

HEARING PARTLY HEARD IN PRIVATE*

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

HAYES-DRURY, Bethan

Registration No: 250515

HEALTH COMMITTEE

MAY 2019

Outcome: Erased with Immediate Suspension

Bethan HAYES-DRURY, a dental nurse, National Diploma in Dental Nursing NEBDN 2014, was summoned to appear before the Health Committee on 20 May 2019 for an inquiry into the following charge:

Charge

“That, being registered a dental nurse:

1. You suffer with the adverse health condition set out in Schedule A¹.
2. You failed to co-operate with an investigation into your fitness to practise conducted by the GDC in that you failed, adequately or at all, to provide a response to information requested by the GDC on the following dates:
 - a. 01 March 2018;
 - b. 23 March 2018;
 - c. 10 April 2018;
 - d. 24 May 2018;
 - e. 25 June 2018.
3. On 27 July 2018, you were convicted at Bristol Magistrates’ Court of;
 - a. Being concerned in supplying Class A controlled drug – Heroin;
 - b. Being concerned in supplying Class A controlled drug – Cocaine.
4. You failed to inform the General Dental Council that;
 - a. You had been charged with the criminal offences at 3(a) and / or 3(b);
 - b. You had been convicted of the criminal offences at 3(a) and / or 3(b).
5. Your actions in relation to allegation 4a were;
 - a. Misleading,
 - b. Dishonest.

¹ Schedule A is a private document and is not disclosed to the Public.

6. Your actions in relation to allegation 4b were;
 - a. Misleading,
 - b. Dishonest.

And that, by reason of the above, your fitness to practise is impaired by reason of your health and/or conviction and/or misconduct.”

Ms HAYES-DRURY was not present and was not represented. On 21 May 2019 the Chairman announced the findings of fact to the Counsel for the GDC:

At this hearing the Committee made a determination that includes some private information. That information shall be omitted from any public version of this determination and the document marked to show where private material is removed

“Service

Ms Denholm appears on behalf of the General Dental Council (GDC) at the Health Committee (HC) hearing of Ms Hayes-Drury’s case. Ms Hayes-Drury is neither present nor represented at the hearing. In her absence the Committee first considered whether the Notice of Hearing had been served on Ms Hayes-Drury in accordance with Rules 13 and 65 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules) and Section 50A of the Dentists Act 1984 (as amended) (the Act). In so doing, it has taken into account the submissions made by Ms Denholm. It has accepted the advice of the Legal Adviser.

Section 50A(2) of the Act states that the proper address of an individual is

- (a) His address in the dentists register, or the dental care professionals register ; or
- (b) His last known address, if that differs from the address mentioned in paragraph (a) and it appears to the person serving the notification that the notification is more likely to reach him at that address.

The Committee has seen a copy of a telephone note dated 18 January 2019 from an Assistant Prosecution Lawyer of the GDC’s Legal Team (the Lawyer), which sets out the content of a telephone call on that date between Ms Hayes-Drury (who called the GDC) and the Lawyer. The note states that the Lawyer advised Ms Hayes-Drury that a notice of hearing (in connection with the listing of her Interim Orders Committee hearing (IOC) before the GDC, a different hearing) had been sent to her last known address, the one she provided to the GDC in June 2018. The note further records “Reg said she doesn’t live there anymore and had a new address”. The note records the address provided by Ms Hayes-Drury to the Lawyer. Ms Hayes-Drury confirmed that she no longer lives at her current registered address and has asked for the new address to be regarded as her registered address.

The Committee has seen a copy of the Notice of Hearing, dated 9 April 2019, addressed to Ms Hayes-Drury at her last known address she provided to the GDC on 18 January 2019. It is satisfied that the Notice of Hearing letter contains proper notification of today’s hearing, including its time, date and location, as well as the charges against Ms Hayes-Drury, in accordance with Rule 13. Further, the letter was sent more than 28 days in advance of today’s hearing, also in accordance with Rule 13. The Committee has seen a copy of a Track and Trace receipt which confirms that the item was delivered to Ms Hayes-Drury’s registered address on 10 April 2019 and was signed for by ‘Hayes-Drury’. The Committee

was also provided with documents which show that the GDC emailed a copy of the Notice of Hearing to Ms Hayes-Drury on 9 April 2019.

Taking all this information into account, the Committee is satisfied that the Notice of Hearing has been served on Ms Hayes-Drury in compliance with the Rules.

Proceeding in the absence of Ms Hayes-Drury

The Committee then considered whether to exercise its discretion under Rule 54 to proceed in the absence of Ms Hayes-Drury.

Ms Denholm submitted that Ms Hayes-Drury is aware of today's hearing, given that she has signed for the Notice of Hearing letter. She also said that Ms Hayes-Drury is aware that there are GDC proceedings against her, as evidenced by the telephone note dated 18 January 2019 from the Lawyer. The GDC's position is that Ms Hayes-Drury has not sought an adjournment of this hearing and there is nothing to suggest that she would attend on a future occasion, were this Committee minded to adjourn. Further, Ms Denholm submitted that it is in the public interest to proceed with the hearing today, given the nature of the allegations against Ms Hayes-Drury.

The Committee has accepted the advice of the Legal Adviser. It has reminded itself of the factors it must take into account in deciding whether to proceed in the absence of Ms Hayes-Drury, including the need to be fair to Ms Hayes-Drury and to the GDC, as well as the public interest in the expeditious disposal of this case.

The Committee notes the attempts made by the GDC to contact Ms Hayes-Drury via various means in respect of this hearing. She has not responded to the Notice of Hearing letter dated 9 April 2019 to indicate whether or not she will attend the hearing, despite being asked to do so. The Committee has considered carefully, in the light of the alleged health concerns in this case, whether there was any medical evidence to show that Ms Hayes-Drury was not fit to attend this hearing or participate remotely via Skype or telephone. The Committee has received no medical evidence to this effect or indeed any information as to the reasons for Ms Hayes-Drury's non-attendance.

In these circumstances the Committee has concluded that Ms Hayes-Drury has voluntarily absented herself from this hearing. Ms Hayes-Drury has not requested an adjournment of this hearing and there is nothing before the Committee to suggest that she would attend on a future occasion. The Committee has received no compelling reasons as to why it should not proceed with the hearing. It has also borne in mind the public interest in dealing with the matters alleged expeditiously. Having regard to all these factors, the Committee has decided that it is fair and appropriate to proceed in the absence of Ms Hayes-Drury in accordance with Rule 54.

Application for part of the hearing to take place in private

Thereafter, Ms Denholm made an application under Rule 53(2) for part of the hearing be held in private since some of the matters under consideration relate to Ms Hayes-Drury's health. The Committee has accepted the advice of the Legal Adviser. Having regard to the issue of Ms Hayes-Drury's health, the Committee considers that part of the hearing should be heard in private in accordance with Rule 53(2).

The GDC's Case

Ms Hayes-Drury registered with the GDC as a Dental Nurse on 3 June 2014.

The GDC's case against Ms Hayes-Drury relates to three areas of concern: an allegation that she suffers an adverse health condition (charge 1); her alleged failure to co-operate with an investigation into her fitness to practise conducted by the GDC (charges 2(a) to 2 (e)) and her conviction on 27 July 2018 of being concerned in supplying Class A controlled drug - Heroin and being concerned in supplying Class A controlled drug - Cocaine (charges 3(a) and 3(b)). On 24 August 2018 Ms Hayes-Drury was sentenced, on each count concurrent, to two years' imprisonment, suspended for two years.

Further, the GDC alleges that Ms Hayes-Drury failed to inform the GDC that she had been charged with these criminal offences (4(a)) and had been convicted of them (4(b)). The GDC alleges that her failure to inform the GDC was misleading and dishonest (charges 5 and 6).

The evidence considered

In considering whether the charges against Ms Hayes-Drury have been found proved, the Committee has taken into account all the evidence presented to it by the GDC. This includes two witness statements from the Lawyer, signed and dated 20 August 2018 and 12 September 2018 respectively.

The Lawyer provided evidence of the steps taken by the GDC to obtain information from Ms Hayes-Drury in connection with its investigation. She referred to Ms Hayes-Drury's email to the GDC dated 23 June 2018 in which Ms Hayes-Drury provides further information relating to her health. [Private material omitted]

The Lawyer gave oral evidence via telephone in which she confirmed the contents of her two witness statements. She was asked by the Committee about the content of the telephone note dated 18 January 2019 between her and Ms Hayes-Drury regarding the GDC obtaining a certificate of her conviction and the fact that a new case had been opened by the GDC in connection with conviction and her failure to declare. The telephone note records "Reg said as she was suspended, she didn't think she had to tell us." The Committee asked the Lawyer whether the word "suspended" was in relation to her registration being suspended by the IOC at that time or in relation to her two year suspended imprisonment sentence. The Lawyer confirmed that her understanding was that in using the word "suspended" Ms Hayes-Drury was referring to the suspension of her registration by the GDC and not to the fact that she had received a suspended sentence.

The Committee also had before it a copy of a witness statement from a GDC employee from the Registration Team (the Manager), signed and dated 4 March 2019. The Manager provided evidence about the requirement for DCPs and dentists to declare criminal proceedings and convictions, as set out in the GDC's "Standards for the Dental Team" (September 2013) (the Standards). Her evidence was that she had undertaken a search of the GDC's Case Management System (CRM) to determine whether or not Ms Hayes-Drury notified the GDC of her conviction of July 2018. She confirmed that she had not identified any correspondence or telephone notes in relation to Ms Hayes-Drury notifying the GDC that she was subject to criminal proceedings or declaring her conviction. The Manager also confirmed that on 27 February 2019 she was informed by the GDC In-House Legal Team that Ms Hayes-Drury had been convicted of an offence in July 2018. Although it was open to the Committee to receive oral evidence from the Manager, it decided not to do so since it had no questions in relation to her witness statement.

The Committee considers that the accounts given by the Lawyer and the Manager in their witness statements were consistent with other documents contained in the bundle. In these

circumstances, the Committee has accepted the evidence of these two GDC members of staff.

The Committee has also been provided with a copy of the Memorandum of Conviction register dated 27 July 2018 for Bristol Magistrates' Court, a copy of the Certificate of Conviction, signed and dated 18 October 2018 as well as the Judge's sentencing remarks from Bristol Crown Court dated 24 August 2018.

[Private material omitted]

The Committee notes that it has received no formal response from Ms Hayes-Drury in relation to the charges. However, it has had regard to Ms Hayes-Drury's email to the GDC dated 23 June 2018 in which she provided some background to her then current situation and matters relating to her health. It has also had regard to the telephone note between Ms Hayes-Drury and the GDC dated 18 January 2019.

The Committee has accepted the advice of the Legal Adviser. It has borne in mind that the burden of proof is on the GDC and that it must decide the facts according to the civil standard of proof, namely on the balance of probabilities. Ms Hayes-Drury need not prove anything. Regarding the allegations of dishonesty, the Committee received advice from the Legal Adviser of the test it must apply, as set out in paragraph 74 of the Supreme Court judgment in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67. This was as follows:

... When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.

The Committee has considered each charge separately. I will now announce its findings as follows:

1.	<p><i>You suffer with the adverse health condition set out in Schedule A</i></p> <p>Found proved</p> <p>[Private material omitted]</p>
2.a	<p><i>You failed to co-operate with an investigation into your fitness to practise conducted by the GDC in that you failed, adequately or at all, to provide a response to information requested by the GDC on the following dates:</i></p> <p><i>01 March 2018</i></p> <p>Found proved</p> <p>The Lawyer's evidence, as set out in her first witness statement, is that on 1 March 2018 the GDC sent a letter to Ms Hayes-Drury, notifying her</p>

	<p>that it was investigating information it had received. She further states that the letter was sent to Ms Hayes-Drury's email address. Her evidence was that the letter requested that Ms Hayes-Drury provide the GDC with a medical reference from her GP or another medical practitioner; details of her current employer and proof of indemnity. The Committee has seen a copy of the letter. The Committee notes from the Lawyer's statement that the GDC sent a chaser letter dated 23 March 2018 (which forms the basis of charge 2.b) to Ms Hayes-Drury at her then registered address by email and recorded delivery. The letter states that the GDC has not heard from her and requests that she provide it with the information by 30 March 2018. In the absence of any response from Ms Hayes-Drury, either from the letter or the email, the Committee finds this charge proved. It is further satisfied that she had a duty to respond to the GDC's enquiries by virtue of Standard 9.4 of the GDC's "Standards for the Dental Team" (September 2013) (the Standards). That standard states: "You must co-operate with any relevant formal or informal inquiry and give full and truthful information".</p>
2.b	<p><i>23 March 2018</i></p> <p>Found proved</p> <p>The Lawyer's evidence is that a chaser letter was sent to Ms Hayes-Drury on 23 March 2018. She confirms that the letter was sent to the Registrant's registered address by recorded delivery. The letter was returned on 16 April 2018 to sender as it was 'not called for'. An email was sent to Ms Hayes-Drury on 23 March 2018, advising her that it had some urgent correspondence it would like to email to her. She was asked to confirm her use of the email by responding with her primary qualification, date of birth and registered address. No response was received by the GDC. In the light of this evidence and the absence of any response from Ms Hayes-Drury, the Committee finds this charge proved. The Committee also considers that as part of her professional obligations, Ms Hayes-Drury also had a duty to ensure that she notified the GDC of any changes to her registered address/means of contacting her. It is clear from the information before it that the GDC was trying to contact Ms Hayes-Drury by sending correspondence to her registered address and the email address that she had provided to the GDC when she first registered in 2014.</p>
2.c	<p><i>10 April 2018</i></p> <p>Found proved</p> <p>The Lawyer's evidence is that on 10 April 2018 the GDC sent a letter to Ms Hayes-Drury, advising her that the matter had been referred to the GDC's Case Examiners. She was asked for her observations in response to the allegations to the GDC by 17 April 2018 and once, again she was asked to provide details of her employers and provide proof of indemnity cover. The letter was sent to Ms Hayes-Drury's registered address by recorded delivery and email. The letter was returned to sender as it was 'not called for'. In the light of this evidence and the absence of any</p>

	response from Ms Hayes-Drury the Committee finds this charge proved.
2.d	<p>24 May 2018</p> <p>Found proved</p> <p>The Lawyer's evidence is that on 18 May 2016 the GDC wrote to Ms Hayes-Drury to confirm that the Case Examiners had decided to refer her case to the Health Committee. On 24 May 2018 the Lawyer wrote to Ms Hayes-Drury and advised her that the GDC In-House legal prosecution service team now had conduct of the matter and was undertaking preparation of the case. The letter asked Ms Hayes-Drury to contact the GDC and provide it with her address and contact number. She was asked to provide the information by no later than 31 May 2018. The Lawyer confirmed that the letter was not responded to and the email attaching the letter was not downloaded. The GDC confirmed that no response was received to that letter. In the light of this evidence and the absence of any response from Ms Hayes-Drury the Committee finds this charge proved.</p>
2.e	<p>25 June 2018</p> <p>Found proved</p> <p>The Lawyer's evidence is that on 23 June 2018 Ms Hayes-Drury emailed the GDC providing a mobile number (which was the same number as the registered telephone number) and an address. She requested that all relevant paperwork be sent to that address. She also provided some information in relation to her current state of health. The GDC replied to that email on 25 June 2018, which the Committee has seen. The Lawyer's evidence is that on that same day (25 June 2018), she sent a letter to Ms Hayes-Drury at her new address, with various requests. She was asked to respond to the letter by 2 July 2018. The Lawyer confirmed that the letter was sent by first class post and by email. She also confirmed that the email was not downloaded and that there was no response to the GDC's correspondence to her dated 2 July 2018 and 11 July 2018. In the light of this evidence and the absence of any response from Ms Hayes-Drury the Committee finds this charge proved.</p>
3. a.	<p><i>On 27 July 2018, you were convicted at Bristol Magistrates' Court of;</i></p> <p><i>Being concerned in supplying Class A controlled drug – Heroin</i></p> <p>Found proved</p> <p><i>On 27 July 2018, you were convicted at Bristol Magistrates' Court of</i></p> <p><i>Being concerned in supplying Class A controlled drug – Cocaine</i></p> <p>Found proved</p>
3.b	<p>The Committee has seen a copy of the Certificate of Conviction dated 18 October 2018 which confirms that Ms Hayes-Drury was convicted of being concerned in supplying Class A controlled drug – Heroin and in supplying Class A controlled drug – Cocaine. The Memorandum of Conviction sets out the facts which underpin the convictions. The</p>

	<p>Committee has also had regard to the Sentencing Remarks from Bristol Crown Court dated 24 August 2018. In accordance with Rule 57(5), the Committee has accepted this information as conclusive proof of Ms Hayes-Drury's conviction for these offences. The Committee therefore finds these charges proved.</p>
4.a	<p><i>You failed to inform the General Dental Council that:</i></p> <p><i>You had been charged with the criminal offences at 3(a) and/or 3(b)</i></p> <p>Found proved</p> <p><i>You failed to inform the General Dental Council that:</i></p>
4.b.	<p><i>You had been convicted of the criminal offences at 3(a) and/or 3(b)</i></p> <p>Found proved</p> <p>The Committee notes from the Manager's evidence that when Ms Hayes-Drury applied for registration with the GDC as a dental nurse in April 2014, she signed a declaration on the form (dated 8 April 2014) which states: 'I will advise the GDC of any future criminal convictions or cautions.' There is also a further declaration on the form which has been marked with a checked box symbol. The form states ' I have read and understood the General Dental Council's ethical guidance 'Standards for dental professionals' and I will adhere to that Guidance. (information is available on the website).' The Manager further explained that upon registration, all Registrants are sent their Registration Certificate a copy of the GDC's "Standards for the Dental Team". She confirmed that this system was in place at the time when Ms Hayes-Drury was registered with the GDC. Standard 9.3.1 of the GDC's Standards state: "You must inform the GDC immediately if you are subject to any criminal proceedings anywhere in the world." The Committee is satisfied that Ms Hayes-Drury had a duty to notify the GDC that she was subject to criminal proceedings, in accordance with Standard 9.3.</p> <p>The Committee notes from the Memorandum of Conviction that the offending behaviour took place between 1 July and 26 July 2018 and that she was convicted on 27 July 2018. Although there is no information as to when she was charged in relation to these matters, it has drawn the inference that it must have been around 26 July 2018, the day before she was convicted at Bristol Magistrates' Court. She was then sentenced for the offences on 24 August 2018.</p> <p>The Manager's evidence was that had Ms Hayes-Drury made any disclosure to the GDC in relation to the criminal matters, the information would have been documented and saved and the relevant department within the Council would have been informed. The Manager confirmed that she had undertaken a search of the GDC's Case Management System (CRM) but she was unable to identify any correspondence or telephone notes to show that Ms Hayes-Drury had made any disclosure to the GDC of being charged or convicted Accordingly, it finds these charges proved.</p>

<p>5.a.</p>	<p><i>Your actions in relation to allegation 4a were</i> <i>Misleading</i></p> <p>Found proved</p> <p><i>Your actions in relation to allegation 4b were</i> <i>Misleading</i></p>
<p>6.a.</p>	<p>Found proved</p> <p>The Committee is satisfied that Ms Hayes-Drury’s failure to disclose to the GDC that she was subject to criminal proceedings/been convicted would mislead the GDC into believing that she was not subject to criminal proceedings/been convicted when this was not the case. Regardless of the fact that it was only a matter of a day between the date when Ms Hayes-Drury was charged in connection with these matters and when she was convicted, the GDC was not in a position to make any inquiries as to whether Ms Hayes-Drury’s criminal behaviour had any impact on her ability to satisfy the requirements of for registration and/or her ongoing fitness to practise. The Committee has had regard to the evidence of the Lawyer that the GDC only became aware of these matters when it carried out its own enquiries in October 2018, following receipt of Ms Hayes-Drury’s medical records in which there was reference to criminal proceedings. This position is reflected in the telephone note dated 18 January 2019 between the Lawyer and Ms Hayes-Drury. Accordingly, it finds these charges proved.</p>
<p>5.b.</p>	<p><i>Your actions in relation to allegation 4a were</i> <i>Dishonest</i></p> <p>Found not proved</p>
<p>6.b.</p>	<p><i>Your actions in relation to allegation 4b were</i> <i>Dishonest</i></p> <p>Found not proved</p> <p>The GDC’s case is that Ms Hayes-Drury had a duty to declare that she had been charged with the criminal offences and convicted of these matters in July 2018 and that her failure to do so was dishonest.</p> <p>The Committee has already found that Ms Hayes-Drury failed to notify the GDC of these matters. In considering whether her conduct in this regard was dishonest in respect of her failure to notify the GDC that she had been charged with the criminal matters, it has taken into account the fact the time period between her being charged with these matters and her appearance at Bristol Magistrates’ Court on 27 July 2018, when she was convicted, could not have been more than a day. In the circumstances, there appeared to be virtually no time or practical opportunity to report the charge. This appeared to be the most likely explanation for the technical failure to report the matter to the GDC. The Committee therefore considered that there was insufficient evidence to</p>

lead to any safe inference that this failure was dishonest. It further considers that ordinary decent people would not regard a failure to report the charge in these circumstances to be dishonest. Accordingly, it has found charge 5(b) not proved.

In respect of Ms Hayes-Drury's failure to notify the GDC about her conviction dated 27 July 2018, the Committee has borne in mind that this failure to disclose covers not just immediately after the conviction but for a long period thereafter. In fact, at no point did she notify the GDC of her conviction. The Committee has received no evidence from Ms Hayes-Drury in respect of this allegation. However, the Committee has regard to the telephone note dated 18 January 2019 between the Lawyer and Ms Hayes-Drury. The note records "Reg said as she was suspended, she didn't think she had to tell us." The Lawyer's evidence was that she understood the word "suspended" was in relation to Ms Hayes-Drury's registration being suspended by the IOC at that time. She also confirmed that she had written the telephone note contemporaneously.

[Private material omitted]

Taking all the foregoing into account and bearing in mind that Ms Hayes-Drury's registration was suspended by the GDC, it is likely that her explanation as to why she did not notify the GDC of her conviction was the reason why she did not do so and not any dishonest motivation. The fact that she formed a genuine, albeit mistaken belief, was corroborated by evidence including [Private material omitted]. The Committee therefore considered that there was insufficient evidence to lead to any safe inference that this failure was dishonest. It further considers that ordinary decent people would not regard a genuinely held, but mistaken belief, to be dishonest. Accordingly, it has found charge 6(b) not proved.

We move to Stage Two."

On 22 May 2019 the Chairman announced the determination as follows:

At this hearing the Committee made a determination that includes some private information. That information shall be omitted from any public version of this determination and the document marked to show where private material is removed.

"Having announced its findings on the facts, the Committee has had regard to the submissions made by Ms Denholm, on behalf of the General Dental Council (GDC), in accordance with Rule 20 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules).

Ms Denholm confirmed that Ms Hayes-Drury has no previous fitness to practise history. She submitted that the facts found proved against Ms Hayes-Drury are serious and amount to misconduct. Ms Denholm cited several of the GDC's "Standards for the Dental Team" (the Standards) (September 2013) which she said Ms Hayes-Drury had breached.

The GDC's position is that Ms Hayes-Drury's fitness to practise is impaired by reason of her conviction, her misconduct and her adverse health. Ms Denholm submitted that Ms Hayes-

Drury's conviction in July 2018 was very serious – it involved being concerned in supplying Class A controlled drugs - Heroin and Cocaine - over a period of several weeks, for which she was sentenced to two years' imprisonment, currently suspended. Further, Ms Denholm submitted that the misconduct amounted to breaches of the GDC's Standards. This included Ms Hayes-Drury's failure to co-operate with an investigation into her fitness to practise by the GDC over a period of time as well as her failure to disclose to the GDC that she had been subject to criminal proceedings. Ms Denholm said that there was no evidence of any insight or acknowledgement of fault by Ms Hayes-Drury.

[Private material omitted]

Ms Denholm submitted that the appropriate sanction in this case is that of erasure, given the serious nature of the findings, which involved serious departures from the GDC's Standards. She addressed the Committee on why each of the lower sanctions would not be sufficient in this case. Ms Denholm invited the Committee to have regard to the fact that Ms Hayes-Drury is halfway through serving her two year suspended sentence. She referred the Committee to the principles set out in the case of Fleischmann [2005] EWHC87 Admin in which it was observed that where a practitioner has been subject to a prison sentence, he/she should not be permitted to resume practise until he/she has satisfactorily completed his/her prison sentence.

The Committee has considered the submissions made. It has accepted the advice of the Legal Adviser.

Misconduct

The Committee has first considered whether the facts found proved amount to misconduct. In so doing, it has had regard to all the evidence before it. The matters found proved are that Ms Hayes-Drury failed to co-operate with the GDC's investigation into her fitness to practise between 1 March 2018 and 25 June 2018. During that time the GDC sent correspondence to Ms Hayes-Drury on five separate occasions. She failed to respond to information requested by the GDC on those five occasions.

The Committee takes a serious view of Ms Hayes-Drury's failure to co-operate with the GDC. The GDC, as a regulator for dentists and dental care professionals, is under a legal duty to investigate information it had received relating to Ms Hayes-Drury's fitness to practise. As part of that assessment, the GDC requested information from Ms Hayes-Drury. She repeatedly failed to respond to the GDC's requests. The Committee notes from the evidence provided by the GDC that some of the correspondence sent to Ms Hayes-Drury at her registered address was returned to the GDC and that it seems likely that she may not have received the correspondence. However, the Committee considers that as a registered professional Ms Hayes-Drury had a duty to notify the GDC of any changes to her registered address. She did not do so until 23 June 2018, several months after the GDC had begun its investigation. Having notified the GDC of her address on 23 June 2018 she then failed to respond to the GDC's letter sent to her at that address on 25 June 2018. Ms Hayes-Drury's failure to respond to the GDC on five occasions over a period of nearly four months, especially once she had supplied an up to date address to the GDC, is a sufficiently departure from the Standards to amount to misconduct.

In addition, the Committee has found proved that Ms Hayes-Drury failed to inform the GDC that she had been charged with and subsequently convicted of criminal offences in July 2018, something which she was required to do in accordance with the GDC's Standards.

The Committee has found Ms Hayes-Drury's failure to inform the GDC that she had been charged with and convicted of criminal offences to be misleading.

In respect of her failure to inform the GDC that she had been charged with criminal offences, although the Committee finds this failure to be unacceptable, it has taken into account the evidence which indicates that there appeared to be virtually no time or practical opportunity to report the matter before her appearance at Bristol Magistrates' Court on 27 July 2018. The Committee considered that this failure on its own was not sufficiently serious to amount to misconduct.

However, notwithstanding the various difficulties that Ms Hayes-Drury was experiencing in and around the summer of 2018, [Private material omitted] the Committee considers that Ms Hayes-Drury had a professional duty to notify her regulator that she had been convicted of criminal offences. Further, while noting her explanation to the GDC that she did not notify the GDC because her registration was suspended and she did not think it was necessary to do so, the Committee considers that she had a professional duty to check the situation with the GDC. She did not do so at any point. The Committee has received evidence from the GDC that it only became aware of these matters when it carried out its own enquiries in October 2018, following receipt of Ms Hayes-Drury's medical references in which there was reference to criminal proceedings. This was several months after the date of the conviction, during which the GDC had no knowledge of these matters. The Committee considered that this failure was sufficiently serious to amount to misconduct.

Having regard to its findings, the Committee considers that Ms Hayes-Drury has breached the following standards set out in the GDC's 'Standards':

1.3.2 You must make sure you do not bring the profession into disrepute.

9.1 You must ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.

9.3 You must inform the GDC if you are subject to criminal proceedings or a regulatory finding is made against you anywhere in the world.

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

The Committee is satisfied that the findings against Ms Hayes-Drury are serious and amount to misconduct.

Current impairment

The Committee next considered whether Ms Hayes-Drury's fitness to practise is currently impaired by reason of her conviction, her misconduct and her adverse health.

Conviction

On 27 July 2018 GDC Ms Hayes-Drury was convicted at Bristol Magistrates' Court of being concerned in supplying Class A controlled drug - Heroin and being concerned in supplying Class A controlled drug – Cocaine. The Memorandum of Conviction records that between 1 July 2018 and 26 July 2018 Ms Hayes-Drury was concerned in the supplying a quantity of these Class A drugs to another, in contravention to Section 4(1) of the Misuse of Drugs Act 1971. It also records that Ms Hayes-Drury pleaded guilty to both offences.

On 24 August 2018 Ms Hayes-Drury was sentenced at the Crown Court at Bristol, on each count concurrent, to two years' imprisonment, suspended for two years. The Judge, in his

Sentencing Remarks, commented as follows: *“There has, I am sure, been pressure and exploitation of you, [Private material omitted] . . . you have made steps to organise yourself a number of rehabilitative steps, which is all to your credit... You are entitled to a third off the sentence you would have had if you had pleaded not guilty and I have come to the conclusion that, albeit this is a Category 3 Class A case of being concerned in the supply of both diamorphine and cocaine during a period of time in which you were driving others around to do supplies, that the 3 year sentence you would otherwise have had can be reduced to 2 years because of your guilty plea and I can suspend it for a period of 2 years.”*

The Committee has had regard to the serious nature of Ms Hayes-Drury’s conviction and the Sentencing Remarks of the Judge. The criminal conduct in this case took place during a period of about a month and involved being concerned in the supplying of controlled drugs. While noting the Judge’s Sentencing Remarks of a number of rehabilitative steps undertaken by Ms Hayes-Drury, the Committee has no information before it as to what those steps are. Further, it has no direct information from Ms Hayes-Drury in relation to the circumstances surrounding her offending behaviour, such as the *“pressure and exploitation”* referred to by the Judge in his sentencing remarks or any acceptance of any wrongdoing.

[Private material omitted]

Taking all these factors into account, the Committee considers that Ms Hayes-Drury represents a continuing risk to the public and to the reputation of the dental profession. This is particularly so, given that Ms Hayes-Drury’s conviction involves criminal conduct in relation to being concerned in supplying controlled drugs in the community. Such conduct undermines public confidence in the reputation of the dental profession, particularly where there is no evidence of any insight or remorse for the wrongdoing. Accordingly, the Committee has concluded that Ms Hayes-Drury’s fitness to practise is currently impaired by reason of her conviction.

Misconduct

The Committee has reached serious findings against Ms Hayes-Drury in relation to her failure to co-operate with an investigation into her fitness to practise conducted by the GDC over a period of some four months. This was compounded by her failure to notify the GDC that she had been subject to criminal proceedings and convicted in July 2018, which was found to be misleading. The Committee has received no information from Ms Hayes-Drury in response to these matters or whether she accepts any wrongdoing. Indeed, she has chosen not to engage in these proceedings, either in person or otherwise. In these circumstances, the Committee cannot be assured that Ms Hayes-Drury understands the importance of co-operating with the GDC and notifying her regulator when she is subject to criminal proceedings. The Committee considers that there is a real risk of repetition of the misconduct identified in this case.

Moreover, it considers that the misconduct in this case undermines public confidence in the profession. It considers that public confidence would be undermined if a finding of impairment were not made, given the findings against Ms Hayes-Drury and its concerns about her lack of insight.

Having regard to all of these matters, the Committee has determined that Ms Hayes-Drury’s fitness to practise is currently impaired by reason of her misconduct.

Health

[Private material omitted]

Taking all these factors into account, the Committee has determined that Ms Hayes-Drury's fitness to practise is currently impaired by reason of her adverse health.

Sanction

The Committee next considered what sanction, if any, to impose on Ms Hayes-Drury's registration. It recognises that the purpose of a sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest. The Committee has taken into account the GDC's "Guidance for the Practice Committee including Indicative Sanctions Guidance" (October 2016, revised May 2019). It has applied the principle of proportionality, balancing the public interest with Ms Hayes-Drury's own interests.

The Committee has had regard to the aggravating and mitigating factors in this case. The aggravating factors identified by the Committee include:

- The serious nature of the conviction in this case, compounded by her failure to disclose it to the GDC
- Her limited insight into the seriousness of her actions
- Her sparse engagement with the GDC throughout these proceedings.

The mitigating factors identified by the Committee are as follows:

- Ms Hayes-Drury has no previous fitness to practise history
- The difficult personal [Private material omitted] circumstances that she was facing in 2018.

The Committee has considered the range of sanctions available to it, starting with the least restrictive. It has determined that to conclude the case with no further action or with a reprimand would not be sufficient in the light of the serious nature of the conviction and the misconduct, as well as the risk of repetition identified. [Private material omitted]

The Committee then considered whether a period of conditional registration would be sufficient. In the Committee's judgement, conditions would not be sufficient to mark the seriousness with which it views Ms Hayes-Drury's conviction and the conduct identified in this case. [Private material omitted]

The Committee went on to consider whether to suspend Ms Hayes-Drury's registration. In so doing, it had regard to the gravity with which it views her conviction and her misconduct. The nature of Ms Hayes-Drury's conviction as well as her misleading conduct is unacceptable and is highly damaging to a registrant's fitness to practise and to public confidence in dental professionals. There is no evidence before the Committee of any remorse or insight from Ms Hayes-Drury as to her wrongdoing.

The Committee considers that an order suspending Ms Hayes-Drury's registration would be sufficient for the protection of the public and the wider public interest in relation to the health and misconduct matters identified in this case. However, it is not satisfied that this sanction would be sufficient in light of the conviction because of the serious impact this has had on maintaining public confidence and upholding the reputation of the dental professions. The Committee also considered it was necessary to declare and uphold appropriate standards of conduct.

Taking all these matters into account, notwithstanding the mitigating factors listed above, the Committee has concluded that Ms Hayes-Drury's conviction of being concerned in supplying

Class A drugs is so serious that it is fundamentally incompatible with her remaining on the Dental Care Professionals' Register. Accordingly, the Committee has determined that the appropriate and proportionate sanction in this case is that of erasure.

The Committee has taken into account the impact of its decision on Ms Hayes-Drury's own interests. However, in the light of the serious nature of the findings in this case, and the lack of insight demonstrated, the Committee considers that the public interest outweighs Ms Hayes-Drury's own interests in this matter. It therefore directs that Ms Hayes-Drury's name be erased from the Dental Care Professionals' Register.

The Committee now invites submissions as to whether Ms Hayes-Drury's registration should be suspended immediately, pending the taking effect of its substantive direction of erasure."

"Decision on immediate order

The interim order of suspension on Ms Hayes-Drury's registration is hereby revoked.

Having directed that Ms Hayes-Drury's name be erased from the Dental Care Professionals' Register, the Committee has considered whether to make an order for immediate suspension of her registration. Ms Denholm, on behalf of the General Dental Council (GDC), has submitted that such an immediate suspension order is necessary for the protection of the public and is otherwise in the public interest.

The Committee has considered the submissions made. It has accepted the advice of the Legal Adviser, during the course of which she reminded the Committee of the statutory test to be applied in the making of an immediate order.

The Committee has reached serious findings against Ms Hayes-Drury. It is satisfied that an immediate order is necessary because Ms Hayes-Drury's behaviour poses a risk and is also required to protect public confidence in the profession. Further, given the health issues identified in this case, the Committee is satisfied an immediate order is necessary in Ms Hayes-Drury's own interests. The Committee has concluded it would be inconsistent to allow Ms Hayes-Drury to practise during the intervening appeal period. The Committee therefore directs that Ms Hayes-Drury's registration be suspended forthwith in accordance with Section 36U(1) of the Dentists Act 1984 (as amended). The Committee has taken into account the principle of proportionality and is satisfied that an immediate order is necessary in view of the findings against Ms Hayes-Drury.

The effect of the foregoing direction and this order is that Ms Hayes-Drury's registration will be suspended forthwith. Unless Ms Hayes-Drury exercises her right of appeal, the substantive direction of erasure will take effect 28 days from when notice is deemed to have been served on her. Should Ms Hayes-Drury exercise her right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal proceedings.

That concludes the case for today."