

HEARING HEARD IN PUBLIC

HASHEMI, Alireza

Registration No: 71599

PROFESSIONAL CONDUCT COMMITTEE

NOVEMBER - DECEMBER 2019

Outcome: Suspension for 3 months with immediate suspension (with a review)

Alirez, HASHEMI, a dentist, Tandläkare Karolinska 1993 is summoned to appear before the Professional Conduct Committee on 25 November 2019 for an inquiry into the following charge:

Charge

"That being registered as a dentist:

1. In an appointment on 21 October 2016 you:
 - a. touched Patient A's breast;
 - b. stroked Patient A's face and/or earlobe;
 - c. called Patient A "a beautiful girl";
 - d. called Patient A "a good girl".
2. Between September 2015 and October 2016 in appointments other than the appointment noted in Charge 1 you:
 - a. stroked Patient A's face and/or earlobe;
 - b. called Patient A "a beautiful girl";
 - c. called Patient A "a good girl".
3. Your conduct in relation to Charge 1a. and/or 1b. and/or 1c. and/or 1d. was:
 - a. sexually motivated;
 - b. unprofessional.
4. Your conduct in relation to Charge 2a. and/or 2b. and/or 2c. was:
 - a. sexually motivated;
 - b. unprofessional.
5. You did not obtain consent from Patient A to record your appointment with her on 21 October 2016.

AND that by reason of the matters alleged above, your fitness to practise is impaired by reason of misconduct."

On 2 December 2019 the Chairman made the following statement regarding the finding of facts:

“Mr Hashemi

You are present at this hearing of the Professional Conduct Committee (PCC) and are represented by Mr Stephen Brassington of Counsel, instructed by Radcliffes LeBrasseur solicitors. Mr Tom Stevens of Counsel, instructed by the GDC’s Legal Team, appears for the Council.

Preliminary matters

At the start of the hearing on 26 November 2019 Mr Stevens invited the Committee to treat the patient to whom the heads of charge relate, who is referred to for the purposes of these proceedings as Patient A, as a vulnerable witness pursuant to Rule 56 (1) (e) of the General Dental Council (Fitness to Practise) Rules 2006 (‘the Rules’). Mr Stevens specifically asked for her to give her evidence from behind a screen given that some of the allegations are of a sexual nature. Mr Brassington on your behalf made no submissions in relation to the application. Having accepted the advice of the Legal Adviser the Committee determined that it would be appropriate to treat Patient A as a vulnerable witness and for her to give her evidence from behind a screen in order to facilitate the giving of her evidence.

Admissions

Mr Brassington tendered an admission to head of charge 5 on your behalf. The admission was noted by the Committee and is referred to below.

Background to the case and summary of allegations

The allegations that you face relate to your conduct towards Patient A, who attended around 16 appointments with you in the period of September 2015 to October 2016. The appointments took place at your practice, namely Confident Smile Dental Surgery, which is situated in north London.

Patient A first attended for a consultation session with you on 11 September 2015 in relation to the provision of corrective braces to her lower arch. The treatment was then carried out at the remaining appointments, which numbered approximately 15, with the final appointment taking place on 9 May 2016. At that appointment the patient’s braces were removed and a fixed retainer was fitted at LL3 to LR6.

Patient A returned for a further appointment with you on 21 October 2016 as her retainer had debonded. The Council specifically alleges that, during that further appointment, you touched Patient A’s breast, stroked her face and/or earlobe, called her ‘a beautiful girl’ and ‘a good girl’. The Council also alleges that, at other appointments, you stroked Patient A’s face and/or earlobe, and called her ‘a beautiful girl’ and ‘a good girl’. The Council alleges that such conduct was sexually motivated and unprofessional.

It is also alleged that you did not have the consent of Patient A to record your appointment with her on 21 October 2016 using closed circuit television (CCTV) equipment.

Evidence

The Committee has been provided with documentary material in relation to the heads of charge that you face, including the witness statements and documentary exhibits provided by Patient A; by the mother and father of Patient A; by you; by the former proprietor of a café situated in premises below your practice, who is referred to for the purposes of these proceedings as Witness 1; by the dental nurse who worked with you at the appointments

that Patient A attended, including that on 21 October 2016, and who is referred to as Witness 2; by the receptionist at your practice, who is referred to as Witness 3; and by a member of staff at an electronics company who assisted you with retrieving CCTV footage of the appointment that Patient A attended with you on 21 October 2016, who is referred to as Witness 4. The Committee has also been provided with that CCTV footage.

The Committee has heard oral evidence from Patient A; from you; and from Witness 2.

Committee’s findings of fact

The Committee has taken into account all the evidence presented to it, both written and oral. It has also considered the submissions made by Mr Stevens on behalf of the GDC and those made by Mr Brassington on your behalf.

The Committee accepted the advice of the Legal Adviser. The Committee has been reminded that the burden of proof lies with the GDC, and has considered the heads of charge against the civil standard of proof, that is to say, the balance of probabilities. The Committee has considered each head of charge separately. The Committee put your good character into the balance in your favour.

The Committee found Patient A to be a helpful and credible witness. The Committee found her evidence to be honest and that she did her best to recall events which happened a number of years ago. Her oral evidence was in the main consistent with her written evidence. Her evidence was also consistent with other evidence presented to the Committee, more particularly the CCTV footage.

The Committee also found you to be an honest and credible witness. Your evidence was helpful and was decisive. You were careful to state when you were not able to recall certain matters. The Committee considers that you gave evidence in a considered way. The Committee did however note some hesitancy and discomfort when you answered certain questions that were put to you in cross-examination.

The Committee was further assisted by the evidence of Witness 2. The Committee noted that her oral evidence was consistent with her written evidence. However, the Committee was not able to place significant weight on her evidence that she was certain that she could see and hear everything that happened in the appointment that Patient A attended with you on 21 October 2016, as the CCTV footage revealed that she was engaged in other tasks around the consulting room.

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

1.	<i>In an appointment on 21 October 2016 you:</i>
1. (a)	<i>touched Patient A's breast;</i> Proved
	The Committee finds the facts alleged at head of charge 1 (a) proved. The Committee considers that the CCTV evidence presented to it demonstrates that you touched Patient A’s breast with your left hand. This CCTV evidence is consistent with the oral and written evidence of Patient A herself. Her consistent account is that you touched her breast with your hand. The Committee has heard in your oral evidence that, having reviewed the CCTV footage, you now accept that you may have touched

	<p>Patient A's left breast accidentally whilst readjusting her bib.</p> <p>The Committee therefore finds the facts alleged at head of charge 1 (a) proved.</p>
1. (b)	<p><i>stroked Patient A's face and/or earlobe;</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 1 (b) proved in respect of the stroking of Patient A's face only.</p> <p>The Committee considers that the evidence presented to it demonstrates that you stroked Patient A's face with your left hand. The CCTV footage suggests that your left hand was placed on Patient A's face and that you made a repetitive motion with your left hand which consisted of you stroking her face. The Committee also accepts the written and oral evidence of Patient A that you stroked her face, and notes that this evidence is consistent with the CCTV footage. You stated in evidence that you have no independent recollection of the appointment in question. You conceded that you may have unintentionally touched Patient A's face, but you maintain that you did not stroke her face. When considering all of the evidence in conjunction, the Committee is satisfied that the GDC has demonstrated to the standard required that you stroked Patient A's face.</p> <p>The Committee notes that you accepted in your oral evidence that you may have unintentionally touched Patient A's face, but you denied that you stroked her face, instead suggesting possible reasons for your hand action, including alleviating numbness in your fingers and removing bonding agent from the surface of the gloves that you were wearing. The Committee does not accept this evidence and instead accepts the evidence of Patient A, corroborated as it is by the CCTV footage. The Committee also notes that Witness 2 gave evidence that you did not stroke Patient A's face, but it considers, from its review of the CCTV footage, that it is entirely possible that she did not observe you stroking Patient A's face at a particular time during the appointment.</p> <p>The Committee considers that the evidence presented to it is not sufficient to demonstrate that you stroked Patient A's earlobe. The Committee heard that in her oral evidence Patient A conceded that she may have been mistaken in stating in her police witness statement and GDC witness statement that you had stroked her earlobe at the appointment on 21 October 2016, on the basis that she may have confused that appointment with other appointments at which she alleges you stroked her earlobe. The Committee also notes a discrepancy in her written evidence, in that in her GDC witness statement Patient A refers to you having stroked her earlobes, whereas in her earlier police witness statement she referred to you stroking her earlobe. These differences make it difficult for the Committee to rely on Patient A's evidence in this particular respect. The Committee considers that the CCTV footage does not demonstrate to the standard required that you stroked Patient A's earlobe. You also deny that you touched Patient A's earlobe. In the circumstances the Committee considers that the GDC has not demonstrated to the standard required that</p>

	<p>you stroked Patient A's earlobe at the appointment in question.</p> <p>For the reasons set out above the Committee finds the facts alleged at head of charge 1 (b) proved in respect of the stroking of Patient A's face only.</p>
1. (c)	<p><i>called Patient A "a beautiful girl";</i></p> <p>Not proved</p>
	<p>The Committee finds the facts alleged at head of charge 1 (c) not proved.</p> <p>The Committee has heard that you deny that you used the phrase 'a beautiful girl' in referring to Patient A at this or any other appointment. The CCTV footage does not contain any audio recording and is therefore not of assistance in respect of this head of charge. The Committee has heard evidence from Witness 2 that she was present throughout the appointment in question and did not hear you use the phrase 'a beautiful girl' in relation to Patient A. The Committee accepts your evidence that you would routinely use the similar phrase 'beautiful teeth' and notes the evidence of Patient A's father that he heard you use that phrase to describe Patient A's teeth at the end of the appointment on 21 October 2016.</p> <p>In her police witness statement Patient A stated that you referred to her as 'a beautiful girl' at the appointment in question. In her GDC witness statement Patient A stated that you used that phrase in addressing her at every appointment. In her oral evidence to this Committee Patient A stated that you used that phrase on many occasions.</p> <p>The Committee considers that the GDC has not demonstrated to the standard required that you used the phrase 'a beautiful girl' in addressing Patient A at the specific appointment on 21 October 2016. Therefore, the Committee finds the facts alleged at head of charge 1 (c) not proved.</p>
1. (d)	<p><i>called Patient A "a good girl".</i></p> <p>Proved</p>
	<p>The Committee finds the facts alleged at head of charge 1 (d) proved.</p> <p>The Committee accepts the oral and written evidence of Patient A that you referred to her as 'a good girl' at the appointment that took place on 21 October 2016. In your oral evidence to the Committee you stated that, whilst you have no specific recollection of whether you did or did not make the comment in question, you accepted that you could have made the comment in question by way of encouragement.</p> <p>The Committee therefore finds the facts alleged at head of charge 1 (d) proved.</p>
2	<p><i>Between September 2015 and October 2016 in appointments other than the appointment noted in Charge 1 you:</i></p>
2. (a)	<p><i>stroked Patient A's face and/or earlobe;</i></p> <p>Proved</p>

	<p>The Committee finds the facts alleged at head of charge 2 (a) proved.</p> <p>The Committee has heard that there were some 16 appointments that Patient A attended with you in the period of September 2015 to October 2016.</p> <p>Patient A's police witness statement states that at appointments prior to 21 October 2016 you stroked her face and earlobes. That statement is consistent with the account that Patient A gave in her GDC witness statement and in her oral evidence to the Committee. In her GDC witness statement Patient A stated that she did not complain about such behaviour as she did not want to disrupt her course of treatment with you. The Committee considers that Patient's A's evidence on this matter is clear, consistent and compelling.</p> <p>The Committee finds that this evidence is sufficient to demonstrate that you did stroke her face and earlobes at appointments prior to 21 October 2016. The Committee therefore finds the facts alleged at head of charge 2 (a) proved.</p>
<p>2. (b)</p>	<p><i>called Patient A "a beautiful girl";</i></p> <p>Not proved</p>
	<p>The Committee finds the facts alleged at head of charge 2 (b) not proved.</p> <p>In her GDC witness statement Patient A stated that you used the phrase 'a beautiful girl' in addressing her at every appointment. In her oral evidence to this Committee Patient A stated that you used that phrase on many occasions. The Committee notes that in her witness statement Patient A's mother stated that Patient A had stated to her that you had referred to Patient A as 'a pretty girl', which is in any event a different phrase.</p> <p>The Committee has heard that you deny that you used the phrase 'a beautiful girl' in referring to Patient A at this or any other appointment, and that you would not do so. Witness 2's evidence is that she was present at the appointments that Patient A attended with you and that you did not use the phrase in question in addressing Patient A. The Committee also notes that in her police witness statement Patient A stated that you had used the phrase 'a beautiful girl' to her on 21 October 2016 and had used the phrase 'a good girl' to her on previous occasions. The Committee places more weight on Patient A's near-contemporaneous police witness statement in this respect. That witness statement makes no mention of the phrase 'a beautiful girl' being used on occasions prior to 21 October 2016. The Committee considers that, if you had used the phrase 'a beautiful girl' on occasions prior to 21 October 2016, Patient A would have stated that in her police witness statement, as she had with the phrase 'a good girl'. The Committee accepts your evidence that you would routinely use the similar phrase 'beautiful teeth' and notes the evidence of Patient A's father that he heard you use that phrase to describe Patient A's teeth at the end of the appointment on 21 October 2016.</p> <p>Taking all of the evidence together, the Committee finds the facts alleged</p>

	at head of charge 2 (b) not proved.
2. (c)	<i>called Patient A "a good girl".</i> Proved
	<p>The Committee finds the facts alleged at head of charge 2 (c) proved.</p> <p>The Committee notes that in her police witness statement Patient A stated that you had used the phrase 'a good girl' on a number of appointments prior to the one which took place on 21 October 2016. This is consistent with the written evidence of Patient A's mother telling her that you had used such a phrase to her. You have also stated to the Committee that you might use such a phrase for the purposes of offering reassurance and encouragement in respect of a patient's course of treatment, and that it is possible that you may have used that phrase on occasion with Patient A.</p> <p>The Committee considers that the evidence presented to it is sufficient to demonstrate that you used the phrase 'a good girl' in respect of Patient A in the period of September 2015 to October 2016, and it therefore finds the facts alleged at this head of charge proved.</p>
3.	<i>Your conduct in relation to Charge 1a. and/or 1b. and/or 1c. and/or 1d. was:</i>
3. (a)	<i>sexually motivated;</i> Not proved in respect of heads of charge 1 (a), 1 (b) and 1 (d)
	<p>The Committee finds the facts alleged at head of charge 3 (a) not proved in respect of head of charge 1 (a). Your evidence to the Committee is that you did not consider what was beneath the bib when you repositioned it. The Committee accepts that you had a duty to move Patient A's bib when necessary to protect her clothing. The Committee also considers that there was a proper clinical justification for the moving of the bib at the moment in question. Although the Committee considers that the repositioning of the bib could have been achieved by other means, and that your touching of Patient A was not appropriate in that you touched her breast, the Committee is not satisfied that the evidence presented to it is sufficient to demonstrate that your actions were sexually motivated. The Committee accepts that you needed to keep the patient's bib still and that you may have applied pressure to ensure that it stayed in the same place. The Committee has heard from you that your actions were not sexually motivated and instead were a clumsy and instantaneous reaction carried out in order to adjust the position of the patient's bib. The Committee accepts your evidence. The Committee finds that you failed to have regard for the patient's dignity, but it considers that the evidence presented to it is not sufficiently cogent to demonstrate that your actions were sexually motivated. The Committee has also taken account of your good character in considering this head of charge. Accordingly, the Committee finds the facts alleged at head of charge 3 (a) in respect of head of charge 1 (a) not proved.</p> <p>The Committee finds the facts alleged at head of charge 3 (a) not proved in</p>

	<p>respect of head of charge 1 (b). The Committee considers that the evidence presented to it is not sufficiently cogent to demonstrate that your actions were sexually motivated. The Committee considers that your visible stroking of Patient A's face was peculiar, and that as above it finds that you failed to have regard for the patient's dignity, but it considers that the evidence presented to it is not sufficiently cogent to demonstrate that your actions were sexually motivated. The Committee has also taken account of your good character in considering this head of charge. Accordingly, the Committee finds the facts alleged at head of charge 3 (a) in respect of head of charge 1 (b) not proved.</p> <p>The Committee finds the facts alleged at head of charge 3 (a) not proved in respect of head of charge 1 (d). The Committee considers that the evidence presented to it is not sufficiently cogent to demonstrate that your actions were sexually motivated. The Committee considers that the phrase that you used, namely 'good girl', which you state you used regularly with this and other patients, was not professional. However, the Committee considers that the evidence presented to it is not sufficiently cogent to demonstrate that your comment was sexually motivated. The Committee has also taken account of your good character in considering this head of charge. Accordingly, the Committee finds the facts alleged at head of charge 3 (a) in respect of head of charge 1 (d) not proved.</p>
<p>3. (b)</p>	<p><i>unprofessional.</i></p> <p>Proved in respect of heads of charge 1 (a), 1 (b) and 1 (d)</p>
	<p>The Committee finds the facts alleged at head of charge 3 (b) proved in respect of head of charge 1 (a). The Committee considers that your touching of Patient A's breast was unnecessary, inappropriate and without clinical justification. Your justification that you needed to smooth and rearrange the bib that Patient A was wearing could have been achieved by other means. The Committee therefore finds the facts alleged at head of charge 3 (b) proved in respect of head of charge 1 (a).</p> <p>The Committee finds the facts alleged at head of charge 3 (b) proved in respect of head of charge 1 (b). The Committee considers that the stroking of Patient A's face was unnecessary and without clinical justification. The Committee accepts Patient A's evidence that she did not need reassuring and that she was not displaying signs of distress. In any event, the Committee considers that, had Patient A been distressed, it would not have been professional for you to have stroked her face. The Committee therefore finds the facts alleged at head of charge 3 (b) proved in respect of head of charge 1 (b).</p> <p>The Committee finds the facts alleged at head of charge 3 (b) proved in respect of head of charge 1 (d). The Committee considers that the phrase 'good girl' was not a suitable or professional phrase with which to address Patient A and was liable to cause offence. Your evidence was that you did not consider the effect that your use of the phrase may have on Patient A, but that you did not think that the phrase could offend. The Committee considers that the phrase that you used was not consistent with the respect</p>

	and dignity that should have been accorded to Patient A, and the Committee therefore finds the facts alleged at head of charge 3 (b) proved in relation to head of charge 1 (d).
4.	<i>Your conduct in relation to Charge 2a. and/or 2b. and/or 2c. was:</i>
4. (a)	<i>sexually motivated;</i> Not proved in respect of heads of charge 2 (a) and 2 (c)
	<p>The Committee finds the facts alleged at head of charge 4 (a) not proved in respect of head of charge 2 (a). The Committee considers that the stroking of Patient A's face and earlobe meant that you failed to have regard for the patient's dignity. However, the Committee considers that the evidence presented to it is not sufficiently cogent or detailed to demonstrate that your actions were sexually motivated. The Committee has also taken account of your good character in considering this head of charge. Accordingly, the Committee finds the facts alleged at head of charge 4 (a) in respect of head of charge 2 (a) not proved.</p> <p>The Committee finds the facts alleged at head of charge 4 (a) not proved in respect of head of charge 2 (c). The Committee considers that the phrase that you used, namely 'good girl', which you state you used regularly with this and other patients, was not professional. However, the Committee considers that the evidence presented to it is not sufficiently cogent to demonstrate that your comment was sexually motivated. The Committee has also taken account of your good character in considering this head of charge. Accordingly, the Committee finds the facts alleged at head of charge 4 (a) in respect of head of charge 2 (c) not proved.</p>
4. (b)	<i>Unprofessional</i> Proved in respect of heads of charge 2 (a) and 2 (c)
	<p>The Committee finds the facts alleged at head of charge 4 (b) proved in respect of head of charge 2 (a). The Committee considers that the stroking of Patient A's face and earlobe was unnecessary and without clinical justification. The Committee therefore finds the facts alleged at head of charge 4 (b) proved in respect of head of charge 2 (a).</p> <p>The Committee finds the facts alleged at head of charge 4 (b) proved in respect of head of charge 2 (c). The Committee considers that the phrase 'good girl' was not a suitable or professional phrase with which to address Patient A and was liable to cause offence. Your evidence was that you did not consider the effect that your use of the phrase may have on Patient A, but that you did not think that the phrase could offend. The Committee considers that the phrase that you used was not consistent with the respect and dignity that should have been accorded to Patient A, and the Committee therefore finds the facts alleged at head of charge 4 (b) proved in relation to head of charge 2 (c).</p>
5.	<i>You did not obtain consent from Patient A to record your appointment with her on 21 October 2016.</i>

	Admitted and proved
	The Committee finds the facts alleged at head of charge 5 proved on the basis of your admission.

We move to stage two.”

On 4 December 2019 the Chairman announced the determination as follows:

“Mr Hashemi

Proceedings at stage two

The Committee has considered all the evidence presented to it, both written and oral. The Committee has taken into account the submissions made by Mr Stevens on behalf of the GDC and those made by Mr Brassington on your behalf. The Committee has accepted the advice of the Legal Adviser, and has paid careful regard to the GDC’s *Guidance for the Practice Committees including Indicative Sanctions Guidance* (October 2016, revised May 2019).

Evidence submitted

The Committee has been provided with a number of documents submitted on your behalf. These documents include testimonials submitted by your patients and colleagues, and certificates in relation to continuing professional development (CPD) that you have undertaken.

Fitness to practise history

In accordance with Rule 20 (1) (a) of the General Dental Council (Fitness to Practise) Rules 2006 (‘the Rules’) Mr Stevens informed the Committee that you have no fitness to practise history with the GDC.

Misconduct

The Committee first considered whether the facts that it has found proved constitute misconduct. In considering this matter, the Committee has exercised its own independent judgement. The Committee heard that Mr Stevens on behalf of the GDC submitted that, although the seriousness of the case has diminished given that some of the facts alleged by the Council have been found not proved, the remaining facts nonetheless amount to misconduct. The Committee has also heard from Mr Brassington, who submitted that unprofessional conduct such as that identified by the Committee need not amount to misconduct, and that the effect that your conduct may have had on Patient A is not relevant to the Committee’s independent judgement on the issue of misconduct

The Committee has had regard to the following paragraphs of the GDC’s *Standards for the Dental Team* (September 2013) in place at the time of the incidents giving rise to the facts that it has found. These paragraphs state that as a dentist:

- 1.2 [You must] treat every patient with dignity and respect at all times.
- 9.1.1 You must treat all team members, other colleagues and members of the public fairly, with dignity and in line with the law.

In light of its findings of fact, the Committee has concluded that the facts that it has found proved amount to misconduct. The Committee has found that you have acted in an unprofessional manner and failed to ensure that Patient A was treated with respect and dignity at all times. The facts that the Committee found proved were repeated on a number of occasions over a protracted period of time. The Committee also considers that your admitted failure to obtain the consent of Patient A to record her appointment with you on 21 October 2016 using closed circuit television (CCTV) equipment also amounts to misconduct. The Committee considers that your conduct fell far below the standards to be reasonably expected of a registered dentist as referred to above.

Impairment

The Committee then went on to consider whether your fitness to practise is currently impaired by reason of the misconduct that it has found. In doing so, the Committee has again exercised its independent judgement. The Committee has heard that Mr Stevens on behalf of the GDC submits that your fitness to practise is currently impaired in terms of the risk that you pose and for public interest reasons. The Committee has also heard from Mr Brassington on your behalf to the effect that you have remedied your conduct and that a finding of impairment is not required in the public interest.

Throughout its deliberations, the Committee has borne in mind that its overarching objective is to protect the public, which includes the protection of patients and the wider public, the maintenance of public confidence in the profession and in the regulatory process, and the declaring and upholding of proper standards of conduct and behaviour.

The Committee considers that the misconduct that it has identified is capable of being remedied. The Committee does accept that you took prompt action to remedy your failure to obtain the consent of Patient A for the CCTV recording of your appointment with her. You have ensured that appropriate consent is obtained where necessary, and you have not installed CCTV cameras in one of your new practices. You have also demonstrated a good level of insight into such conduct.

However, in respect of your unprofessional touching of and comments towards Patient A, the Committee has not been provided with sufficient evidence to demonstrate that you have remedied your misconduct. The Committee considers in particular that your insight into your misconduct is partial and is only at a very early stage. The Committee has been provided with certificates of CPD that you have undertaken. Although this CPD is targeted and relevant, it notes that your reflections on your learning are brief and perfunctory, and in some cases there is no reflection. The CPD has also been undertaken over a short space of time and is recent, which does not suggest that you have developed a longstanding commitment to identifying and addressing the issues relevant to this case. The Committee has similarly been provided with very little in the way of meaningful reflections on the serious matters that have given rise to these proceedings. Instead, your written witness statement focussed on the upset that the case has caused you, with little said about the impact that your actions may have had on Patient A or on the wider public and its perception of the profession. You have not sufficiently acknowledged that you should not have touched Patient A in the manner that you did. The hesitancy and discomfort that you appeared to feel while giving evidence about these matters at the factual inquiry stage further suggests a lack of insight into your actions. Similarly the Committee has not been provided with evidence of any meaningful reflections on how your actions might have been perceived by Patient A, and it has not been provided with evidence as to how you would now go about ensuring that patients are treated with dignity and respect at all times.

The Committee considers that your lack of insight into, and remediation of, your misconduct means that it cannot be said that a repetition is highly unlikely. The Committee is not satisfied that there will be no repeat of your failure to treat Patient A with respect and dignity in respect of your touching of her and your comments towards her. In short, the Committee is not persuaded that you would ensure that, in the future, patients are treated with respect and dignity at all times. The Committee therefore considers that you pose a risk to the public, and that your fitness to practise is therefore currently impaired.

The Committee also considers that a finding of impairment is required to maintain public confidence in the profession and in the regulatory process and to declare and uphold proper professional standards. The Committee considers that trust and confidence in the profession would be undermined and the profession would be brought into disrepute if a finding of impairment were not made in the particular circumstances of this case, given your serious departure from proper professional standards.

Sanction

The Committee then determined what sanction, if any, would be appropriate in light of the findings of facts, misconduct and impairment that it has made. The Committee recognises that the purpose of a sanction is not to be punitive, although it may have that effect, but is instead imposed in order to protect patients and safeguard the wider public interest referred to above.

In reaching its decision the Committee has again taken into account the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated May 2019). The Committee has heard that Mr Stevens submits on behalf of the Council that the appropriate and proportionate sanction to impose is that of suspension for a short period of time, with a review to take place prior to the end of that period. The Committee has heard from Mr Brassington on your behalf that no higher sanction than that of reprimand would be warranted. The Committee has applied the principle of proportionality, balancing the public interest with your own interests.

The Committee has had regard to the mitigating and aggravating factors in this case. In terms of mitigation, the Committee notes that you have no previous regulatory findings recorded against you. The Committee also notes that they have received no evidence of other reported incidents since the matters giving rise to these proceedings took place. The Committee also notes that a considerable period of time has elapsed since those events and that there is no evidence of any financial gain. You have also taken some limited steps to address and remedy your shortcomings as noted above.

There are a number of aggravating factors in this case. Your actions caused harm to Patient A, in that she was made to feel uncomfortable and distressed by your unprofessional touching of her and your comments towards her. Your conduct was sustained and repeated over a considerable number of patient appointments spanning some 13 months. You breached Patient A's trust by recording your appointment with her on 21 October 2016 using CCTV equipment. You also lack sufficient insight into your misconduct.

The Committee has considered the range of sanctions available to it, starting with the least serious. In light of the findings made against you, the Committee has determined that it would not be appropriate to conclude this case by either taking no action or by issuing a reprimand. The Committee has found that your departures from acceptable practice are liable to be repeated because of the shortcomings in your insight and remediation. The Committee finds that no further action or a reprimand would not provide the necessary

degree of protection for the public as it would permit unrestricted practice. No action or a reprimand would also undermine public trust and confidence in the profession given the public interest considerations in this case.

The Committee next considered whether a period of conditional registration would be appropriate. The Committee has given very careful consideration to whether conditions could be imposed. The Committee is not satisfied that conditions can be properly formulated to protect the public and has not been able to identify conditions which would be workable, practicable and be capable of being monitored given the nature of its findings. The Committee has been informed that you have been subject to an interim order of conditions, with a specific requirement that you not treat female patients without a chaperone being present. The Committee considers that such a condition would not be workable, as it would require the presence of a third member of staff. The Committee considers that, for instance, your dental nurse could not perform the role of chaperone in such a way as to guard against the risks arising from your unremediated misconduct. The Committee notes that a dental nurse, who is referred to for the purposes of these proceedings as Witness 2, was present at all times at the particular appointment on 21 October 2016 which has been the focus of this case. The Committee also considers that the attitudinal issues connoted by your limited insight and remediation further suggest that conditions would not prove to be workable. In any event, the Committee considers that, even if it were able to formulate conditions, a conditional period of registration would not be sufficient to declare and uphold proper professional standards of conduct and behaviour or maintain public trust and confidence in the profession in the particular circumstances of this case.

The Committee therefore went on to consider whether to suspend your registration. Your conduct, although relating to a single patient, was repeated across a number of appointments over a period spanning some 13 months. You have shown only very limited insight into, and remediation of, your misconduct, and you continue to pose a risk to patients. The Committee considers that public confidence in the profession, and the wellbeing and interests of patients, would be insufficiently protected by a sanction less than suspension.

The Committee has also given careful consideration as to whether the higher and ultimate sanction of erasure is appropriate and proportionate, although it notes that neither party has submitted that your removal from the register is warranted. Although your insight and remediation is partial and limited, the Committee finds that there is insufficient evidence of a deep-seated harmful personal attitudinal problem which might make erasure the appropriate sanction. The Committee therefore considers that a period of suspended registration would adequately meet the public protection and public interest considerations relevant to this case, and that the ultimate sanction of erasure would be disproportionate. The Committee is aware of the devastating effect that this suspension may have on you, but its primary role to protect the public outweighs such considerations.

The Committee has determined, and hereby directs, that your registration be suspended for a period of three months, with a review hearing to take place prior to the end of that period. It considers that this period of time is necessary to mark the Committee's findings of facts, misconduct and impairment. Any lesser period of time would not be sufficient to meet the public interest and public protection considerations in this case. This period of time is also sufficient for you to continue to develop and demonstrate appropriate insight into, and proper remediation of, your misconduct.

Although the Committee in no way wishes to bind or fetter the Committee which will review this suspension, it considers that the reviewing Committee may be assisted by seeing

evidence of you having fully reflected upon and having demonstrated insight into the matters that have led to this Committee's findings of fact, misconduct, impairment and sanction. This reflective piece should include your careful and considered reflections on how you will ensure that you treat all patients with dignity and respect at all times, with specific discussion of the practical steps that you intend to put in place to meet those obligations. The reviewing Committee may be further assisted by evidence of you having undertaken further CPD on equality and diversity and communication with patients, and how you intend to embed the learning acquired through such courses into your practice.

Existing interim order

In accordance with Rule 21 (3) of the General Dental Council (Fitness to Practise) Rules 2006 and section 27B (9) of the Dentists Act 1984 (as amended) the interim order of conditions in place on your registration is hereby revoked.

Immediate order of suspension

The Committee now invites submissions as to whether your registration should be made subject to an immediate order of suspension pending the substantive direction of suspension taking effect.

Determination on immediate order

Having directed that your registration be made subject to a period of suspension, the Committee has considered whether to impose an order for your immediate suspension in accordance with Section 30 of the Dentists Act 1984 (as amended).

The Committee has heard the submissions of Mr Stevens on behalf of the GDC that an order is necessary to protect the public and is otherwise in the public interest on the basis that immediate action is required to protect the public and maintain public confidence in the profession. Mr Brassington on your behalf did not oppose an order. The Committee has accepted the advice of the Legal Adviser.

In all the circumstances, the Committee considers that an immediate order of suspension is required to protect the public and is otherwise in the public interest. The Committee has decided that, given the risks that it has identified, it would not be appropriate to permit you to practise before the substantive direction of suspension takes effect. The Committee considers that an immediate order for suspension is proportionate, and is consistent with the findings that it has set out in its determination.

The effect of the foregoing determination and this immediate order is that your registration will be suspended from the date on which notice of this decision is deemed served upon you. Unless you exercise your right of appeal, the substantive direction of suspension will be recorded in the Dentists' Register 28 days from the date of deemed service. Should you so decide to exercise your right of appeal, this immediate order of suspension will remain in place until the resolution of any appeal.

That concludes this case."