

HEARING HEARD IN PUBLIC

NUNEZ MARTINEZ, Manuel

Registration No: 102736

PROFESSIONAL CONDUCT COMMITTEE

FEBRUARY 2017 – MARCH 2019

Most recent outcome: Indefinite suspension confirmed **

** See page 18 for the latest determination.

Manuel NUNEZ MARTINEZ, a dentist, Lic Odont Madrid 2005, was summoned to appear before the Professional Conduct Committee on 20 February 2017 for an inquiry into the following charge::

Charge (as amended on 20 February 2017)

“That, being a registered dentist:

1. From approximately February 2014 you practised at Maple Dental Clinic, 102A Cleveland Street, London W1T 6NT (“the Practice”).
2. From approximately March 2014 to November 2014 you provided dental treatment to Patient A (identified in Schedule A below).
3. You failed to provide an adequate standard of care or made no or no adequate record of providing such care in that:
 - (a) you did not take any or any adequate history of Patient A’s dental history or made no or no adequate record of taking such a history;
 - (b) you did not conduct any or any adequate orthodontic assessment before commencing orthodontic treatment or made no or no adequate record of conducting such an assessment;
 - (c) you did not make any or any adequate use of study models before commencing orthodontic treatment or made no or no adequate record of such use of study models;
4. You failed to provide an adequate standard of care in that in approximately November 2014 you left the Practice without taking any or any adequate steps to ensure continuity of care for Patient A.
5. You failed to maintain an adequate standard of record keeping in that:
 - (a) you made no adequate record of the date or dates of the fitting of clear aligners.
 - (b) You made no or no adequate record of informing Patient A that you would be leaving the Practice and/or that her treatment would be continued by other dental professionals at the Practice.
6. You failed to respond adequately to complaints in relation to your treatment made by or on behalf of Patient A between approximately 18 September 2015 and 6 January 2016.

and that in relation to the matters set out above your fitness to practise is impaired by reason of misconduct.”

Mr Nunez Martinez was not present and was not represented. On 22 February 2017 the Chairman announced the findings of fact to the Counsel for the GDC:

“Decision on service

Mr Nunez-Martinez was neither present nor represented at this Professional Conduct Committee (PCC) hearing of his case. Mr Salva Ramasamy appeared on behalf of the General Dental Council (GDC). In Mr Nunez-Martinez’s absence, the Committee first considered whether the GDC had complied with service of the Notice of Hearing in accordance with Rules 13 and 65 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules).

The Committee took into account the submissions made by Mr Ramasamy on behalf of the GDC. It accepted the advice of the Legal Adviser.

The Committee received a copy of the Notification of Hearing, dated 23 January 2017, which was sent to Mr Nunez-Martinez’s registered address by way of Special Delivery and First Class Post. The Committee was satisfied that the letter contained proper notification of today’s hearing, including its time, date and location, as well as notification that the Committee has the power to proceed with the PCC hearing in Mr Nunez-Martinez’s absence. The Notification of Hearing also contained a copy of the charge against Mr Nunez-Martinez. The Committee was content that the Notification of Hearing complied with Rule 13.

The Committee had sight of an additional copy of the notice of hearing which was sent to a second address for Mr Nunez-Martinez in Spain on 23 January 2017. A copy was also emailed to Mr Nunez-Martinez.

The Committee was provided with a Royal Mail Track and Trace Receipt, dated 24 January 2017, which confirmed that a delivery attempt had been made to the UK address and that a ‘something for you’ card was left. It was also provided with a Royal Mail Track and Trace Receipt for the address in Spain which confirmed that the item was delivered on 2 February 2017.

Taking all this into account, the Committee was satisfied that notification of this hearing had been served on Mr Nunez-Martinez in compliance with the rules.

Decision on proceeding in the absence

The Committee then considered whether to exercise its discretion under Rule 54 to proceed with this PCC hearing in Mr Nunez-Martinez’s absence.

The Committee took into account the submissions made by Mr Ramasamy on behalf of the GDC. It accepted the advice of the Legal Adviser.

The Committee was mindful that this was a discretion that must be exercised with the utmost care and caution. It also had regard to the need for fairness to both parties, as well as the public interest in the expeditious disposal of the hearing.

Mr Nunez-Martinez had been sent notification of this hearing. The Committee was provided with evidence of numerous attempts made by the GDC to contact Mr Nunez-Martinez in relation to this hearing. It noted that Mr Nunez-Martinez was previously legally represented

by BerrymansLaceMawer (BLM) and it had before it some representations from them. However, in an email from BLM dated 5 October 2016 they confirmed that they were no longer instructed to represent Mr Nunez-Martinez. The Committee noted that Mr Nunez-Martinez last communicated directly with the GDC regarding this case in February 2016.

Taking into account all the attempts made by the GDC, through various methods, to contact Mr Nunez-Martinez regarding the hearing, his previous engagement, and the fact that he had downloaded some of the documentation, the Committee was satisfied that he was or should have been aware of today's hearing. The Committee noted that there has been no communication from Mr Nunez-Martinez personally with the GDC since February 2016 or through his former solicitor since October 2016. It also took into account that Mr Nunez-Martinez had not requested an adjournment of the hearing and considered that any adjournment would be unlikely to secure his attendance. It bore in mind the observations of Sir Brian Leveson in *Adeogba v General Medical Council* [2006] EWCA CIV 162, including the burden on a practitioner subject to a regulatory regime to engage with the regulatory and the public interest in the proper discharge of the Committee's regulatory functions designed to ensure public protection.

The Committee was satisfied that Mr Nunez-Martinez has disengaged from the process and has voluntarily absented himself from this hearing.

Taking all this into account and having weighed the interests of Mr Nunez-Martinez with those of the GDC and the public interest in the expeditious disposal of this hearing, the Committee determined to proceed in his absence. It reminded itself that Mr Nunez-Martinez's absence added nothing to the GDC's case and was not to be regarded as indicative of guilt.

Preliminary matters

Mr Ramasamy, on behalf of the GDC, then made an application under Rule 25 to join a number of additional charges. He submitted that the additional allegations are of a similar kind and are founded on the same alleged facts as the original allegations.

The Committee accepted the advice of the Legal Adviser.

The Committee was satisfied that Mr Nunez-Martinez had been given sufficient notice of this application. It concluded that the Rule 25 allegations were similar in kind to the original allegations and were founded on the same factual basis.

Having considered the merits of the case and the issue of fairness, the Committee concluded that it would be in the interests of justice to allow the joinder application in order for all the allegations to be considered and determined in one hearing.

Accordingly, the Committee acceded to the application to join the additional charges and the charge was duly amended.

Background to the case and summary of the allegations

The matters which form the subject of the allegations in this case arose from the orthodontic treatment provided by Mr Nunez-Martinez to Patient A from approximately March 2014 to November 2014.

It was alleged that Mr Nunez-Martinez failed to provide an adequate standard of care or made no or no adequate record of providing such care in that: he did not take any or any adequate history of Patient A's dental history or made no or no adequate record of taking

such a history, he did not conduct any or any adequate orthodontic assessment before commencing orthodontic treatment or made no or no adequate record of conducting such an assessment, and he did not make any or any adequate use of study models before commencing orthodontic treatment or made no or no adequate record of such use of study models.

It was also alleged that Mr Nunez-Martinez failed to provide an adequate standard of care in that in approximately November 2014 he left the Practice without taking any or any adequate steps to ensure continuity of the care provided to Patient A.

Additionally, it was alleged that Mr Nunez Martinez failed to maintain an adequate standard of record keeping in that: he made no adequate record of the date or dates of the fitting of clear aligners and he made no or no adequate record of informing Patient A that he would be leaving the Practice and/or that her treatment would be continued by other dental professionals at the Practice.

It was further alleged that Mr Nunez-Martinez failed to respond adequately to complaints made by or on behalf of Patient A between approximately 18 September 2015 and 6 January 2016.

Evidence

The Committee heard oral evidence via telephone from Witness 1, the Principal at Maple Dental Clinic where Mr Nunez-Martinez previously worked. It also heard oral evidence from Mr Gerald Bellman the GDC’s expert.

The Committee was also provided with documentary material in relation to the heads of charge that Mr Nunez-Martinez faces, including Patient A’s dental records, a number of signed witness statements, an expert report provided by the GDC’s expert, Mr Bellman, and representations on Mr Nunez-Martinez’s behalf from his former solicitors BLM.

Committee’s findings of fact

The Committee took into account all the information before it. It also considered the submissions made by Mr Ramasamy on behalf of the GDC.

The Committee accepted the advice of the Legal Adviser. In accordance with that advice the Committee considered each head of charge separately.

The Committee was reminded that the burden of proof lies with the GDC, and considered the heads of charge against the civil standard of proof, that is to say, the balance of probabilities.

The Committee’s findings of facts are as follows:

1.	<p><i>From approximately February 2014 you practised at Maple Dental Clinic, 102A Cleveland Street, London W1T 6NT (“the Practice”).</i></p> <p>Found proved.</p> <p>The Committee considered this was a background matter and that it was accepted by both parties that Mr Nunez-Martinez worked at the Maple Dental Clinic. In his previous representations, Mr Nunez-Martinez confirmed that he had worked at this practice. The Committee heard oral evidence from Witness 1 that Mr Nunez-Martinez worked at his practice. Patient A also detailed in her witness statement that she had been treated by Mr Nunez-</p>
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	<p>Martinez at the practice. Further, the Committee had before it documentary evidence such as Patient A's dental records confirming that Mr Nunez-Martinez had treated her whilst he worked at this practice.</p> <p>In light of these reasons, the Committee found this charge proved.</p>
2.	<p><i>From approximately March 2014 to November 2014 you provided dental treatment to Patient A (identified in Schedule A below).</i></p> <p>Found proved</p> <p>The Committee considered this was also a background matter and that it was accepted by both parties that Mr Nunez-Martinez provided dental treatment to Patient A during approximately March 2014 to November 2014. In his previous representations, Mr Nunez-Martinez does not dispute that he had provided treatment to Patient A. Patient A detailed in her witness statement that she had been treated by Mr Nunez-Martinez during March 2014 to November 2014. Further, the Committee had sight of Patient A's dental records which confirm that she was seen and treated by Mr Nunez-Martinez during this period.</p> <p>In light of these reasons, the Committee found this charge proved.</p>
3.	<p><i>You failed to provide an adequate standard of care or made no or no adequate record of providing such care in that:</i></p>
3. (a)	<p><i>you did not take any or any adequate history of Patient A's dental history or made no or no adequate record of taking such a history;</i></p> <p>Found not proved in its entirety.</p> <p>The Committee noted that Patient A's dental records for the appointment on 21 March 2014 did detail a conversation taking place between Mr Nunez-Martinez and Patient A regarding her dental history. Patient A's dental records detail 'pco... I have not had wisdom teeth extracted. I had GA as a kid and had several teeth extracted.' It also included the words 'Medical history checked'.</p> <p>Further, the Committee had sight of a medical history form, dated 20 March 2014, which had been completed and signed by Patient A, within this was a section titled 'Dental History' which contained elements of Patient A's past dental history. It also had sight of an anxiety assessment form, dated 20 March 2014, completed and signed by Patient A.</p> <p>While the Committee noted Mr Bellman's criticisms of the records, for example the lack of a record as to patient motivation, it considered the totality of the documentary records did indicate that it was more likely than not that the steps taken by Mr Nunez-Martinez did constitute him taking an adequate dental history for Patient A. It concluded that in light of the information contained in Patient A's dental records it was more likely than not that Mr Nunez-Martinez did take an adequate dental history for Patient A.</p> <p>It therefore found the GDC's primary case of an adequate dental history not being taken, not proved.</p>

	<p>The Committee then considered the alternative of a documentary failure. The Committee considering the totality of the records was satisfied that Mr Nunez-Martinez had adequately recorded the taking of Patient A's dental history. It therefore found this charge not proved in its entirety.</p>
3. (b)	<p><i>you did not conduct any or any adequate orthodontic assessment before commencing orthodontic treatment or made no or no adequate record of conducting such an assessment;</i></p> <p>Found proved</p> <p>The Committee accepted the oral evidence of Mr Bellman in detailing what would be required when carrying out an orthodontic assessment. These included a full extra oral examination, intra oral examination, issues of crowding of the teeth, Patient A's bite, soft tissue including competent lips, molar relationship, overjet measurements, overbite measurements and any centre-line irregularities. Regardless of the complexity of orthodontic treatment being carried out, the Committee accepted the oral evidence of Mr Bellman that the above assessment should be carried out in all cases of orthodontic treatment.</p> <p>The Committee noted that Patient A's dental records do detail that some orthodontic assessment took place. The notes state 'TMJ checked'. The notes further detail 'discussed about pros/cons inman aligner. Consent obtained and signed...pt warned that ipr will be necessary. pt happy with it'. The Committee did not consider that this constituted an adequate assessment as it failed to detail the matters referred to by Mr Bellman.</p> <p>While it was apparent from Patient A's evidence and records that some clinical photographs were taken, the Committee accepted the oral evidence of Mr Bellman who stated that any clinical photographs alone would not constitute an adequate assessment.</p> <p>The Committee considered that as none of the aspects detailed by Mr Bellman were recorded that it was more likely than not that Mr Nunez-Martinez did not carry them out as part of his orthodontic assessment and therefore the orthodontic assessment was inadequate. In light of these reasons, the Committee found this charge proved, the Committee therefore did not need to consider the alternative recording charge.</p>
3. (c)	<p><i>you did not make any or any adequate use of study models before commencing orthodontic treatment or made no or no adequate record of such use of study models;</i></p> <p>Found proved.</p> <p>The Committee accepted the oral evidence of Mr Bellman that study models are essential for planning orthodontic treatment as it is important to have a baseline model from which to work. Amongst other things he said it can further assist a clinician part way through orthodontic treatment to refer back to what the occlusion was at the commencement of treatment.</p> <p>The Committee further accepted the oral evidence of Mr Bellman who stated that he could only find evidence of Mr Nunez-Martinez making and using</p>

	<p>working models and not study models. He further explained that study models should have been used as they would have been essential for planning Patient A's orthodontic treatment.</p> <p>Additionally, the Committee noted that Witness 1 had also confirmed that, when he had checked the surgery for any study models, he only found working models. The Committee noted that there was no evidence in Patient A's dental records of Mr Nunez-Martinez making or using study models.</p> <p>In light of these reasons, the Committee concluded that it was more likely than not that Mr Nunez-Martinez failed to provide an adequate standard of care in that he did not make any use of study models before commencing Patient A's orthodontic treatment. It found this charge proved, and it therefore did not need to consider the alternative recording charge.</p>
4.	<p><i>You failed to provide an adequate standard of care in that in approximately November 2014 you left the Practice without taking any or any adequate steps to ensure continuity of care for Patient A.</i></p> <p>Found proved.</p> <p>The Committee noted that in Patient A's witness statement she explained that Mr Nunez-Martinez had informed her during her 'last appointment with him in November 2014 that he would be taking leave abroad for an indefinite period of time' She went on to state that 'at this appointment the Registrant gave me my next aligner and assured me that before he left to go abroad he would pass my dental records and notes regarding my treatment to a colleague at the Practice, Witness 1.'</p> <p>The Committee further noted that during oral evidence Witness 1 had confirmed that no such agreement had been made at that time between him and Mr Nunez-Martinez. He explained that the agreement was for Mr Nunez-Martinez to complete all ongoing treatment for Mr Nunez-Martinez's patients before he left. Witness 1 stated that he had only become aware that Patient A's treatment had not been completed by Mr Nunez-Martinez when she attended the practice in January 2015.</p> <p>Additionally, the Committee noted that in Patient A's dental records at an appointment with Mr Nunez-Martinez on 20 November 2014 it stated 'tca in 3/52 review', which the Committee considered meant that he was expecting to see Patient A again before he left.</p> <p>The Committee noted that Mr Nunez-Martinez's former solicitors letter appeared to accept communication errors were made.</p> <p>Nonetheless taking all this into account, the Committee concluded that Mr Nunez-Martinez failed to provide an adequate standard of care in that in approximately November 2014 he left the Practice without taking any adequate steps to ensure continuity of care for Patient A. It therefore found this charge proved.</p>
5.	<i>You failed to maintain an adequate standard of record keeping in that:</i>
5. (a)	<i>you made no adequate record of the date or dates of the fitting of clear</i>

	<p><i>aligners.</i></p> <p>Found not proved.</p> <p>The Committee noted that Patient A's dental notes make reference to '#2 and #3 aligner given' on 2 November 2014. Further, on 20 November 2014 the dental records also detail 'set of extra 3 aligners given to pt today. no ipr done as small gaps still present. demoed #1 aligner. pt happy with it'.</p> <p>Whilst the Committee accepts that Mr Nunez-Martinez made an omission in recording when the first aligner was given to Patient A, it did not consider that failing to record the date that the first aligner was given, out of a total of six aligners provided, constituted a failure to maintain an adequate standard of record keeping. It therefore found this charge not proved.</p>
5. (b)	<p><i>You made no or no adequate record of informing Patient A that you would be leaving the Practice and/or that her treatment would be continued by other dental professionals at the Practice.</i></p> <p>Found not proved.</p> <p>The Committee noted that in Patient A's witness statement she explained that Mr Nunez-Martinez informed her during her 'last appointment with him in November 2014 that he would be taking leave abroad for an indefinite period of time' She went on to state that 'at this appointment the Registrant gave me my next aligner and assured me that before he left to go abroad he would pass my dental records and notes regarding my treatment to a colleague at the Practice, Witness 1.'</p> <p>The Committee further noted that Mr Nunez-Martinez confirmed with Witness 1 that he would no longer be returning to work at the practice after this appointment with Patient A. The Committee considered it could have been that Mr Nunez-Martinez only determined to leave permanently after the appointment with Patient A. Witness 1 also stated that normally the practice would inform patients if a dentist was leaving by way of a letter.</p> <p>Considering all the circumstances, the Committee was not persuaded that it has been proved that Mr Nunez-Martinez would have been under a duty to record that he had informed Patient A that he would be leaving the practice or that her treatment would be continued by other dental professionals at the Practice.</p> <p>Whilst the Committee accepts Mr Bellman's evidence that it would have been ideal for Mr Nunez-Martinez to record this, it considered this was not a requirement and more gold standard.</p> <p>In light of these reasons, the Committee found this charge not proved.</p>
6.	<p><i>You failed to respond adequately to complaints in relation to your treatment made by or on behalf of Patient A between approximately 18 September 2015 and 6 January 2016.</i></p> <p>Found proved.</p> <p>The Committee noted that between approximately 18 September 2015 and 6 January 2016 Mr Nunez-Martinez was contacted regarding Patient A's</p>

complaint on three occasions either by Patient A directly or Witness 3 from the Dental Complaints Service on behalf of Patient A. Mr Nunez-Martinez did not respond to any of the attempts made to contact him regarding Patient A's complaint during this period.

The Committee considered that there is a duty incumbent upon any dental professional to respond to any complaints made to them. Mr Nunez-Martinez failed to do so and it therefore found this charge proved.

The hearing will now proceed to stage 2.”

On 24 February 2017 the Chairman announced the determination as follows:

“Having announced its findings on all the facts, the Committee heard submissions from Mr Ramasamy, on behalf of the GDC, on the matters of misconduct, impairment and sanction.

Submissions

In accordance with Rule 20 (1) (a) Mr Ramasamy informed the Committee that Mr Nunez-Martinez has previous fitness to practise history. Mr Ramasamy referred the Committee to a letter of advice, dated 24 June 2011, from the Investigating Committee (IC). He informed the Committee that this advice letter was issued in relation to communication concerns. He also referred the Committee to a previous Professional Performance Committee (PPC) determination, made after a two-week hearing in November 2016. The proven facts related to multiple failures involving 21 patients in multiple areas of dentistry over a short period of four months. That Committee determined that the facts found proved against Mr Nunez-Martinez amounted to misconduct and that his fitness to practise was impaired. That Committee imposed a period of 12 months' suspension with a review prior to the expiry of the order, which was still current.

In Mr Ramasamy's submissions on misconduct, he referred the Committee to a number of cases, including the case of Roylance v GMC (no. 2) [2000] 1 AC 311 where misconduct was defined as 'a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed...'. He also referred the Committee to the case of R (Remedy UK Ltd) v GMC [2010] EWHC 1245 (Admin).

He submitted that some of the facts found proved involved a risk to a patient. He outlined the specific issues identified in line with the standards, which in his submission, have been breached. He submitted that Mr Nunez Martinez's conduct fell far below the standard expected of a registered dentist and that he had made a significant amount of departures from the standard expected of a registered dentist. In this regard, he referred the Committee to the expert evidence of Mr Bellman. He submitted that the facts found proved in this case are serious and do amount to misconduct.

Mr Ramasamy next addressed the issue of current impairment and referred the Committee to the case of General Medical Council v Meadow [2006] EWCA Civ 1390. He also referred the Committee to the case of Cohen v General Medical Council [2008] EWHC 581 (Admin) and outlined to the Committee the three factors identified in this case that it might want to take into consideration, namely whether the failings are remediable, whether they have been remedied and the likelihood of them being repeated.

He also addressed the Committee on the need to have regard to protecting the public and the wider public interest. This includes the need to declare and maintain proper standards and maintain public confidence in the profession and in the GDC as a regulatory body. He referred the Committee to a number of additional cases, including the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin).

On the issues of insight and remediation, Mr Ramasamy referred the Committee to the representations from BLM, Mr Nunez-Martinez's former solicitors. He submitted that the Committee may think these demonstrate some insight developed by Mr Nunez-Martinez. He referred the Committee to the proposed Continuing Professional Development (CPD) courses which Mr Nunez-Martinez at that point intended to attend.

On the issue of risk of repetition, Mr Ramasamy submitted that the PPC case held in November and this case have similarities in that both have failures regarding orthodontic treatment. He referred the Committee to an email from Mr Nunez-Martinez, dated 15 February 2016, in which he stated that he had left the UK and the he was not working as a dentist. He submitted that, in light of Mr Nunez-Martinez not working as a dentist for a significant period of time, it would have inevitably resulted in some deskilling. He submitted that the Committee had before it limited evidence of remediation. He submitted that Mr Nunez-Martinez's fitness to practise is currently impaired.

Mr Ramasamy then addressed the Committee on the matter of sanction and referred it to the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016) (the GDC's sanctions guidance). He submitted that the appropriate and proportionate sanction in this case was at least a period of suspension with a review. He submitted that in all the circumstances the sanction of erasure may not be inappropriate, but that the Committee should bear in mind that the November 2016 Committee had seen fit to impose a 12-month suspension and that that order still had considerable time to run and that in the circumstance this Committee may feel that an order of suspension with a review was appropriate. He submitted that 12 months would be the appropriate and proportionate length of suspension in this case and that if the Committee felt a review was necessary, it should recommend that both the previous PPC case and this case be reviewed together by a Professional Conduct Committee (PCC).

Committee's considerations

The Committee had regard to all the information before it, including such information as it had from Mr Nunez-Martinez and his former solicitors. It gave consideration to the submissions of Mr Ramasamy on behalf of the GDC.

The Committee accepted the advice of the Legal Adviser.

In its deliberations, the Committee had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016).

Decision on misconduct

The Committee first considered whether the facts found proved amount to misconduct. In considering the issue of misconduct, the Committee reminded itself of the extent and nature of the findings of fact made against Mr Nunez Martinez. The Committee's reasons for its findings have been set out in full in its determination on the facts.

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

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

The Committee concluded that Mr Nunez-Martinez's conduct was in breach of the Standards for the Dental Team (2013) as set out below:

Standard 1

Put patients' interests first.

- 1.1 Listen to your patients.
- 1.2 Treat every patient with dignity and respect at all times.
- 1.2.3 You must treat patients with kindness and compassion.
- 1.4 Take a holistic and preventative approach to patient care which is appropriate to the individual patient.
- 1.7 Put patients' interests before your own or those of any colleague, business or organisation.

Standard 5

Have a clear and effective complaints procedure.

- 5.1 Make sure that there is an effective complaints procedure readily available for patients to use, and follow that procedure at all times.
- 5.1.1 It is part of your responsibility as a dental professional to deal with complaints properly and professionally.

You must:

- ensure that there is an effective written complaints procedure where you work;
 - follow the complaints procedure at all times;
 - respond to complaints within the time limits set out in the procedure; and
 - provide a constructive response to the complaint.
- 5.2 Respect a patient's right to complain.
 - 5.3 Give patients who complain a prompt and constructive response.
 - 5.3.9 If a complaint is justified, you should offer a fair solution. This may include offering to put things right at your own expense if you have made a mistake.

Standard 6

Work with colleagues in a way that is in patients' best interests

- 6.1.1 You should ensure that any team you are involved in works together to provide appropriate dental care for your patients.
- 6.1.3 You must treat colleagues fairly in all financial transactions.

6.3.4 If you ask a colleague to provide treatment, a dental appliance, or clinical advice for a patient, you should make your request clear and give your colleague all the information they need.

7.1 Provide good quality care based on current evidence and authoritative guidance.

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.

The Committee appreciated that the above breaches do not automatically result in a finding of misconduct. However, it considered these breaches were serious departures from the standard expected of a registered dentist and capable of undermining public confidence in the profession.

The Committee considered that Mr Nunez-Martinez's clinical failings, in particular his failure to complete an adequate orthodontic assessment before embarking on orthodontic treatment involving clear aligners and Inman aligners and his failure to make adequate use of study models, were serious and could have resulted in considerable harm to patient A. Whilst the Committee accepts that Mr Nunez-Martinez's failings were in relation to one patient and one course of treatment, it considered that as he had failed to complete an adequate assessment before commencing the orthodontic treatment, this resulted in an ongoing risk to the patient throughout her treatment which lasted over eight months. It noted and accepted the view of Mr Bellman that failings to complete an adequate orthodontic assessment would prevent the dentist from being able to successfully plan the treatment for that patient and could lead to the consequence of incorrect treatment being provided. It considered that Mr Nunez-Martinez's failings throughout this course of orthodontic treatment for Patient A reduced his ability to make informed decisions. It considered that these clinical failings fell far below the standard expected of a registered dentist.

Additionally, the Committee also considered Mr Nunez-Martinez's failure to provide an adequate standard of care in that he left the practice without taking adequate steps to ensure the continuity of care for Patient A. It also considered his failure to respond adequately to the complaints by or on behalf of Patient A during approximately a three-month period to be serious departures from the standard expected of a registered dentist and that fellow practitioners would consider these failings to be deplorable. Patient A was left without her treatment completed by Mr Nunez-Martinez and suffered what the Committee considered to be, unnecessary and additional stress for an extended period because of his failures to ensure adequate continuity of care and to deal with the complaint appropriately and in a timely manner.

Taking all this into account, the Committee concluded that the facts found proved do amount to misconduct.

Decision on current impairment

The Committee next considered whether Mr Nunez-Martinez's fitness to practice is currently impaired by reason of his misconduct. In reaching its decision on impairment, the Committee exercised its own independent judgement. It bore in mind that its duty is to consider the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

In reaching its decision the Committee had regard to whether Mr Nunez-Martinez's failings were remediable and whether it had been provided with evidence that these failings had been remedied. The Committee considered that the failings in this case were capable of remediation. In considering whether Mr Nunez-Martinez had remedied his failing, the Committee had regard to all the evidence before it, including the representations from his former solicitors BLM. Contained within the documentation was a list of CPD courses which Mr Nunez-Martinez intended to attend. However, the Committee had no evidence before it that Mr Nunez-Martinez had carried out his intention and completed these courses. The Committee had before it one CPD certificate confirming that Mr Nunez-Martinez had participated in a thirty minute online CPD course for record keeping in November 2014. Aside from this the Committee had no evidence before it of any remediation completed by Mr Nunez-Martinez.

The Committee also considered whether Mr Nunez-Martinez had provided the Committee with any evidence to demonstrate that he had developed insight into his failings. In a letter from BLM, dated 2 June 2016, they stated on his behalf: 'Clearly, this entire situation is most unfortunate and NM accepts some of the responsibility for this. NM accepts his departure could have been dealt with better. NM would like to apologise for this but as far as he understood, the matter was being dealt with appropriately by... Witness 1'. It further stated 'Having reviewed the GDC's documentation, NM now accepts he did not respond to all correspondence and this is something which NM wishes to apologise for.' Whilst the Committee took this into account and considered that it demonstrated some insight, it concluded that this was limited and not sufficient in light of the findings in this case. Further, the Committee also noted that although Mr Nunez-Martinez had offered a refund to Patient A for her treatment, this had not occurred.

The Committee noted that Mr Nunez-Martinez had stated in an email, dated 15 February 2016, that he had left the UK over a year ago, and that he was no longer practising as a dentist. The Committee also took into account that in relation to making an assessment on the risk of repetition, that Mr Nunez-Martinez has previous similar findings, concerning orthodontic assessment failures, to those found in this case. The Committee concluded that given the little remediation, limited insight and previous similar findings, there was a significant risk of repetition in this case. The Committee considered that in light of the risk of repetition there presented an ongoing risk of harm. The Committee had before it very little, if any, evidence of Mr Nunez-Martinez taking steps to prevent the risk of repetition.

The Committee bore in mind that its primary function is to protect patients. It also took into account the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator, and upholding proper standards and behaviour. The Committee considered that Mr Nunez-Martinez had made several departures from the standards expected of a registered dentist and that this had the potential to bring the profession into disrepute. The Committee concluded that public confidence in the dental profession and the GDC as its regulator would be undermined if a finding of impairment was not made in this case. It considered that to make a finding of no current impairment would send a message to the public and the profession that his conduct was acceptable. The Committee had regard to the serious nature of the concerns identified in the circumstances of this case when reaching this decision.

Having regard to all of this, the Committee concluded that Mr Nunez-Martinez's fitness to practise is currently impaired by reason of misconduct.

Decision on sanction

Having determined that Mr Nunez-Martinez's fitness to practise is currently impaired by reason of his misconduct, the Committee considered what sanction, if any, to impose on his registration. It reminded itself that the purpose of a sanction is not to be punitive, but to protect patients and the wider public interest.

The Committee considered the range of sanctions available to it, starting with the least serious. It applied the principle of proportionality, balancing the public interest with Mr Nunez-Martinez's own interests.

In making the decision on sanction, the Committee had regard to mitigating and aggravating factors. In mitigation, the Committee noted that Mr Nunez-Martinez had expressed regret and apologised. The Committee considered that the potential risk of harm to the patient, Mr Nunez-Martinez's previous warning and adverse finding and his lack of insight were aggravating factors.

In light of the findings against Mr Nunez-Martinez, the Committee determined that it would be wholly inappropriate to conclude this case without taking any further action or with a reprimand. It considered that the serious departures from the standards expected of a registered dentist and the lack of sufficient insight and remediation, raising as it does significant concerns regarding the risk of repetition, required some form of restriction on his practice. It concluded that allowing Mr Nunez-Martinez to practise unrestricted would not address the public interest concerns engaged in this case.

The Committee then went on to consider whether conditional registration would provide the necessary level of public protection and would protect the wider public interest. The Committee considered that the failings in this case had the potential to be addressed by conditions of practise. However, the Committee reminded itself that conditions have to be workable, measurable and enforceable and that by nature they require a willingness from Mr Nunez-Martinez to comply with them. In light of Mr Nunez-Martinez's limited engagement with this process and the fact that he appears to be living abroad, the Committee determined that conditions of practise would not be workable and therefore inadequate to protect patients and the wider public interest in the circumstances of this case.

The Committee next considered whether a period of suspension would be the appropriate and proportionate sanction in this case. The Committee took into account that the findings in this case were similar to some of those against Mr Nunez-Martinez in his previous PPC case. The Committee noted that it had no evidence before it of any repetition since 2014 when the failings in this case took place. However, it considered that Mr Nunez-Martinez had repeated similar conduct to his behaviour in 2012. It also took into account that Mr Nunez-Martinez had demonstrated limited insight into his failings and little, if any, remediation. Further, it considered the risk of repetition that existed in this case. The Committee concluded that patients interests and public confidence in this profession would be insufficiently protected by any lesser sanction than one of suspension.

The Committee did consider whether erasure would be the appropriate and proportionate sanction but concluded that it would be disproportionate in the circumstances of this case. It considered Mr Nunez-Martinez's failings were capable of being remedied and it did not consider that the risk and seriousness of this case was so damaging to Mr Nunez-Martinez's fitness to practise that erasure would be the only appropriate outcome.

In considering the length of suspension, the Committee determined that the maximum, 12-month period of suspension was necessary to mark the seriousness of the concerns raised. The Committee was of the view that 12 months would also provide enough time for Mr

Nunez-Martinez to engage in this process and to demonstrate any insight and/or remediation he might have gained during this period.

Accordingly, the Committee determined to suspend Mr Nunez-Martinez's registration for a period of 12 months with a review.

The Committee considered that a reviewing Committee might be assisted by the following:

- evidence of developed insight and remediation to show Mr Nunez-Martinez had addressed the failings identified by the Committee in this case.

The Committee noted that Mr Nunez-Martinez is already subject to a separate period of 12 months' suspension for his PPC case. In light of the Committee decision in this case to impose a period of suspension for 12 months with a review, it recommends that both substantive orders of suspension are reviewed, before they are due to expire, at the same resumed PCC hearing.

The Committee now invites submissions on whether an immediate order should be imposed.

Immediate order

Having directed that Mr Nunez-Martinez's name be suspended from the register, the Committee considered whether to impose an order for his immediate suspension in accordance with section 30. (1) of the Dentists Act 1984 (as amended).

The Committee took into account the submissions of Mr Ramasamy on behalf of the GDC. He submitted that in the light of the Committee findings an immediate order was necessary for the protection of the public and was otherwise in the public interest.

The Committee accepted the advice of the Legal Adviser.

The Committee was satisfied that an immediate order for suspension was necessary for the protection of the public and was otherwise in the public interest. The Committee concluded that given its findings and reasons for the substantive order of suspension to direct otherwise would be inconsistent, especially in light of its findings that there was limited insight, little remediation and a significant risk of repetition.

If, at the end of the appeal period of 28 days, Mr Nunez-Martinez has not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of suspension for a period of 12 months. If Mr Nunez-Martinez does lodge an appeal, this immediate order will continue in effect until that appeal is determined.

That concludes this case for today."

On 16 March 2018 at a review hearing the Chairman announced the determination as follows:

"This is the resumed hearing of the Professional Conduct Committee (PCC) of Mr Nunez Martinez's case pursuant to Section 27C of the Dentists Act 1984 (as amended) (the Act). Mr Nunez Martinez is neither present nor represented at this hearing. Mr Middleton is the Case Presenter for the General Dental Council (GDC).

Decision on service

In Mr Nunez Martinez's absence, the Committee first considered whether the Notice of Resumed Hearing had been served on him in accordance with Rule 28 of the General

Dental Council (Fitness to Practise) (GDC) Rules Order of Council 2006 (the Rules). The Committee saw a copy of the Notice of Resumed Hearing dated 13 February 2018 addressed to Mr Nunez Martinez's registered address. This letter sets out the date, time and location of today's hearing, the grounds for holding the hearing, the directions that the Committee may give and other prescribed information. Furthermore, the letter states that Mr Nunez Martinez is required to confirm whether he will be attending the hearing and/or whether he will be represented. He was asked to notify the GDC by 23 February 2018.

The Committee was satisfied that the Notice of Resumed Hearing sets out the information required in accordance with Rule 28 and that it was sent to Mr Nunez Martinez's registered address, in accordance with Section 50A(2) of the Act and Rule 65. The Royal Mail track and trace receipt stated that it attempted to deliver the item on 14 February 2018, which is more than 28 days in advance of today's hearing. In these circumstances, the Committee is satisfied that the Notice of Resumed Hearing has been served on Mr Nunez Martinez in accordance with the appropriate Rules and the Act.

Proceeding in absence

The Committee then went on to consider whether to proceed in the absence of Mr Nunez Martinez, in accordance with Rule 54. Mr Middleton applied for the hearing to proceed in Mr Nunez Martinez's absence. He referred to the documentation provided which showed that the GDC had served the Notice of Resumed Hearing on Mr Nunez Martinez in accordance with its statutory provisions, the lack of any engagement by Mr Nunez Martinez in respect of these regulatory proceedings as well as the absence of any request for an adjournment. Mr Middleton also advised the Committee that it was necessary for the order to be reviewed before its expiry on 28 March 2018, otherwise the GDC would lose jurisdiction, which could lead to a risk to the public.

The Committee considered the submissions made. It accepted the advice of the Legal Adviser. It noted from the documentation before it the attempts made by the GDC to secure Mr Nunez Martinez's engagement in these proceedings since the initial PCC hearing in February 2017 and the absence of any response from him. Further, he has not requested an adjournment of today's hearing and there is nothing before the Committee today to suggest that Mr Nunez Martinez might attend the hearing on a future occasion. He did not attend the hearing in February 2017 and the evidence available to that Committee was that he was no longer in the UK. The Committee concluded that Mr Nunez Martinez has voluntarily absented himself from today's hearing. In addition, the Committee considered that there is a clear public interest in reviewing Mr Nunez Martinez's case before the expiry of the current order, given the serious nature of the matters found proved by the PCC in February 2017. The Committee determined that it was fair to proceed with today's review hearing in the absence of Mr Nunez Martinez in accordance with Rule 54.

Background

Mr Nunez Martinez's case was first considered by the PCC at a hearing on 20-24 February 2017. The facts found proved by the PCC concerned his treatment of Patient A between March 2014 and November 2014 while Mr Nunez Martinez practised at Maple Dental Clinic (the Practice). It found proved the following:

- He did not conduct any or any adequate orthodontic assessment before commencing orthodontic treatment or made no or no adequate record of conducting such an assessment.

- He did not make any or any adequate use of study models before commencing orthodontic treatment or made no or no adequate record of such use of study models.
- He failed to provide an adequate standard of care in that in around November 2014 he left the Practice without taking any or any adequate steps to ensure continuity of care to Patient A.
- He failed to respond adequately to complaints in relation to his treatment of Patient A between approximately 18 September 2015 and 6 January 2016.

The PCC determined that the findings against Mr Nunez Martinez were serious and that the clinical failings fell far below the standard expected of a registered dentist. It noted that Patient A was left without her treatment completed by Mr Nunez Martinez and suffered what the PCC considered to be unnecessary and additional stress. It concluded that the facts found proved amounted to misconduct.

The PCC further concluded that Mr Nunez Martinez's fitness to practise was impaired by reason of his misconduct. It referred to Mr Nunez Martinez's limited insight and insufficient remediation. It decided that conditional registration would not be sufficient to protect patients and the wider public interest given Mr Nunez Martinez's limited engagement with the process and the fact that he appeared to be living abroad. The PCC directed that his registration be suspended for 12 months, with a review hearing of the order to take place shortly before the end of the period of suspension.

The PCC concluded that 12 months was an appropriate period of time to demonstrate any insight and/or remediation he might have gained during this period. It considered that a reviewing Committee might be assisted by evidence of developed insight and remediation to show that he had addressed the failings identified by the Committee in this case. It noted that Mr Nunez Martinez was already subject to a separate order of suspension for a period of 12 months, by virtue of a direction made by another PCC.

Today's review

At today's hearing this Committee has comprehensively reviewed the current order. In so doing, the Committee has had regard to the GDC bundle, which contains copies of letters dated 27 February 2017, 1 March 2017, 27 July 2017 and 13 December 2017 from the GDC's Case Review Team to Mr Nunez Martinez, reminding him of the recommendations made by the PCC in February 2017. Mr Nunez Martinez has not replied to those letters.

Mr Middleton submitted that Mr Nunez Martinez's fitness to practise remains impaired. He referred to Mr Nunez Martinez's lack of engagement with the GDC since February 2017 and the absence of any evidence of remediation or insight. He said that there was a persuasive burden on the Registrant to demonstrate that he is now fit to practise and that this has not been demonstrated by Mr Nunez Martinez. He invited the Committee to direct that Mr Nunez Martinez's registration be suspended for a further period of 12 months.

The Committee has considered carefully the submissions made. It has accepted the advice of the Legal Adviser. There is no evidence before this Committee that Mr Nunez Martinez has addressed his failings, or any evidence of insight. Indeed, he has not engaged with the GDC throughout the period of his suspension and the information before the initial PCC hearing was that he is no longer practising as a dentist. The Committee considers that there is a risk of repetition of the misconduct that presents a risk to the public. A finding of impairment is made on this ground. In addition, the Committee, in upholding proper

standards for the profession, and considering his lack of engagement with his regulator, considered that public confidence in the profession requires a finding that Mr Nunez Martinez's fitness to practise is currently impaired.

The Committee next considered what direction to give, bearing in mind its powers in accordance with Section 27C 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).

In the Committee's judgement, Mr Nunez Martinez has not demonstrated any commitment to remediate his deficiencies or engage with the GDC, despite being given the opportunity to do so. In these circumstances, the Committee has concluded that replacing the current suspension order with one of conditions would not be appropriate or sufficient for the protection of the public.

The Committee therefore directs that the current period of suspension on Mr Nunez Martinez's registration be extended for a period of 12 months. It is satisfied that extending the order for the maximum period of 12 months is necessary for the protection of the public, given the seriousness of the matters found proved by the PCC, the absence of any remediation and his lack of engagement with the GDC over a sustained period of time.

The order of suspension will be reviewed before the end of the 12 month period. That concludes today's case."

At a second review hearing on 20 March 2019, the Chairman announced the determination as follows:

"This is the resumed hearing of the Professional Conduct Committee (PCC) of Mr Nunez Martinez's case pursuant to Section 27C of the Dentists Act 1984 (as amended) (the Act). Mr Nunez Martinez is neither present nor represented at this hearing. Ms Denholm is the Case Presenter for the General Dental Council (GDC).

Decision on service

In Mr Nunez Martinez's absence, the Committee first considered whether the Notice of Resumed Hearing had been served on him in accordance with Rule 28 of the General Dental Council (Fitness to Practise)(GDC) Rules Order of Council 2006 (the Rules). Ms Denholm informed the Committee that the matter was originally listed for 8 March 2019. However, the GDC received an email from the registrant dated 15 February 2019 requesting that the matter be postponed until 20 March 2019 in order to allow him time to submit evidence. The Committee saw a copy of the Notice of Resumed Hearing dated 15 February 2019 addressed to Mr Nunez Martinez's registered address. This letter sets out the date, time and location of today's hearing, the grounds for holding the hearing, the directions that the Committee may give and other prescribed information. Furthermore, the letter states that Mr Nunez Martinez is required to confirm whether he will be attending the hearing and/or whether he will be represented. He was asked to notify the GDC by 22 February 2019.

The Committee was satisfied that the Notice of Resumed Hearing sets out the information required in accordance with Rule 28 and that it was sent to Mr Nunez Martinez's registered address, in accordance with Section 50A(2) of the Act and Rule 65. The Royal Mail track and trace receipt stated that it attempted to deliver the item on 17 February 2019, which is more than 28 days in advance of today's hearing. In these circumstances, the Committee is

satisfied that the Notice of Resumed Hearing has been served on Mr Nunez Martinez in accordance with the appropriate Rules and the Act.

Proceeding in absence

The Committee then went on to consider whether to proceed in the absence of Mr Nunez Martinez, in accordance with Rule 54. Ms Denholm applied for the hearing to proceed in Mr Nunez Martinez's absence. She referred to the documentation provided which showed that the GDC had served the Notice of Resumed Hearing on Mr Nunez Martinez in accordance with its statutory provisions, the lack of any engagement by Mr Nunez Martinez in respect of these regulatory proceedings as well as the absence of any request for an adjournment. The Committee notes that the matter was originally listed for 8 March 2019, was postponed at the Registrant's request. However, to date the GDC has not received a response since the email, sent by the Registrant on 15 February 2019.

Ms Denholm advised the Committee that it was necessary for the order to be reviewed before its expiry on 28 March 2019, otherwise the GDC would lose jurisdiction, which could lead to a risk to the public.

The Committee considered the submissions made. It accepted the advice of the Legal Adviser. It noted from the documentation before it the attempts made by the GDC to secure Mr Nunez Martinez's engagement in these proceedings since the initial PCC hearing in February 2017 and the absence of any response from him. Further, he has not requested an adjournment of today's hearing and there is nothing before the Committee today to suggest that Mr Nunez Martinez might attend the hearing on a future occasion. He did not attend the hearing in February 2017 and the evidence available to that Committee was that he was no longer in the UK. The Committee concluded that Mr Nunez Martinez has voluntarily absented himself from today's hearing. In addition, the Committee considered that there is a clear public interest in reviewing Mr Nunez Martinez's case before the expiry of the current order, given the serious nature of the matters found proved by the PCC in February 2017. The Committee determined that it was fair to proceed with today's review hearing in the absence of Mr Nunez Martinez in accordance with Rule 54.

Background

Mr Nunez Martinez's case was first considered by the PCC at a hearing on 20-24 February 2017. The facts found proved by the PCC concerned his treatment of Patient A between March 2014 and November 2014 while Mr Nunez Martinez practised at Maple Dental Clinic (the Practice). It found proved the following:

- did not provide adequate clinical care or made no adequate record of providing such care on 12 occasions involving 9 patients.
- Inappropriately prescribed or advised the use of antibiotics or made no adequate justification for the prescription on 7 occasions involving 6 patients.
- Took radiographs without any or any adequate justification or made no or no adequate record of such justification on 3 occasions involving 3 patients.
- Made no or no adequate record of reports on radiographs and/or grading of radiographs on 12 occasions involving 11 patients.
- Did not respond appropriately to the onset of an allergic reaction on one occasion involving a patient.
- Proposed orthodontic treatment without any or any adequate prior assessment or made no or no adequate record of such assessment on 4 occasions involving 4 patients.

- Made no or no adequate record in respect of a variety of clinical matters on 24 occasions involving 16 patients.

The PCC determined that the findings against Mr Nunez Martinez were serious and that the clinical failings fell far below the standard expected of a registered dentist. It noted that Patient A was left without her treatment completed by Mr Nunez Martinez and suffered what the PCC considered to be unnecessary and additional stress. It concluded that the facts found proved amounted to misconduct.

The PCC further concluded that Mr Nunez Martinez's fitness to practise was impaired by reason of his misconduct. It referred to Mr Nunez Martinez's limited insight and insufficient remediation. It decided that conditional registration would not be sufficient to protect patients and the wider public interest given Mr Nunez Martinez's limited engagement with the process and the fact that he appeared to be living abroad. The PCC directed that his registration be suspended for 12 months, with a review hearing of the order to take place shortly before the end of the period of suspension.

The PCC concluded that 12 months was an appropriate period of time to demonstrate any insight and/or remediation he might have gained during this period. It considered that a reviewing Committee might be assisted by evidence of developed insight and remediation to show that he had addressed the failings identified by the Committee in this case. It noted that Mr Nunez Martinez was already subject to a separate order of suspension for a period of 12 months, by virtue of a direction made by another PCC.

The matter was reviewed in March 2018. Mr Nunez Martinez did not attend the hearing and was not legally represented. The Committee stated that although Mr Nunez Martinez's failings were potentially remediable, the Committee was in no different a position to that of the initial PPC over a year ago. There remained a significant risk of repetition of Mr Nunez Martinez's misconduct and continued to be a real risk of harm to patients should Mr Nunez Martinez be allowed to practise without restriction. Further, given the seriousness of his misconduct, and his failure to demonstrate any insight, reflection or remediation, public confidence in the profession and this regulatory process would also be seriously undermined if a finding of impairment were not made.

Accordingly, the Committee found that Mr Nunez Martinez's fitness to practise as a dentist continued to be impaired by reason of his misconduct and directed that the period of suspension be extended by a further period of 12 months (with a review).

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 Mr Nunez Martinez or indeed any engagement by him with the GDC since the Registrant's email of 15 February 2019.

The Committee first considered whether Mr Nunez Martinez's fitness to practise is still impaired. There is no evidence before this Committee that Mr Nunez Martinez has addressed his past impairment, or provided any information as recommended to him by the PPC at the initial hearing or at the subsequent review hearing. In these circumstances, the Committee considers that there remains a risk that Mr Nunez Martinez could repeat the misconduct and thus he remains a risk to the public. Indeed, it notes that Mr Nunez Martinez 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 his involvement. Accordingly, the Committee has determined that Mr Nunez Martinez's fitness to practise is currently impaired.

The Committee next considered what direction to give, bearing in mind its powers in accordance with Section 27C 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 Mr Nunez Martinez'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 Mr Nunez Martinez'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 Mr Nunez Martinez. To date, he has not engaged with the GDC in providing 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 Mr Nunez Martinez's complete lack of engagement with the GDC over a sustained period of time and the absence of any information as to his professional intentions. Mr Nunez Martinez has chosen not to attend any of the hearings of his case or to provide any meaningful evidence of his remediation. 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. It therefore directs that Mr Nunez Martinez's registration be suspended indefinitely.

The effect of the foregoing direction is that, unless Mr Nunez Martinez exercises his right of appeal, his registration will be suspended indefinitely from the date on which the direction takes effect.

The Committee would also highlight to Mr Nunez Martinez that should he wish to engage with the GDC, he can apply for a review of the indefinite suspension order if at least two years have elapsed since the direction for indefinite suspension takes effect.

That concludes the case for today."