

**HEARING HEARD IN PUBLIC**

**HARPER, Leah Jane**

**Registration No: 263998**

**PROFESSIONAL CONDUCT COMMITTEE**

**MAY 2018 – SEPTEMBER 2020**

**Most recent outcome: Suspended Indefinitely \*\***

**\*\* See page 21 for the latest determination**

Leah Jane Harper, a dental nurse, Diploma in Dental Nursing Level 3 QCF City & Guilds 2016, was summoned to appear before the Professional Conduct Committee on 29 May 2018 for an inquiry into the following charge:

**Charge**

“That being registered as a Dental Care Professional:

1. In or around March and April 2017 as part of an application process to the role of Dental Nurse at Woodlands Dental Practice you:
  - a. Indicated that Wallasey Village Dental Practice was your current and/or most recent employer when Arno Dental Practice was your most recent employer;
  - b. Indicated that Witness 2 was the Practice Manager at Wallasey Village Dental Practice when the Practice Manager was Witness 3;
2. Whilst employed as a Dental Nurse at Woodlands Dental Practice you:
  - a. Stated that you worked for Arno Dental Practice for one day, when you had worked there for longer than one day;
  - b. Stated that it was untrue that you had left the employment of Wallasey Village Dental Practice on or around 24 February 2017, when you had left Wallasey Village Dental Practice on or around 24 February 2017;
3. Your actions in relation to charges 1(a) and/or 1(b) above were:
  - a. Misleading.
  - b. Dishonest, in that you knew the information you provided was false.
4. Your actions in relation to charges 2(a) and/or 2(b) above were:
  - a. Misleading.
  - b. Dishonest, in that you knew the statements you made were false.
5. You failed to co-operate with an investigation conducted by the Council until at least 4 October 2017 including by not providing the Council with any evidence of professional indemnity insurance.

AND that, by the reason of the matters stated, your fitness to practise is impaired by reason of your misconduct.”

Ms Harper was not present and was not represented. On 30 May 2018 the Chairman announced the findings of fact to the Council for the GDC:

“This is a Professional Conduct Committee (PCC) hearing in respect of Ms Harper. She is neither present nor represented. Ms Louise Price, Counsel, represents the General Dental Council (GDC).

At the outset, Ms Price made an application under Rule 54 of the *GDC (Fitness to Practise) Rules Order of Council 2006* (‘the Rules’), to proceed with the hearing notwithstanding Ms Harper’s absence. The Committee had regard to Ms Price’s submissions in respect of the application and the supporting documentation she provided. It accepted the advice of the Legal Adviser.

#### **Decision on service of the Notification of Hearing**

The Committee first considered whether notice of the hearing had been served on Ms Harper in accordance with Rules 13 and 65. It received a bundle of documents containing a copy of the Notification of Hearing letter, dated 19 April 2018. Also contained within the bundle was a Royal Mail ‘Track and Trace’ receipt confirming that the letter was sent to Ms Harper’s current registered address by Special Delivery. 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 from the ‘Track and Trace’ information that the letter was delivered and signed for at Ms Harper’s current registered address in the printed name of ‘AMNA’.

The Committee noted that a further letter dated 19 April 2018 was sent to a previous address held by the GDC for Ms Harper. The Committee received a ‘Track and Trace receipt’ in respect of that further letter, which confirmed that it was also delivered and signed for in the printed name of ‘LEAH HARPER’.

A copy of the Notification of Hearing letter was also sent to Ms Harper by email, as was the further letter dated 19 April 2018.

The Committee was satisfied that the Notification of Hearing letter of 19 April 2018 contained proper notification of the hearing, including its start date, time and venue, as well as notification that the Committee could proceed with the hearing in Ms Harper’s absence. On the basis of the information provided to it, the Committee was satisfied that notice of the hearing had been served on Ms Harper in accordance with the Rules.

#### **Decision on whether to proceed with the hearing in the absence of Ms Harper**

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Ms Harper and/or any representative on her behalf. It approached the issue with the utmost care and caution. The Committee had regard to the factors to be considered in reaching its decision as set out in the cases of *R v Jones [2003] 1 AC 1HL* and *GMC v Adeogba [2016] EWCA Civ. 162*. It took into account that fairness to Ms Harper 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 Ms Harper’s case expeditiously.

The Committee was satisfied on the evidence that the GDC had made more than reasonable efforts to notify Ms Harper of this hearing. It noted that her current registered address as

held by the GDC is that of her previous employer. The Committee saw a number of examples within the hearing bundle of the GDC's requests to Ms Harper to update her contact details with them. The Committee noted the information that the same request was also made by Ms Harper's previous employer. Ms Price submitted that there had been no response from Ms Price in respect of any of the attempts to contact her regarding her current address and the GDC's investigation. This included a letter dated 4 October 2017, from the GDC to Ms Harper informing her that her case had been referred to the PCC, as well as the Notification of Hearing letter of 19 April 2018.

In light of Ms Harper's non-engagement, the Committee concluded that she had voluntarily absented herself from the hearing. In the circumstances, the Committee decided that there would be no purpose in adjourning proceedings. Ms Harper did not request an adjournment and the Committee received no evidence to suggest that an adjournment would secure her attendance on a future occasion.

Accordingly, the Committee determined that it was fair and in the public interest, for the hearing to proceed in the absence of Ms Harper and/or any representative on her behalf.

### **Background and summary of the charge against Ms Harper**

Ms Harper first registered with the GDC as a dental nurse on 13 June 2016. She commenced work at the Wallasey Village Dental Practice on 19 May 2014 and worked there until 24 February 2017. She then joined the Arno Dental Practice on 27 February 2017 and worked at that practice for approximately two weeks until 13 March 2017.

On 31 March 2017, Ms Harper applied for employment at the Woodlands Dental Practice as a dental nurse. It is alleged by the GDC that as part of her application, Ms Harper indicated that the Wallasey Village Dental Practice was her current and/or most recent employer, when it was Arno Dental Practice. It is also alleged that Ms Harper indicated on her application form that Witness 2, whom she gave as a referee, was the Practice Manager at the Wallasey Village Dental Practice, when the Practice Manager was Witness 3.

There are also allegations that, whilst employed as dental nurse at Woodlands Dental Practice, Ms Harper stated that she had been employed at the Arno Dental Practice for one day, when she had worked there for longer. Also, that Ms Harper stated that it was untrue that she had left the employment of the Wallasey Village Dental Practice on or around 24 February 2017, when she did do so.

It is the case of the GDC that Ms Harper's actions in relation to all of the above were misleading and dishonest, in that she knew the information she provided was false.

In addition to the allegations relating to Ms Harper's application to, and employment with the Woodlands Dental Practice, there is a further charge that Ms Harper failed to cooperate with an investigation conducted by the GDC up until 4 October 2017. It is alleged that this failure included Ms Harper not providing the GDC with any evidence of professional indemnity insurance.

### **Evidence**

The Committee received documentary evidence from the GDC which comprised witness statements and associated exhibits from the following witnesses: Witness 1, Practice Manager of PJS Care Limited, the company that owns the Woodlands Dental Practice; Witness 2, dental practice receptionist at the Wallasey Village Dental Practice; Witness 3, Practice Manager at the Wallasey Village Dental Practice; Witness 4, dental nurse with managerial duties at the Arno Dental Practice; Witness 5, Principal Dentist at the Arno

Dental Practice; Witness 6, Senior Caseworker at the GDC; and Witness 7, Registrations Manager of the UK Registrations Team of the GDC.

The Committee was told by Ms Price that the witnesses could be available to give evidence by telephone. Having considered the witness statements and in the absence of any evidence from Ms Harper, the Committee decided that was unnecessary.

### **The Committee's Finding of Fact**

In reaching its decisions, the Committee considered all the evidence presented to it. It took account of the submissions made by Ms Price on behalf of the GDC and accepted the advice of the Legal Adviser. In accordance with that advice it considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged facts are proved on the balance of probabilities.

The Committee's findings in relation to each head of charge are as follows:

1.	<i>In or around March and April 2017 as part of an application process to the role of Dental Nurse at Woodlands Dental Practice you:</i>
1.(a)	<p><i>Indicated that Wallasey Village Dental Practice was your current and/or most recent employer when Arno Dental Practice was your most recent employer;</i></p> <p><b>Found proved.</b></p> <p>The Committee had regard to the evidence of Witness 1, who exhibited with her witness statement a copy of Ms Harper's CV which, Witness 1 stated, was submitted on 31 March 2017 as part of Ms Harper's application for employment with the Woodlands Dental Practice. The Committee noted that the CV indicated the Wallasey Village Dental Practice as being Ms Harper's present employer.</p> <p>The Committee further took into account the copy of Ms Harper's handwritten application form for employment with the Woodlands Dental Practice, also exhibited by Witness 1. The Committee noted that the application form asked Ms Harper to provide <i>"the names and addresses of two people we may approach for a reference. One of these references must be your most recent employer:"</i> The Committee saw that both the referees Ms Harper included on the application form were from the Wallasey Village Dental Practice. The Committee took into account that, unlike her CV, Ms Harper did not specifically state on the application form that the Wallasey Village Dental Practice was her most recent employer. However, Ms Harper appeared to suggest that she continued to work at that practice. The Committee noted that on the application form under the heading 'Further Information' she stated that <i>"Currently in my practice I am in charge of numerous jobs..."</i></p> <p>In her witness statement, Witness 3 stated that Ms Harper had left her employment with the Wallasey Village Dental Practice on 24 February 2017. The evidence of Witness 5, as contained in his witness statement, was that Ms Harper had started working at the Arno Dental Practice three days later on 27 February 2017. However, on 13 March 2017 he made the decision to terminate her employment with the Arno Dental Practice. Witness 5 reiterated this</p>

	<p>information in a letter to the GDC, dated 23 May 2017. The Committee also noted that Ms Harper's dates of employment at the Arno Dental Practice were corroborated in the witness statement provided by Witness 4.</p> <p>The Committee was satisfied on the evidence that Ms Harper had worked at the Arno Dental Practice subsequent to the Wallasey Village Dental Practice. It noted that both her CV and handwritten application form for employment with the Woodlands Dental Practice made no reference to her having worked at the Arno Dental Practice. In all the circumstances, the Committee was satisfied on the balance of probabilities that as part of the application process, Ms Harper indicated that Wallasey Village Dental Practice was her most recent and/or current employer, when it was in fact the Arno Dental Practice.</p>
1.(b)	<p><i>Indicated that Witness 2 was the Practice Manager at Wallasey Village Dental Practice when the Practice Manager was Witness 3;</i></p> <p><b>Found proved.</b></p> <p>The Committee had regard to the copy of Ms Harper's handwritten application form for employment with the Woodlands Dental Practice. It saw that on the form Ms Harper put forward Witness 2 as a referee and indicated that Witness 2 was her "Colleague/Practice Manager" at the Wallasey Village Dental Practice.</p> <p>However, in her witness statement, Witness 2 stated "<i>I have never had the position of practice manager and have never been referred to as a practice manager.</i>" In addition, the Committee noted the witness statement of Witness 3 in which she stated "<i>I am the Practice Manager at Wallasey Dental Practice... I have been in this position and have been employed in this practice for 9 years.</i>"</p> <p>Taking into account the evidence, the Committee was satisfied on the balance of probabilities that this head of charge is proved.</p>
2.	<p><i>Whilst employed as a Dental Nurse at Woodlands Dental Practice you:</i></p>
2.(a)	<p><i>Stated that you worked for Arno Dental Practice for one day, when you had worked there for longer than one day;</i></p> <p><b>Found proved.</b></p> <p>The Committee was satisfied from the evidence of Witness 1 that Ms Harper did make such a statement. In her witness statement, Witness 1 describes a meeting that she had with Ms Harper on 13 April 2017. Witness 1 stated that the meeting took place after she had contacted Witness 3 by telephone regarding the reference information Ms Harper provided as part of her application to the Woodlands Dental Practice. Ms Harper was said to have been going through her induction at the Woodlands Dental Practice at the time. Witness 1 stated that she raised her concerns with Ms Harper and during their conversation Ms Harper stated that she had only worked at the Arno Dental Practice for one day whilst undertaking x-ray training.</p> <p>However, the Committee had already noted and accepted the evidence of Witness 4 and Witness 5 that Ms Harper had in fact worked at the Arno Dental Practice for longer than one day. It was their evidence that she had worked there from 27 February 2017 to 13 March 2017, when she was dismissed. The</p>



	<p>Committee noted that these dates were subsequently confirmed in an email from Witness 4 to Witness 1, dated 18 April 2017.</p> <p>Accordingly, the Committee found this head of charge proved on the balance of probabilities.</p>
2.(b)	<p><i>Stated that it was untrue that you had left the employment of Wallasey Village Dental Practice on or around 24 February 2017, when you had left Wallasey Village Dental Practice on or around 24 February 2017;</i></p> <p><b>Found Proved.</b></p> <p>In reaching its decision on this head of charge, the Committee accepted the evidence of Witness 1 that Ms Harper stated during their meeting on 13 April 2017 that it was untrue that she had left the employment of Wallasey Village Dental Practice on 24 February 2017. It also had regard to the letter, dated 18 April 2017, which was sent to Ms Harper by Witness 1 confirming the details of their conversation on 13 April 2017. It was stated in the letter that <i>“During our conversation we discussed that Wallasey Village Dental Practice confirmed you stopped working for them 24.02.17, you stated that this was untrue and you were unsure why they had provided this date.”</i></p> <p>However, the Committee saw a copy of Ms Harper’s resignation letter in respect of her employment at Wallasey Dental Practice, dated 24 January 2017. In addition, both Witness 2 and Witness 3, indicate in their witness statements that Ms Harper left the Wallasey Village Dental Practice a month later, on 24 February 2017, as was confirmed in writing to Witness 1.</p> <p>The Committee was therefore satisfied from the evidence that this head of charge is proved on the balance of probabilities.</p>
3.	<p><i>Your actions in relation to charges 1(a) and/or 1(b) above were:</i></p>
3.(a)	<p><i>Misleading.</i></p>
3.(a) in respect of 1.(a)	<p><b>Found proved.</b></p> <p>In reaching its decisions on whether Ms Harper’s actions were misleading, the Committee applied the ordinary meaning of the word ‘misleading’. It agreed that a misleading action was something that caused or had the potential to cause others to be misled.</p> <p>At head of charge 1(a) above, the Committee has found that Ms Harper’s indication that the Wallasey Village Dental Practice was her current and/or most recent employer was inaccurate. In finding that it was also misleading, the Committee took into account the steps taken by the Woodlands Dental Practice in first investigating Ms Harper’s actions and then dismissing her from employment at that practice. In a letter, dated 13 April 2017, Witness 1 informed Ms Harper that she faced an allegation of <i>“gross misconduct”</i>, namely that she had <i>“provided false/incorrect employment history”</i>. In the letter of dismissal, dated 18 April 2017, Witness 1 further informed Ms Harper that she was being dismissed for <i>“failing to provide an accurate employment history...”</i>. Further, in her complaint to the GDC, Witness 1, stated that Ms Harper had provided the Woodlands Dental Practice with <i>“Incorrect employment dates and incorrect place of last employment...”</i>The Committee was satisfied that</p>

	Witness 1 did regard Ms Harper's actions in providing inaccurate information as part of her application as misleading. It considered it clear from the evidence that this was the precise reason she was dismissed.
3.(a) in respect of 1.(b)	<p><b>Found proved.</b></p> <p>The Committee has already established at head of charge 1(b) above that Ms Harper's indication that Witness 2 was the practice manager at Wallasey Village Dental Practice was inaccurate. In finding that it was also misleading, the Committee took into account the evidence that Witness 1 wrote to Witness 2 to obtain a reference in her stated capacity as the practice manager. It was only after receiving no response from Witness 2, and following further investigation, that Witness 1 became aware that Witness 3 was, in fact, the practice manager at Wallasey Village Dental Practice.</p> <p>The Committee found that in indicating something that was untrue, Ms Harper misled her new employer into acting upon the information she had provided.</p>
3.(b)	<i>Dishonest, in that you knew the information you provided was false.</i>
3.(b) in respect of 1.(a)	<p><b>Found proved.</b></p> <p>In reaching its decision on this head of charge, the Committee took into account that it received no information from Ms Harper regarding her intention in indicating that Wallasey Village Dental Practice was her current and/or most recent employer. The Committee drew a reasonable inference, that by misleadingly indicating this to have been the case, she did so to deprive the Woodlands Dental Practice from assessing her suitability for the position for which she had applied by not providing a full and accurate employment history.</p> <p>In reaching its conclusion, the Committee was satisfied that Ms Harper would have known that she had been dismissed from the Arno Dental Practice. In his witness statement, Witness 5 stated that <i>"During the first two weeks of Ms Harper's employment it became apparent that she was not up to the standard of dental nurse that we were looking for."</i> Witness 5 also stated in a telephone call to an officer of the GDC on 6 June 2017 that Ms Harper <i>"wasn't the right person for the job"</i>. This evidence suggested to the Committee that Ms Harper did not leave the Arno Dental Practice on good terms.</p> <p>Having drawn a reasonable inference as to what it considered was the actual state of Ms Harper's knowledge at the time of her application to the Woodlands Dental Practice, the Committee went on to consider whether her action, as found at 1(a) above was dishonest by the standards of ordinary decent people.</p> <p>The Committee was satisfied that by selectively omitting information about her employment history in order to obtain employment, Ms Harper's actions would be regarded as dishonest by the standards of ordinary decent people.</p>
3.(b) in respect of 1.(b)	<p><b>Found proved.</b></p> <p>In reaching its decision on this head of charge, the Committee took into account that it received no information from Ms Harper regarding her intention in indicating that Witness 2 was the practice manager at the Wallasey Village Dental Practice. The Committee concluded, however, that by misleadingly indicating that Witness 2 was the practice manager at that practice, and by not</p>

	<p>providing any referee from her most recent employer, it could reasonably be inferred that Ms Harper was seeking to avoid a reference being obtained from her most recent employer, the Arno Dental Practice.</p> <p>In reaching its conclusion, the Committee took into account that Ms Harper would have known the reason for her dismissal from Arno Dental Practice. It also took into account that Ms Harper, who had worked at the Wallasey Village Dental Practice for some two and a half years, would have been well aware that Witness 2 was not the practice manager there.</p> <p>Having drawn a reasonable inference as to what it considered was the actual state of Ms Harper's knowledge at the time of her application to the Woodlands Dental Practice, the Committee went on to consider whether her action, as found at 1(b) above was dishonest by the standards of ordinary decent people.</p> <p>The Committee was satisfied that ordinary decent people would find Ms Harper's action dishonest for the same reasons as given in its finding in relation to 3.(b) in respect of 1.(a).</p>
4.	<i>Your actions in relation to charges 2(a) and/or 2(b) above were:</i>
4.(a)	<i>Misleading.</i>
4.(a) in relation to 2.(a)	<p><b>Found proved.</b></p> <p>The Committee has already found proved that Ms Harper made the statement at 2(a) to Witness 1 and that it was inaccurate. In finding that it was also misleading, the Committee took into account that there was a possibility that Witness 1 could have accepted Ms Harper's word and not investigated the matter any further.</p>
4.(a) in relation to 2.(b)	<p><b>Found proved.</b></p> <p>The Committee has already found proved that Ms Harper made the statement at 2(b) to Witness 1 and that it was inaccurate. In finding that it was also misleading, the Committee considered that it was a continuation of Ms Harper's attempt to cover up her employment at the Arno Dental Practice and the reasons she was dismissed, with a view to enhancing her prospects of employment at the Woodlands Dental Practice.</p>
4.(b)	<i>Dishonest, in that you knew the statements you made were false.</i>
4.(b) in relation to 2.(a)	<p><b>Found proved.</b></p> <p>In reaching its decision on this head of charge, the Committee took into account that it received no information from Ms Harper regarding her intention in stating that she had only worked at the Arno Dental Practice for one day. However, it took into account that Ms Harper would have known that her departure from that dental practice had not been on good terms. The Committee therefore decided that it was reasonable to infer that Ms Harper's statement was an attempt to avoid further investigation into her employment at the Arno Dental Practice, including the reasons for her dismissal.</p> <p>The Committee was satisfied that by selectively omitting information about her employment history, Ms Harper denied her new employer the opportunity to fully assess her suitability for the post, which would be regarded as dishonest</p>



	by the standard of ordinary decent people.
4.(b) in relation to 2.(b)	<p><b>Found proved.</b></p> <p>In reaching its decision on this head of charge, the Committee took into account that it received no information from Ms Harper regarding her intention in stating that it was untrue that she had left the Wallasey Dental Practice on 24 February 2017. However, it again took into account all that Ms Harper would have known at the time including that she had left the Wallasey Village Dental Practice on or around 24 February 2017. The Committee decided that it was reasonable to infer that Ms Harper's attempt to conceal the date she had left the Wallasey Village Dental Practice was a continuation of her trying to cover up her subsequent employment with the Arno Dental Practice, which commenced on 27 February 2017.</p> <p>The Committee was satisfied that ordinary decent people would find Ms Harper's action in this regard to be dishonest. Having already concealed her full employment history, the Committee was satisfied that when Ms Harper was challenged about this by Witness 1, she made a further false statement about when she actually left the Wallasey Village Dental Practice to cover up her previous untruths.</p>
5.	<p><i>You failed to co-operate with an investigation conducted by the Council until at least 4 October 2017 including by not providing the Council with any evidence of professional indemnity insurance.</i></p> <p><b>Found proved.</b></p> <p>The Committee accepted the evidence of Witness 6, who exhibited with her witness statement copies of a number of letters, which she said were sent to Ms Harper. The Committee had regard to the letters in question dated 11 May 2017, 6 June 2017, 14 June 2017, 25 July 2017, 20 September 2017 and 4 October 2017. It noted that a number of the letters included requests for evidence of Ms Harper's professional indemnity insurance. It also took into account that in the letter of 6 June 2017, Ms Harper was expressly reminded of her duty as a registrant to cooperate with the GDC's investigation. According to Witness 6, Ms Harper did not respond to any of the letters sent to her up to and including 4 October 2017. Consequently, the Committee found this head of charge proved.</p>

We move to Stage Two."

On 30 May 2018 the Chairman announced the determination as follows:

Ms Harper is neither present nor represented at this Professional Conduct Committee hearing of her case. Ms Louise Price, Counsel, represents the General Dental Council (GDC).

Having reached its findings on the facts, the Committee's tasks at this stage of the hearing have been to consider whether the facts found proved amount to misconduct and, if so, whether Ms Harper's fitness to practise is currently impaired by reason of that misconduct. The Committee noted that if it found current impairment, it would need to go on to consider the issue of sanction.

The Committee took account of the submissions made by Ms Price on behalf of the GDC and accepted the advice of the Legal Adviser. It reminded itself that misconduct and impairment are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings.

### **Summary of the facts found proved**

Ms Harper first registered with the GDC as a dental nurse on 13 June 2016. She commenced work at the Wallasey Village Dental Practice on 19 May 2014 and worked there until 24 February 2017. She then joined the Arno Dental Practice on 27 February 2017 and worked at that practice for approximately two weeks until 13 March 2017, when she was dismissed.

On 31 March 2017, Ms Harper applied for employment at the Woodlands Dental Practice as a dental nurse. As part of her application, Ms Harper indicated that the Wallasey Village Dental Practice was her current and/or most recent employer, when it was, in fact, the Arno Dental Practice. Further, Ms Harper indicated on her application form that Witness 2, whom she gave as a referee, was the Practice Manager at the Wallasey Village Dental Practice, when, in fact, the Practice Manager was Witness 3. The Committee found that Ms Harper's actions in these respects were misleading and dishonest, in that she knew the information she provided was false.

Whilst employed as dental nurse at the Woodlands Dental Practice, Ms Harper stated that she had been employed at the Arno Dental Practice for only one day, when she had worked there for longer. Also, Ms Harper stated that it was untrue that she had left the employment of the Wallasey Village Dental Practice on or around 24 February 2017, when she had done so. The Committee also found that Ms Harper's actions in these respects were misleading and dishonest, in that she knew the information she provided was false.

It was the finding of the Committee that, through her actions, Ms Harper had selectively omitted information about her employment history when she applied to the Woodlands Dental Practice to avoid a reference being obtained from her actual most recent employer, the Arno Dental Practice, in view of her dismissal from that practice. In acting as she did, Ms Harper denied the Woodlands Dental Practice the opportunity to fully assess her suitability for the post in question. Furthermore, when Ms Harper was eventually challenged about her employment history, she made further false statements to cover up her previous untruths.

In addition to the Committee's findings in respect of Ms Harper's application to, and employment with, the Woodlands Dental Practice, it found that Ms Harper failed to cooperate with an investigation conducted by the GDC up until 4 October 2017. It accepted the evidence that Ms Harper had failed in her duty to respond to a number of letters sent to her by the GDC, some of which included requests for Ms Harper to provide evidence of her professional indemnity insurance.

### **Decision on misconduct**

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

- 1.3 Be honest and act with integrity.

9.4 Co-operate with any relevant formal or informal inquiry and give full and truthful information.

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

In the Committee's view, the facts found proved in this case demonstrate a pattern of conduct which began with selective omissions regarding her employment history from her CV and application form. Ms Harper then proceeded to cover up those omissions by categorically lying when challenged by her new employer about her employment history. The Committee found this second aspect of Ms Harper's dishonesty to be very concerning, as she blatantly sought to sustain her initial untruths. Notwithstanding this, the Committee considered that dishonest conduct of any kind is serious and it decided that Ms Harper's actions in this regard, whether taken individually or cumulatively, fell far below the requisite standard.

The Committee also had regard to Ms Harper's failure to cooperate with the GDC's investigation. In considering this matter, the Committee's focus was in respect of Ms Harper's lack of engagement with the investigation process, as opposed to a particular concern regarding her professional indemnity status. It took into account that, by not engaging with the GDC, there were other pieces of information that Ms Harper did not provide. It was not satisfied that there is sufficient evidence to elevate her lack of response in respect of her professional indemnity insurance to more of a concern.

Nonetheless, the Committee did consider that by not engaging with her regulatory body, Ms Harper has exhibited a flagrant disregard for the GDC. Whilst it took into account that she is relatively recently qualified as a dental nurse, her failure to respond to the letters sent to her demonstrates that she has little or no understanding of the importance of the GDC and its role in protecting the public. It also demonstrates her lack of awareness of her obligations under the GDC standards. The Committee considered that fellow dental professionals would regard this as a serious cause for concern.

Therefore, taking all of the above into account, the Committee was satisfied that the facts found proved in this case represent a serious departure from the standards expected of Ms Harper and amount to misconduct.

### **Decision on impairment**

The Committee went on to consider whether Ms Harper's fitness to practise is currently impaired by reason of her misconduct. It had regard to the over-arching objective of the GDC, which involves: the protection, promotion and maintenance of the health, safety and well-being of the public; the promotion and maintenance of public confidence in the dental profession; and the promotion and maintenance of proper professional standards and conduct for the members of the dental profession.

The Committee considered that Ms Harper's misconduct is remediable to a certain extent. It was of the view that she could learn the importance of providing correct and accurate information on applications and to employers. It also considered that she could, through learning and development, gain a greater awareness of her duty to cooperate with her regulatory body. The Committee considered dishonesty to be less easily remediable.

However, the Committee has received no evidence from Ms Harper in relation to any steps she has taken to address the concerns raised in this case. Nor has the Committee been provided with any evidence of insight. In the absence of such evidence and in view of her ongoing lack of engagement with the GDC, the Committee concluded that there remains a risk of repetition.

Whilst the Committee took into account that there has been no suggestion of actual patient harm in this case, it considered that the potential for such harm is ongoing in light of any evidence that Ms Harper has addressed the issues surrounding her probity. In its view, a dental professional who is dishonest on application forms and to employers could pose a risk to patients. The Committee therefore decided that a finding of impairment is necessary to protect the public.

The Committee also considered the wider public interest. It was of the view that members of the public would be very concerned about Ms Harper's dishonesty. There is an expectation that people in a professional capacity should act with honesty and integrity at all times. They are also expected to comply with requests made by their regulatory body. Further, given the absence of any insight or remediation on Ms Harper's part, the Committee concluded that the public, as well as other dental professionals would expect a finding of impairment. Accordingly, the Committee was satisfied that public confidence in the dental profession and in the regulatory process would be undermined if such a finding were not made in the circumstances of this case.

The Committee has therefore determined that Ms Harper's fitness to practise is currently impaired by reason of her misconduct.

### **Decision on sanction**

The Committee considered what sanction, if any, to impose on Ms Harper's registration. In reaching its decision, the Committee took into account the '*Guidance for the Practice Committees including Indicative Sanctions Guidance (effective from October 2016)*' (the Guidance). It noted that the purpose of any sanction is not to be punitive, although it may have that effect, but to protect the public and the wider public interest. The Committee applied the principle of proportionality, balancing the public interest with the interests of Ms Harper.

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

- Ms Harper's dishonesty, which included multiple untruths, albeit related to the same issue.
- The financial gain made by Ms Harper in obtaining employment with the Woodlands Dental Practice.
- The potential for harm in respect of Ms Harper's lack of openness in relation to her employment history.
- Breach of trust; the trust placed in Ms Harper by her new employer.
- Ms Harper's lack of cooperation with the GDC which demonstrates a blatant or wilful disregard of the role of her regulator and the systems regulating the dental profession;

In mitigation, the Committee took into account the following factors:

- That Ms Harper has no fitness to practise history before the GDC.
- That there was some indication in the documentation provided that Ms Harper may have had some personal difficulties. However, the Committee received little information in respect of this issue and has not been able to assess any relevant impact.
- That there is no evidence of any actual harm caused by Ms Harper's misconduct.

Taking all the above factors into account, the Committee considered the available sanctions in ascending order.

Having found that there is an ongoing risk of repetition from Ms Harper's lack of insight and remediation and her ongoing lack of engagement with the GDC, the Committee decided that it would be wholly inappropriate to conclude this case without taking any action in relation to her registration. It considered that such a course of action would not provide the necessary public protection nor would it address the wider public interest concern in this case.

The Committee next considered whether to issue Ms Harper with a reprimand. In doing so, it had regard to paragraph 7.9 of the Guidance which deals with this sanction. However, the Committee found that none of the factors relevant to a reprimand are present in Ms Harper's case. In particular, it considered that a reprimand would not be sufficient where there remains a risk to the public from Ms Harper's ongoing lack of insight, remediation and engagement. It also considered that a reprimand would not appropriately address the serious findings made against her, which include findings of dishonesty.

The Committee also determined that conditional registration would not be suitable in a case such as this one. In reaching this decision, the Committee took into account that, as a result of Ms Harper's lack of engagement, it has no information about her current circumstances and whether she would even be willing or able to comply with conditions. The Committee concluded that a conditions of practice order would not be appropriate in any event. It noted that this is not a case about Ms Harper's clinical competency. The misconduct found relates to the serious issues of Ms Harper's probity and her failure to comply with requests made by her regulator. The Committee decided that it could not formulate any conditions to address these concerns.

The Committee went on to consider whether to suspend Ms Harper's registration. In doing so, it took into account that a suspension was considered by the GDC to be the appropriate sanction in this case. In reaching its decision as to whether to impose a suspension order, the Committee considered paragraph 7.28 of the Guidance which deals with the sanction of suspension. It found that the following factors from that section applied in this case:

- there is evidence of repetition of the behaviour, in that Ms Harper was repeatedly dishonest, although in relation to the same set of circumstances;
- Ms Harper has not shown insight and there remains a risk of her repeating the behaviour in future;
- patients' interests would be insufficiently protected by a lesser sanction;
- public confidence in the profession would be insufficiently protected by a lesser sanction; and
- whilst there is evidence of Ms Harper's ongoing lack of engagement with the GDC, there is no evidence of harmful deep-seated personality or professional attitudinal problems.



Taking all of these factors into account, the Committee determined that the suspension of Ms Harper's registration is an appropriate and proportionate outcome in all the circumstances.

The Committee took into account that the sanction of erasure was open to it. However, in its view, whilst Ms Harper's dishonesty was serious, it was not at the most serious end of the spectrum. Her dishonesty was persistent, but it related to one incident and was quickly discovered. There has been no evidence of any actual harm caused by her actions. The Committee also noted the evidence of her relative inexperience as a dental nurse and that it has not been submitted by the GDC that Ms Harper's behaviour as highlighted in this case is incompatible with continued registration.

The Committee bore in mind that the maximum period of suspension is for 12 months and has decided to suspend Ms Harper's registration for a period of 9 months. It considered that a 9-month period would serve to protect the public and mark the gravity of Ms Harper's misconduct. The Committee also considered that this time would give Ms Harper an opportunity to provide evidence of remediation.

A Committee will review Ms Harper's 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. Ms Harper will be informed of the date and time of that resumed hearing, with which she will be expected to engage.

The Committee reviewing Ms Harper's case may find it helpful to receive any evidence she wishes to present including:

- evidence of her cooperation with GDC;
- evidence of her reflection on the matters found proved in this case;
- evidence of her insight and remediation; and
- evidence that she has kept her knowledge and skills up to date.

Unless Ms Harper 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 Ms Price, as to whether Ms Harper's registration should be suspended immediately, pending its substantive determination taking effect."

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"In considering whether to impose an immediate order on Ms Harper's registration, the Committee took account of the submissions made by Ms Price on behalf of the GDC that such an order should be imposed. It accepted the advice of the Legal Adviser.

In all the circumstances of this case, the Committee has determined that it is necessary for the protection of the public and is otherwise in the public interest to impose an order for the immediate suspension of Ms Harper's registration. The Committee has identified an ongoing risk to public safety and has also identified wider public interest concerns. It therefore considered that immediate action is required in this case, particularly in light of Ms Harper's continued lack of engagement with the GDC.

The effect of the foregoing determination and this order is that Ms Harper's registration will be suspended over the appeal period. If Ms Harper does not appeal, the substantive

direction for a 9-month suspension, as already announced, will take effect 28 days from the date when notice is deemed to have been served upon her.

Should Ms Harper exercise her right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

That concludes this hearing.”

At a review hearing on 6 March 2019 the Chairman announced the determination as follows:

“This is a resumed hearing of Ms Harper’s case.

Ms Harper is neither present nor represented. The General Dental Council (GDC) is also not in attendance. It relies on written submissions, in which it submits that: (i) service of the notification of hearing had been effected on Ms Harper in accordance with the General Dental Council (Fitness to Practise) Rules 2006 (the Rules); (ii) the hearing should proceed in her absence; (iii) her fitness to practise remains impaired by reason of misconduct and (iv) that an order of suspension for an extended period be directed.

### **Service and proceeding in the absence of parties**

The Committee first considered whether the notification of today’s review hearing had been served on Ms Harper in accordance with Rules 28 and 65. The Committee has received a bundle of documents which contains a copy of notification of hearing dated 01 February 2019 which was sent by Special Delivery to Ms Harper’s last known address. The Committee is satisfied that the notification contains the required information under Rule 28, including the time and date of this hearing. It notes that the original venue as stated in the notice was changed and Ms Harper was notified by email on 19 February 2019. Taking all these factors into account, the Committee is satisfied that the GDC has complied with the requirements of service in accordance with Rules 28 and 65.

The Committee then went on to consider whether to proceed in the absence of Ms Harper in accordance with Rule 54. In so doing, it has borne in mind that its discretion to proceed in the absence of Ms Harper must be exercised with the utmost care and caution. It is satisfied that the GDC has made all reasonable efforts to notify Ms Harper of this hearing and its purpose. The notification of hearing informed her that the Committee had the power to deal with the resumed hearing on the papers in the absence of parties and that the GDC was proposing to request that arrangements be made for the hearing to take place on the papers. The letter further stated that it was open to Ms Harper to provide the Committee with written submissions and any documents that she felt were relevant to the review of the Order. The letter asked Ms Harper to notify the GDC by 11 February 2019 if there was any reason why the hearing should not proceed on the papers. She was also asked to notify the GDC whether she would be attending the hearing and/or be represented. On the material before the Committee, Ms Harper has not provided any response. There has been no application for a postponement and there is nothing to suggest that an adjournment would make Ms Harper’s attendance any more likely on a future occasion, given that she has not attended previous hearings of her case. Having regard to all the circumstances, the Committee has determined that Ms Harper has voluntarily absented herself from this hearing. It considers that there is a clear public interest in reviewing the order today. Accordingly, the Committee has determined to proceed with today’s review hearing in the absence of Ms Harper and on the papers before it.

**Background matters**

This is the first review of a suspension order that was first imposed on Ms Harper's registration for a period of 9 months by the Professional Conduct Committee (PCC) in 30 May 2018. Ms Harper did not attend that hearing and she was not represented. At that hearing the PCC found proved that:

*"On 31 March 2017, Ms Harper applied for employment at the Woodlands Dental Practice as a dental nurse. As part of her application, Ms Harper indicated that the Wallasey Village Dental Practice was her current and/or most recent employer, when it was, in fact, the Arno Dental Practice. Further, Ms Harper indicated on her application form that Witness 2, whom she gave as a referee, was the Practice Manager at the Wallasey Village Dental Practice, when, in fact, the Practice Manager was Witness 3. The Committee found that Ms Harper's actions in these respects were misleading and dishonest, in that she knew the information she provided was false.*

*Whilst employed as dental nurse at the Woodlands Dental Practice, Ms Harper stated that she had been employed at the Arno Dental Practice for only one day, when she had worked there for longer. Also, Ms Harper stated that it was untrue that she had left the employment of the Wallasey Village Dental Practice on or around 24 February 2017, when she had done so. The Committee also found that Ms Harper's actions in these respects were misleading and dishonest, in that she knew the information she provided was false.*

*It was the finding of the Committee that, through her actions, Ms Harper had selectively omitted information about her employment history when she applied to the Woodlands Dental Practice to avoid a reference being obtained from her actual most recent employer, the Arno Dental Practice, in view of her dismissal from that practice. In acting as she did, Ms Harper denied the Woodlands Dental Practice the opportunity to fully assess her suitability for the post in question. Furthermore, when Ms Harper was eventually challenged about her employment history, she made further false statements to cover up her previous untruths.*

*In addition to the Committee's findings in respect of Ms Harper's application to, and employment with, the Woodlands Dental Practice, it found that Ms Harper failed to cooperate with an investigation conducted by the GDC up until 4 October 2017. It accepted the evidence that Ms Harper had failed in her duty to respond to a number of letters sent to her by the GDC, some of which included requests for Ms Harper to provide evidence of her professional indemnity insurance."*

At that hearing the PCC concluded that the findings against Ms Harper amounted to misconduct. That Committee had no information from Ms Harper to demonstrate what, if any, steps she may have taken to remedy her misconduct. It cannot be satisfied that there is no risk of repetition. It concluded that Ms Harper's fitness to practise was currently impaired by reason of her misconduct.

**Today's review hearing**

This Committee has comprehensively reviewed the current order. In so doing, it has had regard to the GDC bundle, as well as the GDC's submissions. It notes the absence of any information from Ms Harper and lack of engagement by her with the GDC. The Committee has also had regard to the GDC's written submissions.

The Committee first considered whether Ms Harper's fitness to practise is still impaired. There is no evidence before this Committee that Ms Harper has addressed her past misconduct, or has provided any information as recommended to her by the PCC at the initial hearing. In these circumstances, the Committee considers that there remains a risk that Ms Harper could repeat the misconduct and thus she remains a risk to the public. Indeed, it notes that Ms Harper has not engaged with the GDC in relation to these proceedings over a protracted period of time, despite repeated attempts by the GDC to secure her involvement. Accordingly, the Committee has determined that Ms Harper's fitness to practise is currently impaired.

The Committee next considered what direction to give, bearing in mind its powers in accordance with Section 36Q of the Dentists Act 1984. In so doing, it has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (October 2016).

The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Harper's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.

The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to terminate it with immediate effect. Given Ms Harper's lack of engagement with the GDC and the absence of any remediation, the Committee has concluded that it would not be appropriate to terminate the current order or to allow it to lapse.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee is aware that in order for conditions to be appropriate and workable there would need to be some measure of positive engagement from Ms Harper. To date, she has not engaged with the GDC or provided any evidence of remediation, despite being given the opportunity to do so. In these circumstances, the Committee has concluded that replacing the suspension order with a conditions of practice order would not be workable or appropriate.

The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It has borne in mind Ms Harper's lack of engagement with the GDC over a sustained period of time and the absence of any information as to her professional intentions. Ms Harper has chosen not to attend any of the hearings of her case or to provide any meaningful evidence of her remediation. In all the circumstances, the Committee determined to extend the period of the suspension order on Ms Harper's registration. This Committee has found that she has failed to engage meaningfully with the GDC and the remedial process. As a result, the failings identified remain a real concern. In view of this, the Committee concluded that members of the public and the wider public interest would not be sufficiently protected by a lesser sanction than suspension.

The Committee has decided to extend the suspension order by a period of 12 months. In deciding on this period, the Committee took into account the absence of any evidence of progress made by Ms Harper since the findings made against her in May 2018. It considered that a significant amount of engagement and remediation will now be required on her part to address all the identified failings. The Committee concluded that a 12-month suspension would afford her such an opportunity, whilst ensuring that members of the public and the wider public interest remain protected adequately.

A Committee will review Ms Harper's case at a resumed hearing to be held shortly before the end of the extended period of suspension. That Committee will consider whether it should take any further action in relation to her registration. She will be informed of the date and time of that resumed hearing.

The Committee considers that a reviewing Committee would be assisted by the points made at the initial hearing, which are:

- *evidence of her cooperation with GDC;*
- *evidence of her reflection on the matters found proved in this case;*
- *evidence of her insight and remediation; and*
- *evidence that she has kept her knowledge and skills up to date.*

Unless Ms Harper exercises her right of appeal, her current suspension order will be extended by a period of 12 months from the date on which it would otherwise expire. In the event that Ms Harper does lodge an appeal against this decision, the current suspension order will continue to remain in force until the appeal has been decided.

That concludes this determination."

At a review hearing on 2 March 2020 the Chairman announced the determination as follows:

"This is a resumed hearing of Ms Harper's case.

Ms Harper is neither present nor represented. The General Dental Council (GDC) is also not in attendance. It relies on written submissions, in which it submits that: (i) service of the notification of hearing had been effected on Ms Harper in accordance with the General Dental Council (Fitness to Practise) Rules 2006 (the Rules); (ii) the hearing should proceed in her absence; (iii) her fitness to practise remains impaired by reason of misconduct and (iv) that an order of suspension for an extended period be directed.

### **Service and proceeding in the absence of parties**

The Committee first considered whether the notification of today's review hearing had been served on Ms Harper in accordance with Rules 28 and 65. The Committee has received a bundle of documents which contains a copy of notification of hearing dated 28 January 2020 which was sent by Special Delivery to Ms Harper's last known address. This was delivered and signed for on 5 February 2020. The notice was also emailed to the registrant. The Committee is satisfied that the notification contains the required information under Rule 28, including the time and date of this hearing. Taking all these factors into account, the Committee is satisfied that the GDC has complied with the requirements of service in accordance with Rules 28 and 65.

The Committee then went on to consider whether to proceed in the absence of Ms Harper in accordance with Rule 54. In so doing, it has borne in mind that its discretion to proceed in the absence of Ms Harper must be exercised with the utmost care and caution. It is satisfied that the GDC has made all reasonable efforts to notify Ms Harper of this hearing and its purpose. The notification of hearing informed her that the Committee had the power to deal with the resumed hearing on the papers in the absence of parties and that the GDC was proposing to request that arrangements be made for the hearing to take place on the papers. The letter further stated that it was open to Ms Harper to provide the Committee with written submissions and any documents that she felt were relevant to the review of the Order. The



letter asked Ms Harper to notify the GDC by 11 February 2020 if there was any reason why the hearing should not proceed on the papers. She was also asked to notify the GDC whether she would be attending the hearing and/or be represented. Several attempts were made on 27 February 2020 to contact Ms Harper via telephone, but no contact was made. On the material before the Committee, Ms Harper has not provided any response. There has been no application for a postponement and there is nothing to suggest that an adjournment would make Ms Harper's attendance any more likely on a future occasion, given that she has not attended previous hearings of her case. Having regard to all the circumstances, the Committee has determined that Ms Harper has voluntarily absented herself from this hearing. It considers that there is a clear public interest in reviewing the order today. Accordingly, the Committee has determined to proceed with today's review hearing in the absence of Ms Harper and on the papers before it.

### **Background matters**

This is the second review of a suspension order that was first imposed on Ms Harper's registration for a period of 9 months by the Professional Conduct Committee (PCC) in 30 May 2018. Ms Harper did not attend that hearing and she was not represented. At that hearing the PCC found proved that:

*"On 31 March 2017, Ms Harper applied for employment at the Woodlands Dental Practice as a dental nurse. As part of her application, Ms Harper indicated that the Wallasey Village Dental Practice was her current and/or most recent employer, when it was, in fact, the Arno Dental Practice. Further, Ms Harper indicated on her application form that Witness 2, whom she gave as a referee, was the Practice Manager at the Wallasey Village Dental Practice, when, in fact, the Practice Manager was Witness 3. The Committee found that Ms Harper's actions in these respects were misleading and dishonest, in that she knew the information she provided was false.*

*Whilst employed as dental nurse at the Woodlands Dental Practice, Ms Harper stated that she had been employed at the Arno Dental Practice for only one day, when she had worked there for longer. Also, Ms Harper stated that it was untrue that she had left the employment of the Wallasey Village Dental Practice on or around 24 February 2017, when she had done so. The Committee also found that Ms Harper's actions in these respects were misleading and dishonest, in that she knew the information she provided was false.*

*It was the finding of the Committee that, through her actions, Ms Harper had selectively omitted information about her employment history when she applied to the Woodlands Dental Practice to avoid a reference being obtained from her actual most recent employer, the Arno Dental Practice, in view of her dismissal from that practice. In acting as she did, Ms Harper denied the Woodlands Dental Practice the opportunity to fully assess her suitability for the post in question. Furthermore, when Ms Harper was eventually challenged about her employment history, she made further false statements to cover up her previous untruths.*

*In addition to the Committee's findings in respect of Ms Harper's application to, and employment with, the Woodlands Dental Practice, it found that Ms Harper failed to cooperate with an investigation conducted by the GDC up until 4 October 2017. It accepted the evidence that Ms Harper had failed in her duty to respond to a number of letters sent to her by the GDC, some of which included requests for Ms Harper to provide evidence of her professional indemnity insurance."*

At that hearing the PCC concluded that the findings against Ms Harper amounted to misconduct. That Committee had no information from Ms Harper to demonstrate what, if any, steps she may have taken to remedy her misconduct. It couldn't be satisfied that there is no risk of repetition. It concluded that Ms Harper's fitness to practise was currently impaired by reason of her misconduct.

The matter was reviewed on 6 March 2019, where the registrant was neither present nor represented. That Committee also received no information from Ms Harper to demonstrate steps taken to remedy her misconduct. It determined that Ms Harper's fitness to practise remained impaired. That Committee decided to extend the suspension order by a period of 12 months. In deciding on this period, that Committee took into account the absence of any evidence of progress made by Ms Harper since the findings made against her in May 2018. It considered that a significant amount of engagement and remediation would be required on her part to address all the identified failings.

### **Today's review hearing**

This Committee has comprehensively reviewed the current order. In so doing, it has had regard to the GDC bundle, as well as the GDC's submissions. It notes the absence of any information from Ms Harper and lack of engagement by her with the GDC.

The Committee first considered whether Ms Harper's fitness to practise is still impaired. There is no evidence before this Committee that Ms Harper has addressed her past misconduct or has provided any information as recommended to her by the PCC at the initial hearing. In these circumstances, the Committee considers that there remains a risk that Ms Harper could repeat the misconduct and thus she remains a risk to the public. Indeed, it notes that Ms Harper has not engaged with the GDC in relation to these proceedings over a protracted period of time, despite repeated attempts by the GDC to secure her involvement. Accordingly, the Committee has determined that Ms Harper's fitness to practise is currently impaired.

The Committee next considered what direction to give, bearing in mind its powers in accordance with Section 36Q of the Dentists Act 1984. In so doing, it has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (October 2016).

The Committee has borne in mind the principle of proportionality, balancing the public interest against Ms Harper's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.

The Committee was satisfied that terminating the current suspension would not adequately protect the public or maintain public confidence in the dental profession. The Committee was also satisfied that the imposition of conditions would not be workable given Ms Harper's lack of engagement since the original hearing, as it would not address the fundamental issue of dishonesty in this case. The Committee therefore determined that a further period of suspension was appropriate and proportionate. In the circumstances the Committee decided that Ms Harper's registration should be suspended for a further period of 6 months with a review before the expiry. The Committee considered that a reviewing Committee would be assisted by the points made at the initial hearing and reiterated at the last review which are;

- *evidence of her cooperation with GDC;*
- *evidence of her reflection on the matters found proved in this case;*

- *evidence of her insight and remediation; and*
- *evidence that she has kept her knowledge and skills up to date.*

Unless Ms Harper exercises her right of appeal, her current suspension order will be extended by a period of 6 months from the date on which it would otherwise expire. In the event that Ms Harper does lodge an appeal against this decision, the current suspension order will continue to remain in force until the appeal has been decided.

That concludes this hearing.”

At a review hearing on 21 September 2020 the Chairman announced the determination as follows:

“Neither party is present at this resumed hearing of the Professional Conduct Committee (PCC). The hearing is being conducted remotely in line with the GDC’s current practice. The GDC has invited the Committee to conduct the hearing on the papers in the absence of both parties.

### **Purpose of hearing**

The purpose of today’s hearing is to review a substantive direction of suspension first imposed on Ms Harper’s registration by the PCC on 30 May 2018. The hearing is being held in accordance with section 36Q (1) of the Dentists Act 1984 (as amended) (‘the Act’).

### **Service**

The Committee first considered whether service has been properly effected in accordance with the General Dental Council (Fitness to Practise) Rules 2006 (‘the Rules’).

In its written representations to the Committee the GDC has submitted that Ms Harper has been properly notified of today’s hearing in accordance with Rule 28 of the Rules. The Committee noted that a notice of hearing was sent to Ms Harper’s registered address on 11 August 2020 using the Royal Mail’s Special Delivery service. That notice set out the date and time of the hearing, as well as confirming the remote nature of the hearing and the powers available to the Committee. The Royal Mail’s Track and Trace service records that the notice was delivered on the morning of 12 August 2020. A copy of the notice was also sent to Ms Harper’s known email address on 11 August 2020.

The Committee accepted the advice provided by the Legal Adviser. Having regard to the GDC’s submissions and the evidence placed before it the Committee was satisfied that service was effected in accordance with the Rules.

### **Proceeding in absence**

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Ms Harper in accordance with Rule 54 of the Rules. It was mindful that its discretion to proceed in the absence of a registrant must be exercised with the utmost care and caution. The Committee notes that the GDC has invited the Committee to proceed in the absence of Ms Harper and to conduct the hearing on the papers alone.

The Committee accepted the advice of the Legal Adviser. It determined that Ms Harper has voluntarily absented herself from these proceedings and that an adjournment, which Ms Harper has not in any event sought, would be highly unlikely to secure her attendance given her history of non-engagement. The Committee also considered that it is in the public

interest to see an expeditious consideration of this case, not least in the context of the imminent expiry of the current order.

### **Existing order**

In May 2018 the PCC held a hearing of inquiry in respect of allegations relating to Ms Harper's conduct. Ms Harper did not attend the hearing and was not represented in her absence. The Committee heard, and found proved, that Ms Harper had made false declarations about her employment history when seeking employment as a dental nurse, and had then made further false declarations about her employment history having been appointed to the role for which she had applied. The Committee found Ms Harper's conduct to be misleading and dishonest. The Committee also found that Ms Harper had failed to co-operate with the GDC's investigation of those matters. The Committee went on to determine that the facts that it had found proved amounted to misconduct, and that Ms Harper's fitness to practise was impaired by reason of that misconduct. In reaching its decision on impairment the Committee noted that Ms Harper had not provided any evidence of any steps taken to address her misconduct or to develop insight into her failings. The Committee determined to suspend Ms Harper's registration for a period of nine months, with a review hearing to take place prior to the expiry of her suspension. The Committee also made recommendations to Ms Harper about the evidence that she might wish to provide to that reviewing Committee.

The PCC reviewed Ms Harper's suspension on 6 March 2019. Ms Harper was not present and was not represented in her absence. That reviewing Committee noted the lack of engagement and information from Ms Harper and determined that her fitness to practise remained impaired. It decided to extend her suspension for a further period of 12 months, with a review hearing to take place prior to its expiry. Recommendations as to the steps that Ms Harper could take to assist the next reviewing Committee were also set out.

The extended period of suspension was next, and most recently, reviewed by the PCC on 2 March 2020. Ms Harper was again not present and was not represented in her absence. That reviewing Committee noted Ms Harper's lack of engagement and absence of any information to suggest that she had remedied her misconduct. The Committee found that her fitness to practise remained impaired, and determined to suspend her registration for a further period of six months. Recommendations as to the steps that Ms Harper could take to assist the next reviewing Committee were again set out. It falls to this Committee today to review Ms Harper's suspension.

### **Committee's determination**

The Committee has carefully considered all the information presented to it, including the written documentation and submissions provided by the GDC. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated May 2019). The Committee has accepted the advice of the Legal Adviser.

### **Impairment**

The Committee has determined that Ms Harper's fitness to practise remains impaired. It notes that Ms Harper has provided no information whatsoever about any steps taken to remedy the misconduct that was previously found, or to develop and demonstrate insight into her actions. Ms Harper has not engaged with these proceedings. Ms Harper did not attend the substantive PCC hearing at which the decision was taken to suspend her registration, and has not participated in any of the subsequent review hearings. The

Committee has concluded that the same risks to the public, which arise from Ms Harper's unremediated misconduct, persist. Her fitness to practise remains impaired.

### **Sanction**

The Committee next considered whether it would be appropriate to revoke the suspension, or to replace the suspension with a direction of conditional registration.

The Committee considered that revoking the suspension would place the public at the risk of harm given its findings of current impairment, and would also undermine trust and confidence in the profession. The Committee next considered whether it could formulate conditions which would be workable and which would address the persistent risks that have been identified. The Committee concluded that it could not formulate any conditions which would be practicable or workable, given that Ms Harper has not substantively engaged with today's hearing and has provided no indication of any willingness to engage with any conditions that might be capable of being formulated. In any event, the Committee is mindful that the facts giving rise to her impairment relate to dishonesty, and that conditions could not properly be formulated to address the risks arising from such misconduct.

The Committee then went on to consider whether it would be appropriate to extend the current period of suspension. The Committee concluded that a further defined period of suspension is unlikely to serve any meaningful purpose. Ms Harper has not engaged in these proceedings in any meaningful way for a considerable period of time, and has not provided any evidence of steps taken to develop insight into and remediation of her misconduct. The Committee noted that the statutory requirements for indefinite suspension were met. In light of Ms Harper's longstanding and ongoing lack of engagement, and the absence of any evidence from her to demonstrate that she has acknowledged, addressed and remedied the matters giving rise to these proceedings, the Committee considers that indefinite suspension is the appropriate and proportionate outcome.

The Committee hereby directs that Ms Harper's registration be suspended indefinitely in accordance with section 36Q (1) (d) of the Act. This indefinite suspension will take effect from the date on which the existing period of suspension would otherwise expire, namely on 2 October 2020.

### **Right of appeal**

Ms Harper will have 28 days from the date on which notice of this decision is deemed to have been served on her to appeal against this decision. Should she decide to appeal, the extant suspension will remain in force until the resolution of any such appeal. Should she decide not to appeal, the current suspension will become indefinite on the date on which it would otherwise expire, that is to say on 2 October 2020.

### **Subsequent reviews**

This direction may be reviewed in accordance with the provisions of section 36Q (4) of the Act. More particularly, Ms Harper may, after two years have elapsed from the date on which this direction of indefinite suspension takes effect, ask for the indefinite suspension to be reviewed.

That concludes this case for today."