

**HEARING HEARD IN PRIVATE\***

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

**CUTT, Adelle Louise**

**Registration No: 247307**

**HEALTH COMMITTEE**

**JUNE 2017 - JULY 2019\*\***

**Most recent outcome: Suspended indefinitely**

\*\*See page 14 for the latest determination

Adelle Louise CUTT, a dental nurse, National Diploma in Dental Nursing NEBDN 2012, was summoned to appear before the Health Committee on 28 June 2017 for an inquiry into the following charge:

**Charge**

“That, being a registered dental care professional:

- 1) At all material times you were a United Kingdom registered Dental Care Professional.
- 2) [PRIVATE]
  - a) [PRIVATE]
  - b) [PRIVATE][PRIVATE]
- 3) You did not to co-operate with an investigation conducted by solicitors representing the General Dental Council by:
  - a) not responding appropriately to requests for medical information on:
    - i) 9 February 2015;
    - ii) 16 February 2015;
    - iii) 20 April 2015;
    - iv) 28 April 2015;
    - v) 1 May 2015;
    - vi) 14 March 2016;
    - vii) 30 March 2016; and
    - viii) 18 April 2016
  - b) not attending an appointment arranged for your convenience on 11 February 2016 in order for an independent medical assessment to be undertaken.

And in relation to the facts alleged your fitness to practise is impaired by reason of your health and / or misconduct.”

Ms Cutt was not present and was not represented. On 29 June 2017 the Chairman announced the findings of fact to the Counsel for the GDC:

“This is a hearing before the Health Committee. Ms Cutt is neither present nor represented at this hearing. Ms Donnelly is the Case Presenter for the General Dental Council (GDC).

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

The Committee first considered whether Ms Cutt had been sent notification of the hearing in accordance with Rules 13 and 65 of the Rules. It saw a copy of the Notification of Hearing, dated 4 May 2017 and confirmation that this letter was sent to Ms Cutt’s registered address by Special Delivery. The Committee was satisfied that the letter contained proper notification of today’s hearing, including its date, time and location, as well as notification that the Committee had the power to proceed with the hearing in Ms Cutt’s absence. The notice was served in good time before the hearing.

Whilst the Committee took into account that the GDC is not required by the Rules to prove receipt. The Committee had regard to the associated Royal Mail ‘Track and Trace’ receipt, which shows that this Notification of Hearing was delivered and signed for in the printed name of ‘CUTT’.

The Committee was satisfied on the basis of the evidence before it, that service of the Notification of Hearing had been effected in accordance with the Rules.

**Decision to hold the hearing in private under Rule 53**

The Committee acceded to a further application made by Ms Donnelly to hold the hearing entirely in private under Rule 53 of the Rules. Whilst the Committee took into account that the charge against Ms Cutt contains alleged matters of health and misconduct, it was satisfied that the matters were inextricably linked. It therefore considered that it was appropriate and practical to proceed in private session.

In the circumstances, the Committee has prepared both a private version and a public version of its Findings of Fact. This version is public.

**Decision on proceeding in the absence of Ms Cutt**

The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Ms Cutt. It approached this issue with the utmost care and caution. The Committee took into account the need to be fair to both parties and it had regard to the public interest in dealing with the matters in this case expeditiously.

The Committee was satisfied on the evidence before it, that Ms Cutt has been properly served with notice of this hearing and of her right to attend and be represented. It noted from the information provided that Ms Cutt sought a postponement of the first scheduled Health Committee hearing set for 6 July 2015 and in relation to subsequent hearings indicated that she was not fit to attend them between 17 February 2016 and 14 December 2016. On 14 December 2016, the Committee decided not to proceed but made the following Directions:

*“In order to assist the parties in participating in a future substantive hearing, given the history of four postponements/adjournments in this case, and taking into account the*

*public interest, fairness to the GDC, as well as fairness to Ms Cutt, the Committee has decided to issue the following specific directions:*

- 1. By 16 January 2017 the GDC should send to the registrant the appropriate consent form(s) to enable the registrant to engage in the consent process for medical/health assessments.*
- 2. The Registrant should provide evidence of the {PRIVATE} that impacted on her non-attendance at today's hearing (14 December 2016). This evidence must be provided by 16 January 2017.*
- 3. The Registrant should engage with the consent process related to the obtaining of medical/health assessment in accordance with GDC requests.*
- 4. The Registrant should engage with the GDC in respect of the listing of the next Health Committee hearing.*
- 5. The Registrant should, if unable to engage effectively in correspondence with the GDC, provide evidence, medical or otherwise, of her inability to do so.*
- 6. The Registrant should, in the event of an inability to attend the relisted Health Committee hearing by telephone, skype or in person, provide medical or other relevant evidence of her inability to do so."*

There has been no communication from Ms Cutt since the 18 November 2016 and she has failed to comply with any of the Directions made at the hearing on 14 December 2016. Ms Cutt's lack of engagement with the GDC is ongoing. In the circumstances, the Committee concluded that Ms Cutt has voluntarily absented herself. There has been no suggestion that Ms Cutt has requested an adjournment of this hearing and, given her history of sporadic non-engagement, the Committee considered that it was highly unlikely that an adjournment today would secure her attendance on a future date. From the history of previous hearings it was clear that Ms Cutt was aware that she could request adjournments or postponements but did not in relation to this hearing. There is a general public interest in all matters being dealt with expeditiously. This matter has been ongoing for three years. Taking all of this into account, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Ms Cutt.

#### **Application to admit hearsay evidence**

Ms Donnelly also made an application under Rule 57(1) for three witness statements to be admitted as hearsay evidence. The Committee noted that the witness statements related to the production of correspondence between those acting for the GDC and the Registrant and as such were demonstrably reliable. In those circumstances, the Committee concluded that the witnesses did not need to give oral evidence. It granted the application to admit the witness statements as hearsay evidence.

#### **The charge**

[PRIVATE]. There is also a misconduct allegation that Ms Cutt failed to adequately cooperate with an investigation conducted by the solicitors representing the GDC and did not attend her appointment for an independent health assessment.

Prior to the Committee making its findings of fact, the Committee decided to amend the stem of Charge 3 by removing the word 'to' due to a typographical error. The Committee considered no unfairness will be caused by making this amendment.

**Evidence**

In relation to the alleged matters concerning Ms Cutt’s health, the GDC provided the Committee with documentary evidence, including a letter from Ms Cutt’s GP, Dr [PRIVATE], dated 2 September 2014. Also provided was information relating to the previous HC proceedings against Ms Cutt, which this Committee received to provide context in respect of the current matters before it. The Committee further received a witness statement, dated 16 April 2015, from the Practice Manager, Practice Manager A. Practice Manager A also gave oral evidence to the Committee. The Committee noted that Practice Manager A gave clear and consistent evidence and considered him a credible witness.

In relation to the allegation of misconduct, the Committee received the signed witness statements, and associated exhibits from employees of the GDC and Blake Morgan. Having considered the content of those statements, the circumstances in which they were made and the fact that they are unchallenged, the Committee decided to attach full weight to them.

**The Committee’s Findings of Fact**

The Committee considered all the evidence presented to it. It took account of the submissions made by Ms Donnelly on behalf of the GDC and it accepted the advice of the Medical Adviser and that of the Legal Adviser.

The Committee 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 drew no adverse inferences from Ms Cutt’s absence from this hearing.

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

1.	<p>At all times you were a United Kingdom registered Dental Care Professional.</p> <p><b>Found proved.</b></p> <p>The Committee had sight of a screenshot of the GDC’s CRM system and could see Ms Cutt’s name and GDC registration number. Accordingly, this charge is found proved.</p>
2. a) and b)	<p>[PRIVATE]</p> <p><b>Found not proved.</b></p> <p>The Committee considered heads of charge 2 a) and b) separately, but reached the same finding in respect of both.</p> <p>The Committee received very limited medical evidence in relation to Ms Cutt’s current state of health. The evidence that it did receive was largely based on information arising from Dr [PRIVATE]’s letter, dated 2 September 2014 which was written almost three years ago. Dr [PRIVATE]’s letter referred to Ms Cutt suffering from [PRIVATE]. [PRIVATE].</p> <p>The Committee had regard to Dr [PRIVATE]’s letter and considered that there were limitations in the information upon which he gave his opinion. The Committee noted that no formal health assessment had taken place nor had any formal diagnosis been made by Dr [PRIVATE] [PRIVATE]. The Committee attached less weight to this letter given the lack of detail provided and the date of the letter.</p>

	<p>The Committee also had regard to Ms Cutt’s written submissions sent on 10 November 2014 in response to the referral to the Investigating Committee, in which she gave her account [PRIVATE].</p> <p>Whilst the Committee noted the indication within the evidence to a variety of health issues from which Ms Cutt was said to have been suffering in the past, it took into account the advice of the Medical Adviser [PRIVATE].</p> <p>The Medical Adviser stated [PRIVATE].</p> <p>Having considered all the evidence, the Committee was not satisfied that the GDC has discharged its burden of proof in relation to the alleged health matters due to the lack of current and independent evidence. [PRIVATE]. Accordingly, this charge is not found proved.</p>
<p>3.a) and b)</p>	<p>You did not co-operate with an investigation conducted by solicitors representing the General Dental Council by:</p> <ul style="list-style-type: none"> <li>a) not responding appropriately to requests for medical information on: <ul style="list-style-type: none"> <li>i) 9 February 2015;</li> <li>ii) 16 February 2015;</li> <li>iii) 20 April 2015;</li> <li>iv) 28 April 2015;</li> <li>v) 1 May 2015;</li> <li>vi) 14 March 2016;</li> <li>vii) 30 March 2016; and</li> <li>viii) 18 April 2016</li> </ul> </li> <li>b) not attending an appointment arranged for your convenience on 11 February 2016 in order for an independent medical assessment to be undertaken.”</li> </ul> <p><b>Charge 3 a) iii) and v) found not proved, otherwise charge 3 is found proved in its entirety.</b></p> <p>The Committee considered heads of charge 3 a) and b) separately, but reached the same finding in respect of both.</p> <p>The Committee was satisfied that, as a registrant, Ms Cutt had a duty to cooperate with the GDC’s investigation into her fitness to practise. It received and accepted the clear evidence from the witnesses of Ms Cutt’s non-engagement with the GDC between 9 February 2015 and 18 April 2016. However, in relation to charge 3a) iii) and v) the Committee found these not proved as it considered the requests were unclear and not explicit enough to amount to requests for medical information.</p> <p>The Committee noted that although Ms Cutt responded to some correspondence from the GDC. She provided her consent to undergo an occupational health assessment that was scheduled for 11 February 2016</p>

and it was reported that she refused to attend. The Committee had sight of a letter from the occupational health services instructed to carry out the assessment which stated that Ms Cutt did not in fact attend for the independent medical assessment. It was made clear in correspondence to Ms Cutt that any decision not to comply with requests for information could be formally considered as an allegation against her in due course and furthermore the Directions, in December 2016, made it clear that she had to engage with the process. Whilst there was some sporadic engagement from Ms Cutt during this period the Committee found that it did not amount to an appropriate response to the requests for medical information.

The Committee concluded that as a registered dental professional, Ms Cutt was under a duty to cooperate fully with the GDC's investigations into her fitness to practise. It found that Ms Cutt failed in that duty by not attending an appointment for a medical assessment.

We move to Stage Two.”

On 29 June 2017 the Chairman announced the determination as follows:

“Ms Cutt is neither present nor represented at this hearing.

The Committee considered all the evidence presented to it. It took account of the submissions made by Ms Donnelly, the Case Presenter for the General Dental Council (GDC) and it accepted the advice of the Medical Adviser and that of the Legal Adviser.

#### **The facts found proved**

The matters found proved by the Committee were that whilst Ms Cutt was registered with the GDC, between 9 February 2015 and 18 April 2016, Ms Cutt failed to co-operate with an investigation conducted by the GDC by not responding appropriately to requests for medical information and by failing to attend a medical assessment scheduled for 11 February 2016. The Committee received and accepted the evidence of witnesses, employed by the GDC and Blake Morgan, solicitors instructed by the GDC regarding the correspondence sent to Ms Cutt at the various stages of the GDC's investigation into her fitness to practise, to which there has been sporadic engagement from the registrant for a time until she completely disengaged from November 2016.

#### **Decision on misconduct**

The Committee considered whether the facts found proved in this case amount to misconduct. It took into account that misconduct in the regulatory context requires a serious falling short of the expected professional standards. The Committee had regard to the GDC Standards, as set out in its publication '*Standards for the Dental Team (September 2013)*'. In particular, Standard 9.4, which contains the following:

You must 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.

9.4.2 You must co-operate with:

- commissioners of health;
- other healthcare regulators;
- hospital trusts carrying out any investigation;
- the Coroner or Procurator Fiscal acting to investigate a death;
- any other regulatory body;
- the Health and Safety Executive; and
- any solicitor, barrister or advocate representing patients or colleagues.

The Committee was satisfied from the above Standards that Ms Cutt had an unequivocal duty to co-operate with the investigation being conducted by the GDC and she clearly failed to do so over a prolonged period of time. Ms Cutt has failed to respond to the majority of the communications from her regulatory body and those of the solicitors instructed by it and failed to undergo the independent medical assessment arranged for the 11 February 2016. The Committee considered that her conduct has frustrated the GDC investigation into concerns relating to her health and undermined the effectiveness of the GDC's role in professional regulation. The Committee had no doubt that this would be seen as deplorable conduct by fellow registrants and the public. In the Committee's view, Ms Cutt has breached a fundamental duty of her registration. It was satisfied that such a breach is serious and that it amounts to misconduct.

**Decision on impairment**

The Committee next considered whether Ms Cutt's fitness to practise is currently impaired by reason of her misconduct.

In reaching its decision, the Committee exercised its independent judgement. 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 was satisfied that Ms Cutt's misconduct, as found in this case, is such that it is capable of being easily remedied. It considered that in order to demonstrate remediation, Ms Cutt would need to embark on meaningful engagement with the GDC, which would include an explanation for her sporadic non-engagement to date.

However, the Committee has received no information on Ms Cutt's current circumstances and importantly no evidence of insight on Ms Cutt's part. There is nothing before the Committee to suggest that she has any understanding of her duty to co-operate with the GDC, nor has she provided any reason for her failure to co-operate with her regulatory body in matters of significant importance. Whilst the Committee has not drawn any adverse inference from Ms Cutt's absence from this hearing, the current factual position is that Ms Cutt's lack of engagement is ongoing. The Committee viewed Ms Cutt's failure to undergo the independent medical assessment as being particularly serious as it was required to ensure patient safety.

The evidence before this Committee indicates a pattern of non-engagement on Ms Cutt's part to include ignoring the directions given to her by the Health Committee 14 December 2014 and, in the absence of any evidence of insight or remediation, it considered that there is a likelihood that Ms Cutt could repeat the misconduct it has found. Given that Ms Cutt's wrongdoing is of the kind that could potentially undermine the GDC's ability effectively regulate the profession, the Committee considered that patient safety concerns do arise from the matters in this case. Whilst it took into account that it has not found proved the health allegations brought by the GDC in this case, there were nonetheless concerns that had the potential to put patients at risk. In the Committee's view, Ms Cutt's inaction demonstrates a disregard for the GDC's important role in the protection of the public. It therefore considered that a finding of impairment is necessary in the interest of public protection.

The Committee also decided that a finding of impairment is in the wider public interest to maintain public confidence and uphold proper standards of conduct and behaviour. Ms Cutt has breached a fundamental standard required by her regulator and has to date shown no insight into this serious matter. The Committee considered that public confidence in the dental profession would be undermined if a finding of impairment were not made in the circumstances of this case.

Accordingly, the Committee has determined that Ms Cutt'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 Cutt's registration. The purpose of a sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest.

The Committee took into account the '*Guidance for the Practice Committees including Indicative Sanctions Guidance (dated October 2016)*'. It considered the range of sanctions available to it, starting with the least restrictive. The Committee applied the principle of proportionality, balancing the public interest with Ms Cutt's own interests.

In light of its outstanding concerns about the risk of Ms Cutt repeating her misconduct and the potential impact this could have for the public and the wider public interest, the Committee concluded that it would be inappropriate to conclude this case without taking any action in respect of her registration. The Committee also decided against issuing a reprimand. Neither of these outcomes would impose any restriction on Ms Cutt's ability to practise thereby the public would not be protected and nor would the wider public interest be satisfied.

Whilst the Committee did consider the sanction of conditions, it determined that conditional registration would not be workable in a case such as this one. 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 Ms Cutt, all of which are absent in this case. Furthermore, this Committee has received no evidence of insight or remediation and there is no information about Ms Cutt's current circumstances. Therefore, the Committee could not be satisfied that conditions would meet the risk identified in this case.

In all the circumstances, the Committee has determined to suspend Ms Cutt's registration. It considered that the sanction of suspension would afford the public the necessary protection

and would also serve to mark the seriousness of Ms Cutt's misconduct. The Committee considered the aggravating factors in this case, which included the risk of harm to patients, her wilful disregard for the GDC standards and guidance; sustained and repeated lack of engagement and lack of insight.

In reaching its decision, the Committee took into account that the sanction of erasure was open to it as its findings on misconduct were not based purely on health matters. It considered the current lack of information from Ms Cutt, including her apparent ongoing lack of insight. However, the Committee in its consideration of mitigating factors noted that Ms Cutt's did not have any previous fitness to practise history and that no actual harm was caused to the public. This Committee also had regard to the positive comment made by Practice Manager A, who described Ms Cutt as a good worker when in work and was pleasant with patients. The Committee therefore decided that erasure would be disproportionate in the particular circumstances of this case.

The Committee has decided to suspend Ms Cutt's registration for a period of twelve months. It considered a twelve-month period to be sufficient in view of the gravity of Ms Cutt's duty to misconduct. It also considered that twelve months would give her ample opportunity to fully engage and undergo a medical assessment and provide any evidence of her remediation. In considering the proportionality of this sanction, the Committee did take into account the fact that Ms Cutt has been the subject of an interim suspension order since 19 January 2015, however, this does not affect the Committees' decision or reasoning. The misconduct centred on Ms Cutt's failure to co-operate with the GDC, this has continued throughout the period of her interim suspension.

The Committee decided that this is an appropriate case for a review to be conducted before the expiry of the order. This will give Ms Cutt a further opportunity to engage with the GDC. That Committee will consider what action to take in relation to her registration. She will be informed of the date and time of that resumed hearing, which she is encouraged to attend.

The Committee considered that a Committee reviewing Ms Cutt's case may find it helpful to receive the following:

- copies of her medical records from 2012 after she has provided updated consent for their release;
- provide consent to and undergo a medical assessment prior to the resumed hearing;
- evidence of her meaningful engagement with the GDC;
- evidence of her insight into the findings of this Committee; and
- any other evidence that she considers that the reviewing Committee may find of assistance in her case.

Unless Ms Cutt 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 Donnelly on behalf of the GDC, as to whether Ms Cutt's registration should be suspended immediately, pending its substantive determination taking effect."

“In deciding whether to impose an immediate order of suspension on Ms Cutt’s registration, the Committee took account of the submissions made by Ms Donnelly on behalf of the GDC. It accepted the advice of the Legal Adviser.

The Committee was satisfied that an immediate order of suspension was necessary for the protection of the public and it was otherwise in the public interest. The Committee concluded that given the seriousness and the nature of its findings and its reasons for the substantive order of suspension, including Ms Cutt’s lack of insight and the identified risk of repetition, to direct otherwise would be inappropriate. The Committee considered that, given its findings, if an immediate order were not made in the circumstances, public confidence in the profession and in the GDC as its regulator would be undermined.

If, at the end of the appeal period of 28 days, Ms Cutt’s has not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of suspension. If she does lodge an appeal, this immediate order will continue in effect until that appeal is determined.

The Committee noted that there was currently an interim order of suspension on Ms Cutt’s registration. However, it considered that the serious nature of the impairment found in this case justifies the imposition of an immediate order. The interim order of suspension currently on Ms Cutt’s registration is revoked pursuant to Section 36(P)(10) of the Dentists Act 1984, as amended.

Unless Ms Cutt exercises her right of appeal, she will be suspended from the register 28 days from the date upon which this decision is deemed served on her.

That concludes this hearing.”

At a review hearing on 13 July 2018 the Chairman announced the determination as follows:

“This is a resumed hearing pursuant to Section 36(Q) of the Dentists Act 1984 (as amended) (‘the Act’). Ms Cutt was neither present nor represented. Mr Kasir Ahmed appears for the General Dental Council (GDC).

### **Preliminary Matters**

#### Proof of Service

The Committee noted the Registrant was neither present or represented at today’s hearing. In her absence, the Committee first considered whether notice had been served on her in accordance with Rules 28 and 65 of the *General Dental Council (GDC) (Fitness to Practice) Rules 2006* (‘the Rules’). Notice was served by both Royal Mail Special Delivery to the Registrant’s registered address and email on 11 June 2018. The notice outlined the date, time, location and purpose of today’s hearing and invited her to attend. The Committee also had sight of an update from the Royal Mail Track and Trace service that shows the notice of hearing was delivered to the Registrant’s address on 12 June 2018.

The Committee was satisfied that service of notice of today’s hearing has been effected in compliance with the rules.

#### Proceeding in the absence of the Registrant

As the Committee is confident the notice has been properly served, it went on to consider whether to exercise its discretion under Rule 54 to proceed with the hearing in the Registrant’s absence.

The Committee heard the submissions made by Mr Ahmed on behalf of the Council and heard and accepted the advice of the Legal Adviser. The Committee remained mindful of the need to approach this issue with the most utmost care and caution. In making its decision the Committee took account of the principles set out in *R v Jones* and *GMC v Adeogba*.

The Committee was satisfied that the Registrant has been sufficiently notified of today's hearing and had sight of correspondence from a GDC paralegal summarising a conversation they had with the Registrant on 12 July 2018. The Registrant confirmed she was aware of the hearing taking place today and was content for the Committee to proceed in her absence. The Committee has therefore concluded that the Registrant can be deemed to have voluntarily absented herself. The Registrant has not made a request for an adjournment of this hearing, and in any event, there is no evidence to suggest that an adjournment would result in the Registrant's attendance at a future date. Having weighed the right of the Registrant to attend the hearing against the overarching public interest in an expeditious disposal of the matters before it before the expiry of the current order on 31 July 2018, the Committee is satisfied that it is in the interests of justice to proceed with the review today in her absence.

#### Application for hearing to be held in private

Mr Ahmed, on behalf of the Council, made an application for the hearing to be held entirely in private as the matters today relate directly to Ms Cutt's health. The Committee heard and accepted the advice of the Legal Adviser.

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 matters that are inextricably linked to the health or private and family life of the Registrant concerned, under Rule 53(2) of the Rules. The Committee agreed that it is in the interests of the Registrant that matters relating to her health should be heard in private. The Committee, therefore, acceded to the application.

#### **Background**

On 28 June 2017 the Professional Conduct Committee (PCC) found Ms Cutt's fitness to practise to be impaired by reason of her misconduct, summarising the factual background as follows:

The matters found proved by the Committee were that whilst Ms Cutt was registered with the GDC, between 9 February 2015 and 18 April 2016, Ms Cutt failed to co-operate with an investigation conducted by the GDC by not responding appropriately to requests for medical information and by failing to attend a medical assessment scheduled for 11 February 2016. The Committee received and accepted the evidence of witnesses, employed by the GDC and Blake Morgan, solicitors instructed by the GDC regarding the correspondence sent to Ms Cutt at the various stages of the GDC's investigation into her fitness to practise, to which there has been sporadic engagement from the registrant for a time until she completely disengaged from November 2016.

The PCC in June 2017 directed that her registration be suspended for a period of 12 months with a review. The Committee made the following remarks in regard to their decision and evidence that today's Committee may be assisted by:

The Committee was satisfied from the above Standards that Ms Cutt had an unequivocal duty to co-operate with the investigation being conducted by the GDC and she clearly failed to do so over a prolonged period of time. Ms Cutt has failed to respond to the majority of the communications from her regulatory body and those of the solicitors instructed by it and failed

to undergo the independent medical assessment arranged for the 11 February 2016. The Committee considered that her conduct has frustrated the GDC investigation into concerns relating to her health and undermined the effectiveness of the GDC's role in professional regulation. The Committee had no doubt that this would be seen as deplorable conduct by fellow registrants and the public. In the Committee's view, Ms Cutt has breached a fundamental duty of her registration. It was satisfied that such a breach is serious and that it amounts to misconduct.

The Committee considered that a Committee reviewing Ms Cutt's case may find it helpful to receive the following:

- copies of her medical records from 2012 after she has provided updated consent for their release;
- provide consent to and undergo a medical assessment prior to the resumed hearing;
- evidence of her meaningful engagement with the GDC;
- evidence of her insight into the findings of this Committee; and
- any other evidence that she considers that the reviewing Committee may find of assistance in her case.

### **Today's review**

It is the role of the Committee today to undertake a comprehensive review directed by the June 2017 PCC. In so doing, the Committee had careful regard to all the documentary evidence before it, and heard the submissions made on behalf of the GDC by Mr Ahmed. The Committee also heard and accepted the advice of the Legal Adviser. The Committee had regard to the *GDC's Guidance for the Practice Committees*, including *Indicative Sanctions Guidance* (October 2016) (the Guidance).

Mr Ahmed submitted there is no indication the Registrant is in contravention of the current order. Whilst there have been continued efforts to contact Ms Cutt in order to obtain her medical records, there has been limited meaningful engagement from the Registrant. The Council therefore submits the Registrant's fitness to practise remains impaired for the same grounds as identified by the initial PCC in June 2017. Whilst it is acknowledged by the Council that the Registrant has begun to take some positive steps in her rehabilitation, it was submitted that the initial concerns regarding her failure to co-operate to obtain medical evidence has continued and, despite repeated attempts to obtain this information, there has been no meaningful engagement from the Registrant to assist the Council in doing so. Therefore, Mr Ahmed submitted that as there has been no material change in circumstances since the PCC in June 2017, it is the Council's view that there is no evidence of remediation or insight to assist today's Committee that the Registrant is fit to return to unrestricted practice. There is no evidence to suggest the Registrant has demonstrated that she has addressed the concerns identified by following the recommendations of the previous committee, and there remains a risk to the public in these circumstances. The GDC invited the Committee to consider a continuation of the current order of suspension for a further period of 12 months.

Ms Cutt, in the email correspondence received dated 12 July 2018, confirmed she was aware of the GDC's application for the order to be extended and did not oppose this course of action. Ms Cutt stated she would like to maintain her registration and return to practice in the future. Since the previous hearing, the Registrant informed the Committee she has been making progress to address her health concerns and intends to provide the GDC with up to date medical records.

**Decision on current impairment**

In making its decision, the Committee first sought to determine whether Ms Cutt's fitness to practise is still impaired by reason of her misconduct. It exercised its independent judgement and was not bound by the decision of the previous Committee. It balanced her needs with those of the public and bore in mind that its primary duty is to protect the public, including by maintaining public confidence in the profession and declaring and upholding proper standards and behaviour. There is an evidential burden on the Registrant to satisfy the Committee that her fitness to practise is no longer impaired.

The Committee considered all the evidence before it to ascertain whether she has taken the necessary steps to address the concerns in her practice previously identified. In the Committee's view, the correspondence received from the Registrant is positive in that it provided the Committee with information of the progress she has made in regards to her health since the previous hearing. However, whilst the Committee commends the Registrant for this, it is of the view she is yet to achieve full insight and remediation. As there is a lack of evidence to support her assertions and the recommendations of the previous committee were not met, the Committee is of the view that there continues to be a risk to the public in this case and the Registrant's fitness to practise remains impaired by reason of her misconduct.

**Decision on sanction**

The Committee next considered what sanction, if any, should be imposed on Ms Cutt's registration. It bore in mind the need to protect patients and the public interest. The Committee once again had regard to the principle of proportionality, weighing the interests of the public with her own interests.

The Committee first considered whether it would be appropriate to terminate the current order of suspension and take no further action. It determined that given the lack of evidence that Ms Cutt is fully co-operating with the regulator, such action would neither serve to protect the public nor safeguard public confidence in the profession.

It next considered whether it should terminate the current order of suspension and impose conditions of practice upon Ms Cutt's registration. However, conditions of practice would require her full engagement in order to be workable. The Committee therefore determined that such an order would be neither appropriate nor proportionate given her limited engagement.

The Committee then went on to consider whether to extend the order of suspension. There is no evidence before the Committee to demonstrate that Ms Cutt is engaging meaningfully with the GDC, or that she has insight. The Committee has therefore determined that it is necessary for the protection of the public, is otherwise in the public interest, as well as in Ms Cutt's own interests, to direct that her registration be suspended for a further period of 12 months.

The Committee considers that this period of time will ensure that the public is protected and public confidence in the profession is maintained, whilst allowing Ms Cutt the opportunity to gain insight and seek the medical reports the GDC has requested.

A future committee will review Ms Cutt'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 and would be greatly assisted by:

- copies of her medical records from 2012 after she has provided updated consent for their release;
- the Registrant's consent to and undergo a medical assessment prior to the resumed hearing;
- evidence of her meaningful engagement with the GDC;
- evidence of her insight into the findings of this Committee; and
- any other evidence that she considers that the reviewing Committee may find of assistance in her case.

That concludes this hearing.”

At a review hearing on 9 July 2019 the Chairman announced the determination as follows:

“This is the resumed hearing of Ms Cutt's case which is being held in accordance with Section 36(Q) of the Dentists Act 1984 (as amended) (the Act). Ms Cutt is neither present nor represented today. Mr Middleton appears on behalf of the General Dental Council (GDC).

#### **Decision on service**

The Committee first considered whether the Notification of Hearing has been served on Ms Cutt at her registered address in accordance with Rules 28 and 65 of the General Dental Council (GDC)(Fitness to Practise) Rules Order of Council 2006 (the Rules). The Committee has seen a copy of the Notification of Hearing dated 6 June 2019 which was sent to Ms Cutt's registered address by special delivery. The Royal Mail track and trace receipt confirms that the item was delivered to that address on 7 June 2019 and was signed for in the name of 'Cutt'. The same letter was emailed to Ms Cutt on 6 June 2019. The Committee is satisfied that this letter sets out the information required in accordance with Rule 28 and that it was sent to Ms Cutt's registered address more than 28 days in advance of today's hearing, also in accordance with Rule 28. The Committee, having heard the Legal Adviser's advice, is satisfied that the Notification of Hearing has been served on Ms Cutt in accordance with Rules 28 and 65.

#### **Proceeding in the absence of the Registrant**

The Committee went on to consider whether to proceed in the absence of Ms Cutt, in accordance with Rule 54. It has considered the submission made by Mr Middleton and has accepted the advice of the Legal Adviser.

The Committee is satisfied that Ms Cutt has been notified of today's hearing, in accordance with the Rules. It has seen a copy of an attendance note dated 27 June 2019 which records the content of a voicemail message left on Ms Cutt's mobile telephone number by a GDC employee concerning today's hearing and asking her to return the call on a number provided. There is also reference to the same GDC employee calling Ms Cutt's home number and having a brief conversation with Ms Cutt's mother (who answered the call). Finally, the attendance note records that the GDC employee called Ms Cutt's mobile but there was no answer and no voicemail message was left. The Committee considers that Ms Cutt is aware of these regulatory proceedings given that there is a record of a telephone conversation between her and a GDC employee on 12 July 2018, the day before the last

review hearing of this case. Having regard to all these documents, the Committee has concluded that Ms Cutt has voluntarily absented herself from today's hearing. She has not sought an adjournment of today's hearing and there is nothing before the Committee today to suggest that she might attend the hearing on a future occasion, given that she has not attended the previous two hearings of her case. In addition, the Committee considers that there is public interest in proceeding today given that the current order of suspension is due to expire on 31 July 2019. The Committee is aware of the need to exercise its discretion with great care. However, the Committee has determined that it is fair to proceed with today's review hearing in the absence of Ms Cutt.

### **Application for hearing to be held in private**

Mr Middleton made an application for the hearing to be held in private in accordance with Rule 53(2) since the matters under consideration relate to Ms Cutt's health. The Committee has considered the submissions made and has accepted the advice of the Legal Adviser. The Committee is satisfied that it is in Ms Cutt's own interests that today's hearing should be heard in private. Accordingly, it has acceded to the GDC's application.

### **Background**

The Health Committee (HC) first considered Ms Cutt's case at a hearing in July 2017. She did not attend the hearing and she was not represented. It found that between 9 February 2015 and 18 April 2016, Ms Cutt failed to co-operate with an investigation conducted by the GDC by not responding appropriately to requests for medical information and by failing to attend a medical assessment scheduled for 11 February 2016. The HC described Ms Cutt's engagement with the GDC as 'sporadic'. It was satisfied that the findings against her amounted to misconduct. The HC determined that Ms Cutt's fitness to practise was impaired by reason of her misconduct.

The HC in June 2017 directed that her registration be suspended for a period of 12 months with a review. It determined that it would be inappropriate to direct a lesser sanction in view of the risk of harm to patients and her sustained and repeated lack of engagement. The HC indicated that a Committee reviewing Ms Cutt's case may find it helpful to receive the following:

- copies of her medical records from 2012 after she has provided updated consent for their release;
- provide consent to and undergo a medical assessment prior to the resumed hearing;
- evidence of her meaningful engagement with the GDC;
- evidence of her insight into the findings of this Committee; and
- any other evidence that she considers that the reviewing Committee may find of assistance in her case.

### **First review hearing**

The HC reviewed the order at a hearing on 13 July 2019. Ms Cutt did not attend the hearing and she was not represented. That Committee had before it correspondence from a GDC employee summarising a conversation they had had with Ms Cutt on 12 July 2018. In summary, Ms Cutt confirmed that she was aware of the hearing taking place and was content for the hearing to proceed in her absence. The Committee concluded that Ms Cutt had voluntarily absented herself from the hearing and decided to proceed.

That Committee noted Ms Cutt's email correspondence to the GDC dated 12 July 2018, in which she indicated that she been making progress to address her health concerns and intended to provide the GDC with up to date medical records. Notwithstanding this information, the Committee was of the view that Ms Cutt had "yet to achieve full insight and remediation". In the absence of any evidence to support her assertions and the recommendations of the initial HC, the reviewing Committee considered there continued to be a risk to the public. It determined that Ms Cutt's fitness to practise remained impaired by reason of her misconduct and directed that her registration be suspended for a further period of 12 months. In the Committee's view, any lesser sanction would not be appropriate or sufficient in view of Ms Cutt's failure to co-operate in any meaningful way with the GDC and the absence of any insight.

### **Today's review**

The Committee has comprehensively reviewed the suspension order today. In doing so, it has had regard to the information before it contained in the GDC's bundle, as well as the submissions made on behalf by the GDC. It notes the absence of any information from Ms Cutt or any up to date information as to her health. The Committee has accepted the advice of the Legal Adviser.

Mr Middleton referred the Committee to the continued efforts taken by the GDC to secure Ms Cutt's engagement in these proceedings, including inviting her to consent to undergo a medical assessment prior to the resumed hearing and provide information recommended to her by the previous two committees. He submitted that Ms Cutt has not engaged with the GDC for a protracted period of time and was under a professional duty to do so. The GDC's position is that there is no evidence of remediation or insight to show that Ms Cutt has addressed the concerns identified by following the recommendations of the previous two committees, and therefore she remains a risk to the public. In short, Mr Middleton invited the Committee to find that Ms Cutt's fitness to practise remains impaired by reason of her misconduct. He submitted that the appropriate sanction in this case is to direct that Ms Cutt's registration be suspended indefinitely in accordance with section 36Q(1)(d)(i) and (ii) of the Act. Mr Middleton addressed the Committee on the provisions set out in that section of the Act and how they are met in this case.

This Committee has firstly considered whether Ms Cutt's fitness to practise remains impaired by reason of her misconduct. It notes the correspondence from the GDC to Ms Cutt, as well as the attempts to contact her by telephone in connection with these proceedings. She has not responded to any of these requests and she has not engaged with the GDC since the date of the last hearing. The Committee recognises that health concerns may affect Ms Cutt's ability to engage in these proceedings. Nevertheless, it considers that as a registered dental professional she has a duty to engage with her regulator. It has no information as to her current state of health or any evidence of the steps taken to address the concerns identified by the previous two committees. In the absence of any evidence, the Committee considers that Ms Cutt continues to pose a risk to the public. In these circumstances, the Committee has determined that Ms Cutt's fitness to practise remains impaired by reason of her misconduct.

The Committee next considered what action, if any, to take in respect of Ms Cutt's registration. It has borne in mind its duty to protect the public and safeguard public confidence in registered dental professionals. Throughout its deliberations it has had regard to the principle of proportionality.

The Committee first considered whether it would be appropriate to terminate the current order of suspension and take no further action. It determined that given the lack of evidence that Ms Cutt is fully co-operating with the regulator, such action would neither serve to protect the public nor safeguard public confidence in the profession.

The Committee went on to consider whether it should terminate the current order of suspension and impose conditions of practice upon Ms Cutt's registration. It has borne in mind Ms Cutt's failure to engage with the GDC over a protracted period of time. In these circumstances, the Committee has concluded that such an order would be neither appropriate nor proportionate.

The Committee then went on to consider whether to extend the order of suspension. There is no evidence before the Committee to demonstrate that Ms Cutt is engaging meaningfully with the GDC, or that she has insight. Previous Committees, on two occasions, have given her the opportunity to engage with the GDC but she has not done so to any meaningful extent and not at all since the date of the last hearing. In these circumstances, the Committee has concluded that a further period of suspension of 12 months would serve no useful purpose and that an indefinite period of suspension is the appropriate and proportionate outcome. The Committee is satisfied that the provisions of section 36Q(1)(d)(i) and (ii) of the Act have been made out in this case. It notes that Ms Cutt has been suspended since 1 August 2017 and will have been suspended for a period of two years from the date of this direction taking effect, which will be from 6 August 2019 at the earliest. Further, this direction has been less than 2 months before the date that the current order of suspension would otherwise expire, which is 31 July 2019. Accordingly, the Committee directs that Ms Cutt's registration be suspended indefinitely.

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

The Committee would also highlight to Ms Cutt that should she wish to re-engage with the GDC she can apply for a review of the indefinite suspension order two years after the direction for indefinite suspension takes effect. That concludes the case for today."