

HEARING HEARD IN PUBLIC

SEYMOUR, Rebecca Louise

Registration No: 217509

PROFESSIONAL CONDUCT COMMITTEE

NOVEMBER 2019

Outcome: Erased with immediate suspension

Rebecca Louise SEYMOUR, a dental nurse, Certificate of Higher Education in Dental Nursing Teesside University 2011, was summoned to appear before the Professional Conduct Committee on 14 November 2019 for an inquiry into the following charge:

Charge (as amended)

"That being a registered dental care professional:

1. AMENDED TO: On 24 December 2004, you received a reprimand from Cleveland Police for theft, contrary to Section 1 of the Theft Act 1968.
2. On 25 July 2018 you were convicted at Teesside Magistrates Court of theft between 10 May 2017 and 24 April 2018 contrary to Section 1(1) and Section 7 of the Theft Act 1968.
3. You failed to immediately inform the General Dental Council that you had been convicted of the offence at Charge 2;
4. Your conduct in respect of Charge 3 was:
 - a) misleading;
 - b) dishonest, in that you knew that you were required to inform the General Dental Council of the conviction at Charge 4.

AND that by reason of the facts alleged, your fitness to practise is impaired by reason of your conviction and/or misconduct".

Ms Seymour was not present and was not represented. On 14 November 2019 the Chairman announced the findings of fact to the Counsel for the GDC:

"This is the Professional Conduct Committee's inquiry into the facts which form the basis of the allegation against Ms Seymour that her fitness to practise is impaired by reason of conviction and/or misconduct.

Ms Seymour was neither present nor represented in this hearing. Mr Middleton, Counsel and Case Presenter for the General Dental Council's (GDC) case, made an application under Rule 54 of the General Dental Council (Fitness to Practise) Rules 2006 ("the Rules") that the

hearing should proceed in Ms Seymour's absence. He submitted that the notification of hearing had been served on Ms Seymour in accordance with Rules 13 and 65.

Decision on service of notification of hearing

The Committee had before it a copy of the notification of hearing letter dated 16 October 2019 which was sent by special delivery to Ms Seymour's registered address as it appears on the GDC's Register. It was satisfied that the letter contained all the components necessary for a notice of hearing to be valid in accordance with Rule 13. The Committee noted the Royal Mail track and trace proof of delivery which showed that the letter was delivered on 18 October 2018 at 9:31 a.m. and signed for in the printed name "AJU".

The notice of hearing was also sent to Ms Seymour via email to an address held by the GDC. The Committee further noted that Ms Seymour responded to the GDC's email, and she provided a further address for the GDC, as she was no longer receiving correspondence sent to her registered address. The GDC sent a further copy of the notice of hearing to Ms Seymour's new address on 17 October 2019. Having heard the advice of the Legal Adviser, the Committee was satisfied that the notification of hearing had been served in accordance with Rules 13 and 65.

Decision on proceeding in the Registrant's absence

Mr Middleton then made an application under Rule 54 that the hearing should proceed in Ms Seymour's absence. The Committee bore in mind that its discretion to proceed with a hearing in these circumstances should be exercised with the utmost care and caution. It took account of Mr Middleton's submissions and it accepted the advice of the Legal Adviser.

Mr Middleton stated to the Committee that notification of the hearing had been properly served and Ms Seymour was aware that the hearing was taking place. Furthermore, Ms Seymour had emailed the GDC on 8 November 2019 to state that she will not be able to attend the hearing and that she had given permission for the hearing to proceed in her absence. Mr Middleton also referred the Committee to the case of *GMC v Adeogba*.

The Committee noted that the GDC had taken all possible steps to notify Ms Seymour of the hearing, and that they had informed her that she could also attend the hearing by telephone or video link as an alternative to attending in person. They noted the email from Ms Seymour to the GDC and concluded that it was clear that Ms Seymour had waived her right to attend the hearing, and she was satisfied for the hearing to proceed in her absence. Given that Ms Seymour has voluntarily absented herself the Committee determined that it should proceed in her absence having regard to the public interest in the expeditious disposal of cases. It concluded that no useful purpose would be served by an adjournment of this hearing.

Preliminary Matters

Rule 18 Application to Amend the Charge:

During the hearing, Mr Middleton, GDC made an application under Rule 18 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules') to amend the charge. He submitted that the words in charge 1 that state "you were cautioned by" should be replaced with "you received a reprimand from". Mr Middleton further stated that, as a result of this correction, charges 2 and 3 should be withdrawn as Ms Seymour was not under an obligation to declare her reprimand on her registration application form to the GDC in October 2011. The amendments can be made in Ms Seymour's absence as there was no injustice to her with the amendment and removal of these charges.

The Committee accepted the advice of the Legal Adviser on the Rule 18 application. It was of the view that the amendment could be made without injustice to Ms Seymour. It therefore granted the application.

Background

The case first involves a reprimand that Ms Seymour received from Cleveland Police on 24 December 2004 for the offence of theft (shoplifting). Of greater significance is that Ms Seymour was also convicted on 25 July 2018 at Teesside Magistrates' Court for stealing monies to the value of £5633.38 belonging to Genix Healthcare contrary to Section 1(1) and 7 of the Theft Act 1968. She was subsequently sentenced at Teesside Crown Court on 12 September 2018 to a Community Order for 18 months.

The GDC were initially informed of the offences, which subsequently led to Ms Seymour's conviction, after receiving a complaint from Genix Healthcare on 2 May 2018. The complaint stated that Ms Seymour, an employee of Genix Healthcare at the time, had been the subject of an internal investigation into allegations that she had been stealing from her employer. Genix Healthcare had also referred the matter to the police.

The GDC wrote to Ms Seymour on 1 August 2018 to inform her of the complaint made by Genix Healthcare and requested that she provides information regarding her employment and indemnity. No response was received and a further email was sent by the GDC to the Ms Seymour on 21 August 2019. Ms Seymour responded to state that she had not received the GDC's initial email and she provided details of her employment, which was received by the GDC on 23 August 2018. In her response Ms Seymour also stated that she was, "awaiting a crown court date". The GDC, however, received no other communication from Ms Seymour informing them of her conviction.

Witnesses

The Committee received a witness statement from Witness 1, who works for the GDC. Witness 1 stated that she had reviewed all of the documents contained within the GDC's case management system (CRM) and could find no record that Ms Seymour had informed the GDC of her conviction prior to when she submitted the details of her employment on 23 August 2018. Witness 1 also stated the requirement for all dental professionals to disclose any cautions or convictions in line with the GDC's guidance on reporting criminal convictions.

The Committee took account of all the documentary evidence presented in this hearing. It considered the submissions made by Mr Middleton for the GDC. Although Ms Seymour was not present, the Committee drew no adverse inferences from her absence.

The Committee accepted the advice of the Legal Adviser. In accordance with that advice it has considered each head and sub-head of charge separately. In relation to the allegation on dishonesty the Committee was referred to the recent Supreme Court judgment in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 where the test for dishonesty was revisited.

"The test of dishonesty is as set out by Lord Nicholls in Royal Brunei Airlines Sdn Bhd v Tan and by Lord Hoffmann in Barlow Clowes: 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 burden of proving the facts alleged is on the General Dental Council (GDC) and the standard of proof is the civil standard which is "on the balance of probabilities". Ms Seymour is not required to prove anything.

The Committee's findings in relation to each head and sub-head of charge is as follows:

1.	<p>On 24 December 2004, you received a reprimand from Cleveland Police for theft, contrary to Section 1 of the Theft Act 1968.</p> <p>Found Proved</p> <p>The Committee noted the printout from the Police National Computer database which states that Ms Seymour was given a reprimand by Cleveland Police on 24 December 2004 for the offence of theft (shoplifting). The Committee was satisfied that the information on the document was accurate and related to the registrant, as it had her full name, date of birth and details of her 2018 conviction.</p>
2.	<p>On 25 July 2018 you were convicted at Teesside Magistrates Court of theft between 10 May 2017 and 24 April 2018 contrary to Section 1 (1) and Section 7 of the Theft Act 1968.</p> <p>Found Proved</p> <p>The Committee had sight of the Certificate of Conviction signed by an officer of the court and dated 8 February 2019 which sets out Ms Seymour's conviction and sentence. The Committee found the charge proved on the basis of the Certificate of Conviction in accordance with Rule 57.</p>
3.	<p>You failed to immediately inform the General Dental Council that you had been convicted of the offence at Charge 2;</p> <p>Found Proved</p> <p>The Committee noted that there was a duty on Ms Seymour to inform the GDC of her conviction as outlined in paragraph 9.3 of the Standards for the Dental Team. Furthermore, when Ms Seymour applied for registration with the GDC in October 2011 she signed a declaration to the effect that, "she will advise the GDC of any future criminal convictions or cautions".</p> <p>The Committee also accepted the evidence as documented in an exhibit to Witness 1's statement which detailed the correspondence between the GDC and Ms Seymour. It concluded that after Ms Seymour's conviction on 25 July 2018, she was duty bound to declare this to the GDC but did not do so until she made a reference to it in a form received by the GDC on 23 August 2018.</p>
4. (a)	<p>Your conduct in respect of Charge 3 was misleading;</p> <p>Found Proved</p>

	The Committee concluded that the GDC would not have been made aware of Ms Seymour’s conviction if it had relied solely upon her to inform them. There was a duty incumbent on Ms Seymour to declare her conviction to the GDC and she failed to do this.
4. (b)	<p>Your conduct in respect of Charge 3 was dishonest, in that you knew that you were required to inform the General Dental Council of the conviction at Charge 2.</p> <p>Found Proved</p> <p>The Committee again noted that Ms Seymour had a duty to inform the GDC of her conviction and had failed to do so. Furthermore, there has been no reason given by Ms Seymour for this. It concluded that any ordinary and decent member of the public would consider Ms Seymour’s conduct to be dishonest.</p>

We move to Stage Two.”

On 15 November 2019 the Chairman announced the determination as follows:

“Ms Seymour is neither present nor represented in this hearing. At the start of the hearing the Committee made a decision on service and proceeding in the absence of Ms Seymour. The Committee decided to proceed with the hearing and a separate determination was produced which sets out the Committee’s reasons. The Committee also made a decision to amend the charge and made findings of fact, and this was also set out in the same determination.

Submissions

In accordance with Rule 20 (1) (a) Mr Middleton informed the Committee that Ms Seymour has no fitness to practise history.

Mr Middleton outlined the specific GDC standards, which in his submission, have been breached. He submitted that the facts found proved by the Committee are serious and do amount to misconduct, particularly as there have been findings of failures including dishonesty.

Mr Middleton then moved on to the issue of current impairment. He noted that findings of convictions and misconduct do not automatically result in a finding of impairment. He submitted that it was a matter for the Committee’s judgement whether Ms Seymour’s fitness to practise is currently impaired. He referred the Committee to the Fifth Shipman report by Dame Janet Smith which set out four potential grounds to consider when determining current impairment. He also referred the Committee to the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin).

Mr Middleton referred the Committee to the factors that it must consider, including any evidence of Ms Seymour’s insight and remorse. He addressed the Committee on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and to maintain public confidence in the profession and in the GDC as its regulator. He submitted that the Committee might consider that public

confidence in the profession and its regulator would be undermined if a finding of impairment was not made.

Mr Middleton next addressed the Committee on the matter of sanction. He made reference to the GDC's Guidance for The Practice Committees including Indicative Sanctions Guidance (October 2016 revised May 2019) (the GDC's sanctions guidance). He submitted that the appropriate and proportionate sanction is one of erasure.

The Committee took into account all of the evidence presented to it at the fact-finding stage. The Committee also took into account the submissions made by Mr Middleton on behalf of the General Dental Council (GDC). It accepted the advice of the Legal Adviser.

The Committee found proved that Ms Seymour:

- has a reprimand and a conviction for theft;
- failed to inform the GDC immediately of a conviction; and
- was misleading and dishonest.

MISCONDUCT

The Committee first considered whether the facts found proved against Ms Seymour amounted to misconduct in relation to heads of charge 3. In doing so it had regard to the GDC publication *Standards for the Dental Team (2013)*. It looked at the following sections in particular:

- 1.3 You must be honest and act with integrity.
- 1.3.2 You must make sure you do not bring the profession into disrepute
- 9.3.1 You must inform the GDC immediately if you are subject to criminal proceedings anywhere in the world.
- 9.1 Ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.
- 9.4 You must co-operate with any relevant formal or informal inquiry and give full and truthful information.
- 9.4.1 If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter. You should also seek advice from your indemnity provider or professional association.

Ms Seymour failed to inform GDC immediately in relation to her conviction for theft in July 2018. The Committee considered this failure to be a serious breach of the standards expected of a registered dental nurse. The GDC has published guidance, that is explicit in outlining her personal responsibility to immediately inform the GDC of any criminal proceedings against her and the Committee has found that Ms Seymour was aware of her duty and that her conduct was misleading and dishonest.

Taking the issues individually and collectively, the Committee is satisfied that fellow professionals would regard Ms Seymour's conduct as deplorable. It has determined that her conduct amounts to serious misconduct.

IMPAIRMENT

The Committee considered in turn whether Ms Seymour's fitness to practise is currently impaired by reason of her misconduct and her conviction.

Misconduct

The Committee was satisfied that Ms Seymour's misconduct, in relation to charge 3 as found in this case, would be extremely difficult to remedy by reason of its dishonest nature. The Committee has received no evidence of insight on Ms Seymour's part. There is nothing before the Committee to suggest that she has any understanding of her duty to co-operate with the GDC or of the seriousness of her dishonest failures to declare her conviction. Whilst the Committee has not drawn any adverse inference from Ms Seymour's absence from this hearing, the current factual position is that Ms Seymour's lack of engagement is continuing.

In the absence of any evidence of insight or remediation, the Committee considered that it is highly likely that Ms Seymour could repeat the misconduct it has found. In the Committee's view, her conduct demonstrates a disregard for the GDC's important role in the protection of the public. It therefore considered that a finding of impairment is necessary in the interest of public protection.

The Committee also determined that a finding of impairment was necessary in the wider public interest to maintain public confidence and uphold proper standards of conduct and behaviour. Ms Seymour has breached fundamental standards of probity and cooperation required by the GDC and has to date shown no insight into this serious matter. In the absence of any insight or explanation it follows that the Committee and public cannot rely on her integrity. The Committee considered that public confidence in the dental profession and in the GDC as regulator would be undermined if a finding of impairment in relation to misconduct were not made in the circumstances of this case.

Conviction

The Committee bore in mind Standard 9.1 which states '*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.*' It noted that the reputation of the dental profession can be damaged when a registered dental nurse is convicted of a criminal offence.

The Committee considered that Ms Seymour's conviction was for an extremely serious offence which took place whilst she was working in her professional capacity as a dental nurse and that she caused financial harm to the practice. The Committee further noted that Ms Seymour had displayed numerous instances of dishonesty as her offence took place over a period of a year and was well-planned and well-executed.

The Committee bore in mind that dental professionals occupy a position of privilege and trust in society and must make sure that their conduct, at all times, justifies both their patients' and the public's trust in the profession.

The Committee noted that this case did not involve the clinical care of patients and as such there was no criticism against Ms Seymour regarding placing patients at an unwarranted risk of clinical harm. However, the Committee considered that Ms Seymour had acted dishonestly and in doing so had breached one of the fundamental tenets of the dental profession namely to be honest and act with integrity.

The Committee found no evidence that Ms Seymour had shown any insight into her actions or provided any information or explanation. There is also no acknowledgement from Ms Seymour of the financial harm she has caused the practice. There is therefore a likelihood that her actions may be repeated.

The Committee was of the view that this case clearly engaged the wider public interest which includes maintaining public confidence in the dental profession; upholding the reputation of the dental profession; and declaring and upholding appropriate standards of conduct among dental professionals. It concluded that a reasonable and informed member of the public, fully aware that Ms Seymour was convicted of a serious offence in her professional capacity, which resulted in the imposition of a sentence of a Community Order for 18 months, would lose confidence in the profession and the dental regulator if a finding of impairment was not made in the circumstances of this case.

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

Sanction

The Committee next considered what sanction, if any, to impose on Ms Seymour's registration. It recognised that the purpose of a sanction is not to be punitive although it may have that effect. The Committee applied the principle of proportionality balancing Ms Seymour's interest with the public interest. It also took into account the *Guidance for the Practice Committees including Indicative Sanctions Guidance, October 2016, revised May 2019, ("PCC Guidance")*.

The Committee considered the mitigating and aggravating factors in this case. In mitigation the Committee noted that Ms Seymour has no previous adverse fitness to practise history.

The aggravating factors in this case include:

- Conviction involving dishonest conduct;
- Breach of trust;
- Misconduct sustained or repeated over a period of time;
- Blatant or willful disregard of the role of the GDC and the systems regulating the profession;
- Financial gain, and
- Lack of insight.

The Committee was of the view that to conclude this case with no further action would be inappropriate and would not satisfy the public interest given the serious nature of the conviction and misconduct.

The Committee then considered the available sanctions in ascending order starting with the least serious.

The Guidance states in relation to a reprimand that:

"A reprimand is the lowest sanction which can be applied and may therefore be appropriate where the misconduct or level of performance is at the lower end of the spectrum. A reprimand does not impose requirements on a registrant's practice and should therefore only be used in cases where he or she is fit to continue practising without restrictions. A reprimand might be appropriate if the circumstances do not pose a risk to patients or the public which requires rehabilitation or restriction of practice."

The Committee concluded that a conviction for theft and misconduct of this nature is conduct that cannot be adequately addressed by way of a reprimand. The public interest would not

be sufficiently protected by the imposition of such a sanction. The Committee therefore determined that a reprimand would be inappropriate and inadequate.

The Committee considered whether a conditions of practice order would be appropriate. Ms Seymour's conviction involves serious dishonest behaviour which calls into question her integrity. The Committee was of the view that conditions are neither sufficient nor appropriate to address the seriousness of the conviction and safeguard the wider public interest.

The Committee next considered whether suspension would adequately safeguard the public interest. It considered the factors for suspension in the PCC Guidance.

The Committee noted paragraphs 48 and 49 of the Guidance.

Paragraph 48 states:

"Patients, employers, colleagues and the public should be able to rely on a dental professional's integrity. Dishonesty, particularly when associated with professional practice, is highly damaging to the dental professional's fitness to practise and to public confidence in the profession."

Paragraph 49 of the Guidance states:

"Dishonesty is serious even when it does not involve direct harm to patients (for example defrauding the NHS or providing misleading information) because it can undermine public confidence in the profession. The Privy Council has emphasised that "Health Authorities must be able to place complete reliance on the integrity of practitioners and the Committee is entitled to regard conduct which undermines that confidence as calculated to reflect on the standards and reputation of the profession as a whole"."

The Committee came to the conclusion that suspension would not be sufficient in this case given the nature of the conviction and misconduct, and their seriousness. It involved repeated acts of dishonesty within her professional practice, and attracted the imposition of a Community Order for 18 months. Given that the impact would be so serious on public confidence the Committee is of the view that a suspension would not be able to maintain public confidence in the dental profession, uphold the reputation of the profession or uphold appropriate standards of conduct among dental professionals. The Committee concluded that Ms Seymour's conviction and her misconduct is fundamentally incompatible with being a dental professional, suspension was inappropriate and erasure is the only appropriate sanction.

The Committee has therefore determined, pursuant to Section 27B(6)(a) of the Dentists Act 1984, as amended, to direct that Ms Seymour's name be erased from the Register.

The Committee now invites Mr Middleton to make submissions on an immediate order.

Decision on immediate order of suspension

The Committee took account of the submissions made by Mr Middleton that an immediate order should be imposed on Ms Seymour's registration. The Committee accepted the advice of the Legal Adviser.

Having directed that Ms Seymour's name be erased from the register, the Committee had to consider whether to impose an immediate order to cover the appeal period, or until any appeal against the outcome is heard.

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

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

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

The Committee noted that there was currently an interim order of suspension on Ms Seymour's registration. However, it considered that the serious nature of the impairment found in this case justifies the imposition of an immediate order. The interim order of suspension currently on Ms Seymour's registration is revoked.

That concludes this case.