witness 3's arm on a single occasion without consent and finds this head of charge proved.</p>
5.b	<p><i>Punched Witness 3 in the stomach on a single occasion without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 3 in respect of this head of charge.</p> <p>In particular, Witness 3's written account where she states <i>"The Registrant leant forward from his chair and punched me directly in the stomach. It did not really hurt, but I was shocked and found it embarrassing. I found the Registrant's conduct to be inappropriate. It is not acceptable behaviour and I would not do that to my friends, even less to a colleague. I cannot remember whether he said</i></p>

	<p><i>anything, but I did not permit or encourage the Registrant to punch me.”</i></p> <p>The Committee is therefore satisfied that Mr Bruwer punched Witness 3 in the stomach on a single occasion without consent and finds this head of charge proved.</p>
5.c	<p><i>Kissed Witness 3 on the back of the neck on a single occasion without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 3 in respect of this head of charge.</p> <p>In particular, Witness 3’s written account where she states “<i>Not long after this the Registrant approached me from behind and kissed me once in the back of my neck while we were in his surgery... I think I may have found something he was looking for and he said great and then he leant forwards in his chair and kissed...I found this behaviour to be disgusting... I was shocked by his behaviour and I found it horrible and degrading.</i>”</p> <p>The Committee is therefore satisfied that Mr Bruwer had kissed Witness 3 on the back of the neck on a single occasion without her consent and finds this head of charge proved.</p>
5.d	<p><i>Pinched Witness 3 on three or more occasions without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 3 in respect of this head of charge.</p> <p>In particular, Witness 3’s written account where she states “<i>I can recall that the Registrant pinched me on the back of my arm on at least three or four occasions before I said clearly ‘please do not do that’.</i>”</p> <p>The Committee is therefore satisfied that Mr Bruwer had pinched Witness 3 on three or more occasions without her consent and finds this head of charge proved.</p>
5.e	<p><i>Bent Witness 3 over and smacked her buttocks on a single occasion without consent;</i></p> <p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 3 in respect of this head of charge.</p> <p>In particular, Witness 3’s written account where she states “<i>He tried to crush me by placing one arm over my shoulder and pushing me down under his other arm so that I was bent over. He elbowed me in the ear when he did this. I complained in response and he smacked my bum.</i>”</p> <p>The Committee is therefore satisfied that Mr Bruwer had bent Witness 3 over and smacked her buttocks on a single occasion without her consent and finds this head of charge proved.</p>
5.f	<p><i>In the presence of a patient, said to Witness 3 ‘you need to ask another nurse because you are crap at it. All nurses are rubbish here’ or words to that effect.</i></p>

	<p>Proved.</p> <p>The Committee accepted the written and oral evidence of witness 3 in respect of this head of charge.</p> <p>In particular, Witness 3's written account where she states "<i>Towards the end of my employment at the Practice in January 2019, the Registrant said to me 'you need to ask another nurse because you are crap at it. All nurses are rubbish here' or words to that effect whilst we were treating patients. This happened on a couple of occasions about a week apart.</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer, in the presence of a patient, did say to Witness 3 '<i>you need to ask another nurse because you are crap at it. All nurses are rubbish here</i>' or words to that effect and finds this head of charge proved.</p>
6	<i>In respect of 5)a) and / or 5)b) and / or 5)d) and / or 5)f), your conduct was:</i>
6.a	<p>Inappropriate;</p> <p>Proved for the reasons given in head of charge 6.b.</p>
6.b	<p>Unprofessional;</p> <p>Proved.</p> <p>The Committee took into account the meaning of both inappropriate and unprofessional.</p> <p>The Committee considers the circumstances, that the conduct took place in a professional working environment, and related to a wide range of behaviour involving verbal and physical behaviour in a way that caused distress to Witness 3. The Committee notes that no consent was given by Witness 3. It also noted that on occasion patients were in the chair. The Committee also took into account that Mr Bruwer was a senior professional in a position of authority within the practice. He was a much more mature colleague than Witness 3.</p> <p>Witness 3 stated in her written statement "<i>I found the Registrant's conduct to be inappropriate. It is not acceptable behaviour and I would not do that to my friends, even less to a colleague... On one of the occasions the patient's mother said 'does he always talk to you like this?' to which I said that he did. The Registrant did not say anything in response. I felt embarrassed at the time and annoyed afterwards.</i>"</p> <p>In the judgement of the Committee, Mr Bruwer's conduct was both inappropriate and unprofessional. It therefore finds this head of charge proved in respect of 5)a) and / or 5)b) and / or 5)d) and / or 5)f).</p>
6.c	<p>Harassing.</p> <p>Proved.</p> <p>The Committee took into account the meaning of harassing, which includes alarming the person or causing the person distress, and whether the registrant's conduct constitutes harassment in the regulatory context.</p> <p>The Committee having applied their own judgement is satisfied that Mr Bruwer's</p>

	<p>conduct in respect of the above heads of charge was harassing. Witness 3 states <i>"It did not really hurt, but I was shocked and found it embarrassingThe first time did not really hurt very much, but the last time hurt quite a lot and made me feel very annoyed..."</i></p> <p>The Committee noted that these occurred on more than one occasion which caused physical and verbal distress. Witness 3 had felt annoyed, and the Committee is satisfied that the behaviour that the Committee has found proved in head of charge 5 caused Witness 3 distress and made her feel annoyed and embarrassed. The Committee considers that the professional boundaries were crossed.</p> <p>The Committee is therefore satisfied that Mr Bruwer's conduct was harassing in respect of 5)a) and / or 5)b) and / or 5)d) and / or 5)f), and finds this head of charge proved.</p>
7.	<i>In respect of 5)c) and /or 5)e) your conduct was:</i>
7.a	<p>Sexual;</p> <p>Proved.</p> <p>The Committee took into account the guidance given to it about the meaning of 'sexual'. As part of this the Committee considered whether Mr Bruwer's conduct was consensual or unintentional.</p> <p>The Committee took into account the witness statement of Witness 3 and in particular <i>"I was shocked by his behaviour and I found it horrible and degrading."</i></p> <p>The Committee has received no information to confirm that Mr Bruwer's conduct was accidental and there was no other obvious and reasonable explanation for his behaviour. The Committee is satisfied he touched her on more than one occasion, including her bottom, which was a private part. The Committee considers that there is no possible motivation for doing so, other than it being sexual. The Committee noted that his conduct caused alarm and distress to Witness 3. He was bigger than her and was quite strong.</p> <p>The Committee noted that on more than one occasion Mr Bruwer had touched Witness 3's private area and kissed her without consent.</p> <p>The Committee is therefore satisfied that Mr Bruwer's conduct was sexual in respect of 5)c) and 5)e, and finds this head of charge proved.</p>
7.b	<p>Harassing.</p> <p>Proved.</p> <p>The Committee took into account the meaning of harassing, which involves alarming the person or causing the person distress, and whether the registrant's conduct constitutes harassment in the regulatory context.</p> <p>Witness 3 stated in her witness statement <i>"I was shocked by his behaviour and I found it horrible and degrading."</i></p> <p>The Committee notes Witness 3's distress was caused by Mr Bruwer's conduct which made her feel uncomfortable and vulnerable. He was bigger than her and was quite strong. The Committee considers that his conduct crossed professional</p>

	<p>boundaries.</p> <p>The Committee taking all of this into account is satisfied that Mr Bruwer's conduct was harassing and finds this head of charge proved.</p>
8.	<p><i>Whilst attending a meeting on 06 August 2019 you bit Witness 4 on the arm without consent;</i></p> <p>Proved.</p> <p>The Committee found Witness 4's oral evidence to be credible and straight forward. The Committee accepted the written and oral evidence of witness 4 in respect of this head of charge.</p> <p>In particular, Witness 4's written account where she states "<i>I very clearly remember that I asked 'what about the biting?' and the Registrant responding to say that it wasn't sexual and he had a good relationship with everyone at the practice. He said 'all I did was...' before taking hold of my arm and lightly biting it whilst sucking on my skin. This was not painful but I was taken aback as it was entirely unexpected. I told him unequivocally that he musn't do that to anyone and especially not in the workplace</i>" Witness 4 confirmed this in her oral evidence.</p> <p>The Committee is therefore satisfied that Mr Bruwer did bite Witness 4 on the arm without consent and finds this head of charge proved.</p>
9.	<p><i>In respect of 8) your behaviour was:</i></p>
9.a	<p>Inappropriate;</p> <p>Proved for the reasons given in head of charge 9.b</p>
9.b	<p>Unprofessional;</p> <p>Proved.</p> <p>The Committee took into account the meaning of both inappropriate and unprofessional.</p> <p>Witness 4 stated in her written statement stated that this occurred during a pastoral meeting.</p> <p>The Committee considered the circumstances, that the incident took place in a professional working environment during a pastoral meeting. Mr Bruwer's conduct involved unwanted physical behaviour. The Committee notes that no consent was given by Witness 4 for Mr Bruwer to do this. It also noted that Mr Bruwer was a senior professional within the practice.</p> <p>In the judgement of the Committee, Mr Bruwer's conduct was both inappropriate and unprofessional. It therefore finds this head of charge proved in respect of 8 .</p>
9.c	<p>Harassing.</p> <p>Not proved</p> <p>The Committee took into account the meaning of harassing, which includes alarming the person or causing the person distress, and whether the registrant's conduct constitutes harassment in the regulatory context.</p> <p>The Committee having applied their own judgement is not satisfied that Mr</p>

	<p>Bruwer's conduct in respect of head of charge 8 was harassing. Witness 4 states <i>"At the time I felt shocked that the Registrant had bitten me. His behaviour was bizarre and I have never experienced anything similar in a workplace meeting. It was clearly inappropriate."</i> Witness 4 supported this in her oral evidence.</p> <p>The Committee considers that it was a single event, in the context of a pastoral meeting in relation to concerns raised about his conduct. No suggestion was made by Witness 4 that it had caused alarm or distress to her. Although the Committee considers that this incident was an overstepping of professional boundaries, it notes that Witness 4 felt it lacked professional judgement only.</p> <p>The Committee is therefore satisfied that Mr Bruwer's conduct was not harassing in respect of 8, and finds this head of charge not proved.</p>
10.	<i>Between 06 March 2017 and 28 March 2019 you:</i>
10.a	<p><i>Pinched Witness 5 on the back of the arm on at least five occasions without consent;</i></p> <p>Proved.</p> <p>The Committee found Witness 5's oral evidence to be credible and straight forward The Committee accepted the written and oral evidence of witness 5 in respect of this head of charge.</p> <p>In particular, Witness 5's written account where she states <i>"he pinched me on the back of my arm for no apparent reason. He did not say anything before doing so. I expressed discomfort and said to him "get off me, what are you doing?" or words to that effect. He did not respond or apologise. I felt quite annoyed at the time and thought "why is he touching me?". I suffered this quite often ...probably around 10 times in total.."</i></p> <p>The Committee is therefore satisfied that Mr Bruwer had pinched Witness 5 on the back of the arm on at least five occasions without her consent and finds this head of charge proved.</p>
10.b	<p><i>Flicked liquid from a toothbrush you had used onto Witness 5 on several occasions without consent;</i></p> <p>Proved.</p> <p>The Committee found Witness 5's oral evidence to be credible and straight forward The Committee accepted the written and oral evidence of witness 5 in respect of this head of charge.</p> <p>In particular, Witness 5's written account where she states <i>"I remember that the Registrant made a cup of coffee, went to the toilet to brush his teeth and afterwards flicked the wet bristles of his toothbrush on to my face and arm. Similar incidents happened on around ten occasions in total with a few days between each incident. This normally happened in the Registrant's surgery whilst I was stuffing the drawers. I felt grossed out at the time and told him so. I made it clear on each occasion that he should stop but he just laughed. He did not apologise for this behaviour at any time and I did not give him permission to do this."</i></p> <p>The Committee is therefore satisfied that Mr Bruwer had flicked liquid from a toothbrush he had used onto Witness 5 on several occasions without her consent</p>

	and finds this head of charge proved.
10.c	<p><i>Bit Witness 5 on or around the upper limbs on at least five occasions without consent;</i></p> <p>Proved.</p> <p>The Committee found Witness 5's oral evidence to be credible and straight forward The Committee accepted the written and oral evidence of witness 5 in respect of this head of charge.</p> <p>In particular, Witness 5's written account where she states "<i>About a year into my employment at the Practice, the Registrant started to bite me occasionally. He would bite me on my shoulder, forearm or the inside of my arm whilst writing notes in his surgery.. The bites caused mild pain but did not leave any marks. I expressed my discomfort by saying 'ouch' or words to that effect. I think he knew he was causing pain through my reaction but also on each occasion he would bite a little harder..... I felt annoyed by this behaviour and it always happened when there was no one else around.</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer had bitten Witness 5 on or around the upper limbs on at least five occasions without her consent and finds this head of charge proved.</p>
10.d	<p><i>Followed Witness 5 into the toilet and locked the door behind you without invitation on a single occasion;</i></p> <p>Proved.</p> <p>The Committee found Witness 5's oral evidence to be credible and straight forward. The Committee accepted the written and oral evidence of witness 5 in respect of this head of charge.</p> <p>In particular, Witness 5's written account where she states "<i>I recall going to the unisex toilet which was along a corridor and behind the Registrant's surgery to get a tissue. The Registrant followed me into the toilet and locked the door behind him. I asked him what he was doing and to open the door. He unlocked the door whilst laughing. I felt worried by his behaviour..</i>"</p> <p>The Committee is therefore satisfied that Mr Bruwer had followed Witness 5 into the toilet and locked the door behind her without invitation on a single occasion and finds this head of charge proved.</p>
10.e	<p><i>Punched Witness 5 in the stomach on approximately three occasions without consent;</i></p> <p>Proved.</p> <p>The Committee found Witness 5's oral evidence to be credible and straight forward. The Committee accepted the written and oral evidence of witness 5 in respect of this head of charge.</p> <p>In particular, Witness 5's written account where she states "<i>...the Registrant asked me if my stomach was tender and proceeded to punch me in the stomach. The punch was delivered with enough force to hurt me. I was shocked and said to him that it hurt. The Registrant laughed but did not apologise or say anything in</i></p>

	<p><i>response... This happened on a further two occasions occurring a couple of months later."</i></p> <p>The Committee is therefore satisfied that Mr Bruwer had punched Witness 5 in the stomach on approximately three occasions without her consent and finds this head of charge proved.</p>
10.f	<p><i>Placed a hot teaspoon on Witness 5's arm on one occasion without consent;</i></p> <p>Proved.</p> <p>The Committee found Witness 5's oral evidence to be credible and straight forward. The Committee accepted the written and oral evidence of witness 5 in respect of this head of charge.</p> <p>In particular, Witness 5's written account where she states <i>"around the middle of my time at the practice I remember on one occasion the registrant made a cup of tea, he then followed me and applied the hot spoon to the bare skin on my arm, causing pain. I responded sharply telling him to get off me "it hurt" or words to that effect."</i></p> <p>The Committee is therefore satisfied that Mr Bruwer had placed a hot teaspoon on Witness 5's arm on one occasion without her consent and finds this head of charge proved.</p>
10.g	<p><i>Pulled Witness 5's hair on at least one occasion without consent;</i></p> <p>Proved.</p> <p>The Committee found Witness 5's oral evidence to be credible and straight forward. The Committee accepted the written and oral evidence of witness 5 in respect of this head of charge.</p> <p>In particular, Witness 5's written account where she states <i>"The registrant pulled my hair on several occasions for no reason. Generally this would occur when he was walking past in the corridor. On the first occasion, I said 'what are you doing, it hurt'. To which he laughed in response. I found this annoying and it also caused physical pain"</i>.</p> <p>The Committee is therefore satisfied that Mr Bruwer had pulled Witness 5's hair on at least one occasion without her consent and finds this head of charge proved.</p>
11.	<p><i>In respect of 10) your conduct was:</i></p>
11.a	<p>Inappropriate;</p> <p>Proved for the reasons as given in head of charge 11.b.</p>
11.b	<p>Unprofessional;</p> <p>Proved.</p> <p>The Committee took into account the meaning of both inappropriate and unprofessional.</p> <p>The Committee considers the circumstances, that took place in a professional working environment, related to a wide range of behaviour involving physical behaviour in a way that caused distress to Witness 5. The Committee notes that</p>

	<p>there was also no consent given by Witness 5. It also noted that Mr Bruwer was a senior professional in a position of authority within the practice.</p> <p>Witness 5 had also stated to him that she felt that his conduct was inappropriate and had asked him not to do it again.</p> <p>In the judgement of the Committee, Mr Bruwer's conduct was both inappropriate and unprofessional in respect of head of charge 10, and therefore finds it proved.</p>
11.c	<p>Harassing.</p> <p>Proved.</p> <p>The Committee took into account the meaning of harassing, which includes alarming the person or causing the person distress, and whether the registrant's conduct constitutes harassment in the regulatory context.</p> <p>The Committee having applied their own judgement is satisfied that Mr Bruwer's conduct in respect of the above heads of charge was harassing.</p> <p>The Committee notes that this behaviour occurred on more than one occasion which caused physical distress. Witness 5 had felt annoyed and shocked. The Committee considers that professional boundaries were crossed. Mr Bruwer's conduct included pinching, flicking, and punching which occurred on more than one occasion and is the type of behaviour that is associated with harassing behaviour. The Committee is satisfied that Mr Bruwer's conduct caused her distress and violated her dignity, and at times caused pain.</p> <p>The Committee is therefore satisfied that Mr Bruwer's conduct was harassing in respect of head of charge 10, and therefore finds it proved.</p>

We move to Stage Two."

On 8 June 2021 the Chairman announced the determination as follows:

"Having announced its finding on all the facts, the Committee heard submissions on the matters of misconduct, impairment and sanction.

Ms Gates informed the Committee of Mr Bruwer's previous fitness to practise history, where he was suspended in 2004. Ms Gates submitted that the facts found proved amount to misconduct. She submitted that it is clear from the authorities that any misconduct must be serious and is conduct that fellow professionals would consider to be deplorable. Ms Gates stated that the facts proved in this case support a finding of misconduct and identified the standards, which in her submission, have been breached.

Ms Gates then moved on to the issue of current impairment and addressed the Committee on the factors that it must consider, including Mr Bruwer's lack of insight and any remediation. She also addressed the Committee on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the GDC as a regulatory body.

Ms Gates submitted that there has been a pattern of inappropriate sexual and other behaviour towards junior female colleagues over a sustained period of time. She submitted that there is no evidence of insight remediation or remorse, which brings with it concerns. Given the factual background, she submitted the Committee would be justified in reaching a finding of impairment.

Ms Gates submitted that public confidence would be undermined if a finding were not to be made in this case. She submitted that Mr Bruwer's fitness to practise is currently impaired by reason of misconduct.

Ms Gates addressed the Committee on the matter of sanction and invited the Committee to consider whether this is a case where nothing short of erasure would be appropriate in ensuring public confidence in the profession is maintained. She submitted that the aggravating factors in this case include sustained misconduct, attempts to minimise his behaviour, and a failure to adhere to informal warnings given to him. She submitted that there were no mitigating factors. She referred the Committee to the specific matters for consideration as set out in the 'Guidance for the Practice Committees' as published by the GDC in October 2016.

The Committee fully considered all the evidence in this case as well as the submissions made by Ms Gates. It accepted the advice of the Legal Adviser, which included the factors relevant to the considerations of the Committee and relevant case law.

Decision on whether the facts found proved amount to misconduct:

When determining whether the facts found proved amount to misconduct the Committee had regard to the terms of the relevant professional standards in force at the time of the incidents.

The Committee, in reaching its decision, had regard to the public interest and accepted that there was no burden or standard of proof at this stage.

The Committee has concluded that Mr Bruwer's conduct was in breach of each of the sections of the ***Standards for the Dental Team (2013)*** as set out below.

Standard 6.1 *Work effectively with your colleagues and contribute to good teamwork.*

Standard 6.1.2 *You must treat colleagues fairly and with respect, in all situations and all forms of interaction and communication. You must not bully, harass, or unfairly discriminate against them.*

Standard 6.1.4 *You must value and respect the contribution of all team members.*

Standard 6.6 *You must demonstrate effective management and leadership skills if you manage a team.*

Standard 6.6.1 *You should make sure that all team members, including those not registered with the GDC, have:*

- *a proper induction when they first join the team;*
- *performance management, including regular appraisals;*
- *opportunities to learn and develop;*
- *a hygienic and safe working environment;*
- *a work environment that is not discriminatory;*
- *opportunities to provide feedback; and*
- *a way to raise concerns.*

Standard 9.0 *Make sure your personal behaviour maintains patients' confidence in you and the dental profession.*

Standard 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.*

Standard 9.1.1 *You must treat all team members, other colleagues and members of the public fairly, with dignity and in line with the law.*

The Committee appreciated that breaching these standards does not automatically result in a finding of misconduct. However, the Committee was of the view that the breaches in this case are serious and fundamental to the profession. For example, it considered that the facts found proved relating to head of charge 1 are grave breaches of Standards 9, 9.1 and 9.1.1. With reference to a safe working environment, the Committee considered that standard 6.6.1 had been seriously breached by inappropriate behaviour from Mr Bruwer.

The Committee concluded that Mr Bruwer's conduct was a significant departure from the standards expected of a registered dental professional. Despite being given an informal warning by his practice manager, his behaviour towards colleagues escalated. Further, his sexual conduct towards junior colleagues continued despite being asked repeatedly not to do so. The Committee is satisfied that his conduct would be considered deplorable by fellow professionals. The Committee also considers that the heads of charge found proved relate to his interactions with junior female colleagues which crossed professional boundaries where he failed to treat them fairly and with dignity. Further, the continued sexual conduct towards colleagues, one of which was serious sexual conduct, fell significantly below the standards expected and brings the reputation of the profession into disrepute.

The Committee was of the view that the findings of inappropriate, unprofessional, harassing and sexual conduct represent a serious departure from the standards expected of a registered dental professional.

The Committee considered that Mr Bruwer's conduct, individually and collectively, fell seriously below the standards expected of a registered dental professional and amounted to misconduct.

Decision on impairment:

The Committee proceeded to decide whether, as a result of this misconduct, Mr Bruwer's fitness to practise is currently impaired.

Dental professionals occupy a position of privilege and trust in society and must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard the Committee considered the judgment of Mrs Justice Cox in the case of Grant. In paragraph 101 she said;

101. In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant Committee should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.

The Committee considered that the misconduct found, including Mr Bruwer's sexual and harassing behaviour, was such that it was liable to bring the profession into disrepute and that he breached fundamental tenets of the profession. The Committee notes his letter to the GDC in June 2020 where amongst other things he gave reasons for his inappropriate behaviour by stating cultural differences. However, the Committee considers that this was an attempt to excuse his behaviour. To date he has provided no evidence of remorse or insight, and he has failed to fully engage in these proceedings.

The Committee had no information from Mr Bruwer that he has taken any steps to remedy his conduct or that he had any recognition that his conduct was inappropriate and unprofessional. These were not isolated incidents and there was an indication therefore that they may well be repeated, particularly in the light of Mr Bruwer's lack of insight or genuine remorse or apology. Further, there appears to be no appreciation by Mr Bruwer of the seriousness of his conduct. The Committee was of the view that the findings in this case relating to Mr Bruwer's sexual behaviour towards junior colleagues is conduct that relates to character, and that this is difficult to remedy. However, even were the conduct remediable, given the complete lack of information from Mr Bruwer regarding any remediation, remorse or insight, the Committee cannot be satisfied that the risk of repetition is highly unlikely.

The Committee was of the view that Mr Bruwer has demonstrated very poor professional judgement through his behaviour. Despite been given warnings to stop his behaviour, his inappropriate sexual behaviour actually escalated. The Committee considers that this may indicate a deep seated attitudinal problem.

The Committee has borne in mind that its primary function is to protect patients, but it has also taken into account the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator, and upholding proper standards and behaviour. The misconduct identified in this case was, in the view of the Committee, sufficiently serious to warrant a finding of impairment. Further, public confidence in the profession would be significantly undermined were the Committee not to make a finding of current impairment.

Having regard to all this the Committee has concluded that Mr Bruwer's fitness to practise is currently impaired by reason of misconduct.

Decision on sanction

The Committee next considered what sanction, if any, to impose on Mr Bruwer's registration. It recognised that the purpose of a sanction is not to be punitive, although it may have that effect, but rather to protect patients and the wider public interest.

The Committee has taken account both the PSA's 2019 report: 'Sexual misconduct in health and social care: understanding types of abuse and perpetrators' moral mindsets' and the GDC's *Guidance for the Practice Committees*. The Committee applied the principle of proportionality, balancing the public interest with Mr Bruwer's own interests. The Committee considered the range of sanctions available to it, starting with the least serious.

The Committee considered the aggravating and mitigating factors present in this case. The aggravating factors included;

- Sustained misconduct including sexual misconduct,
- Attempts to minimise his behaviour,
- Failure to adhere to previous warnings,
- A breach of trust (Mr Bruwer was a senior colleague at the practice).
- Lack of insight and remorse
- Risk of harm to colleagues and patients.

The Committee could not find any mitigating factors.

In the light of the findings against Mr Bruwer the Committee has determined that it would be wholly inappropriate and irresponsible to conclude this case without taking any action or with a

reprimand, as neither would restrict Mr Bruwer's registration or address the lack of insight and sexually motivated conduct in this case.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee was mindful that any conditions imposed must be proportionate, measurable and workable. The Committee considered that, in order for conditions to be workable, there would need to be insight, a measure of positive engagement and co-operation from Mr Bruwer, all of them to date are absent in this case. The Committee concluded that conditions would not be appropriate, workable or proportionate in this case.

The Committee then considered whether a suspension order would be proportionate and appropriate in this case. The Committee is in no doubt that Mr Bruwer's misconduct, particularly his sexual conduct was wholly unacceptable and seriously damaging to the reputation of the dental profession and to the public's confidence in the profession. Mr Bruwer's sexual conduct took place on more than one occasion and resulted in him being escorted off the premises, as well as causing distress to junior female colleagues. The Committee had nothing before it to show that Mr Bruwer has any insight into the seriousness of his actions or the potential consequences and he to date has not provided any assurance to this Committee that his misconduct would not be repeated. He has not taken any corrective steps to address or remedy his failings.

The Committee then considered whether the issues identified are fundamentally incompatible with Mr Bruwer remaining on the Register.

The Committee considered the guidance in relation to considering imposing a sanction of erasure. In particular:

The ability to erase exists because certain behaviours are so damaging to a registrant's fitness to practise and to public confidence in the dental profession that removal of their professional status is the only appropriate outcome. Erasure is the most severe sanction that can be applied by the PCC and should be used only where there is no other means of protecting the public and/or maintaining confidence in the profession.

Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion: [specifically]

- *serious departure(s) from the relevant professional standards;*
- *serious harm to patients or other persons has occurred, either deliberately or through incompetence*
- *Where a continuing risk of serious harm to patients or other persons is identified*
- *Convictions or findings of a sexual nature*
- *a persistent lack of insight into the seriousness of actions or their consequences.*

It also took into account the PSA report on sexual misconduct where it identifies that a more severe sanction is required in this instance. In all the circumstances of this case, the Committee concluded that the findings against Mr Bruwer are so serious as to be incompatible with his remaining on the GDC register. His behaviour was sustained and repeated over a period of 4 years, which actually escalated despite being given an informal warning by his practice manager. Junior staff repeatedly told him to stop his inappropriate and harassing behaviour. It appears that these warnings had no impact on his behaviour.

The Committee concluded that the only proportionate sanction is that of erasure. It has regard to the fact that his sustained actions were a serious departure from the standards expected of a reasonably competent dentist, there was harm to colleagues, he abused his position of trust, his misconduct was of a sexual nature, there was evidence of repetition, and he displayed a persistent lack of insight into his failings.

The Committee considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standards of conduct required of a registered dental professional at all times.

The Committee was aware that the effect of this order is that Mr Bruwer will be prevented from working as a registered dental professional using a GDC registration. This could result in financial hardship, though the Committee received no direct information about that matter. However, in applying the principle of proportionality, the Committee determined that Mr Bruwer's interests in this regard are outweighed by the need for public protection and protection of the wider public interest.

As a result of the Committee's decision, Mr Bruwer's name will be removed from the dentist's register.

We now invite submissions on the imposition of an immediate order."

Decision on immediate order

"Having directed that Mr Bruwer's name be erased from the register, the Committee had to consider, in accordance with rule 22(2), whether to impose an immediate order to cover the appeal period, or until any appeal against the outcome is heard.

The Committee has considered the submissions made by Ms Gates that an immediate order of suspension should be made to protect the public and is otherwise in the public interest. She applied for this order to cover any possible appeal period and submitted that this would be compatible with the Committee's findings.

The Committee accepted the advice of the Legal Adviser.

The Committee was satisfied that an immediate order of suspension was entirely necessary to protect the public and is otherwise in the public interest. The Committee considered that, in all the circumstances, public protection and also public confidence in the profession would be undermined if an immediate order of suspension were not imposed. The Committee concluded that, having determined that Mr Bruwer's misconduct was fundamentally incompatible with his remaining on the register, to allow him to remain on the register unrestricted during the appeal period would be out of place with the totality of its findings, particularly the lack of insight apparent in this case.

If, at the end of the appeal period of 28 days, Mr Bruwer has not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of erasure. If Mr Bruwer does lodge an appeal, this immediate order will continue in effect until that appeal is determined.

Unless Mr Bruwer exercises his right of appeal, his name will be erased from the register 28 days from the date on which this determination is deemed to have been served upon him.

The interim order of suspension on his registration is hereby revoked.

That concludes this case."

