

HEARING HEARD IN PUBLIC

GORDON, Karen Michelle

Registration No: 158939

PROFESSIONAL CONDUCT COMMITTEE

OCTOBER 2018

Outcome: Erased with immediate suspension

Karen Michelle GORDON, a dental nurse, Qual- Cert in Dental Surgery Assisting NEBDN 1979 was summoned to appear before the Professional Conduct Committee on 2 October 2018 for an inquiry into the following charge:

Charge

“That, being registered as a dental care professional:

1. At all relevant times, you were employed as a dental nurse at Rawdon Lights Dental Care, 16 Harrogate Road, Rawdon, Leeds LS19 6HJ (“the Practice”).
2. On one or more occasions between 4 February 2015 and 11 May 2017, you ordered delivery to the Practice of one or more of the following antibiotics when you were not authorised to do so:
 - (a) penicillin;
 - (b) amoxicillin;
 - (c) flucloxacillin;
 - (d) metronidazole.
3. On 11 May 2017 and/or on other occasions between 4 February 2015 and 11 May 2017, you took one or more of the antibiotics listed in paragraph 2 above from the Practice when you were not authorised to do so.
4. On an unknown date in 2013 or 2014, you gave antibiotics of a type unknown from the Practice to Witness A when you were not authorised to do so.
5. On 11 May 2017, you gave antibiotics, namely a packet of amoxicillin, from the Practice to Witness B when you were not authorised to do so.
6. Your conduct in relation to paragraph 2 was:
 - (a) inappropriate;
 - (b) dishonest in that:
 - (i) you knew you were not allowed to order the antibiotics; and/or
 - (ii) you intended to take the antibiotics and/or give the antibiotics to others.
7. Your conduct in relation to paragraphs 3, 4 and/or 5 was:
 - (a) inappropriate;

- (b) dishonest in that:
 - (i) you knew the antibiotics in question did not belong to you; and/or
 - (ii) you knew you were not authorised to take the antibiotics and/or give the antibiotics to others.

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

Ms Gordon was not present and was not represented. On 4 October 2018 the Chairman announced the findings of fact to the Counsel for the GDC:

“Preliminary Matters

Proof of Service

The Committee noted Ms Gordon was not present at the hearing. Therefore, the Committee first sought to determine whether notice had been served on the Registrant in accordance with Rule 13 of the General Dental Council (GDC) (Fitness to Practise) Rules 2006 (“the Rules”).

In reaching its decision, the Committee considered the documentation before it, which included a copy of the notification of hearing sent to Ms Gordon. Notice was sent to the Registrant at her registered address by Royal Mail Special Delivery and by email on 22 August 2018. The notice outlined the date, time, location and purpose of today’s hearing. The notice also informed the Registrant of the Committee’s power to proceed with the hearing in her absence. The Committee also had sight of an update from the Royal Mail Track and Trace service, which confirms the notice was received and signed for by someone with the name “Gordon” at the Registrant’s registered address on 30 August 2018.

The Committee heard and accepted the advice of the Legal Adviser. On the basis of the information provided to it, the Committee concluded that service of the notice of today’s hearing had been properly effected in accordance with the Rules.

Proceeding in the absence of the Registrant and on the papers alone

As the Committee found that the notice had been properly served, it went on to consider whether to exercise its discretion under Rule 54 to proceed with the hearing in the Registrant’s absence. The Committee remained mindful of the need to approach this issue with the utmost care and caution.

The Committee had sight of a letter, dated 27 September 2018 sent to the GDC by the Registrant, confirming she is aware of the hearing taking place and will not be attending the hearing. The Committee received further written correspondence from Ms Gordon’s representatives, dated 01 October 2018, which indicated that she is aware of the hearing taking place and would not be attending the hearing in person, nor would she be making an application to attend the hearing by any other means.

The Committee heard and accepted the advice of the Legal Adviser. It was satisfied from the correspondence received from the Registrant and those acting on her behalf that she has voluntarily waived her right to attend and an adjournment would not secure her attendance at a later date. Accordingly, the Committee saw it appropriate in the circumstances to proceed in the absence of Ms Gordon.

Background

The allegation against Ms Gordon arises out of the ordering of the antibiotics Penicillin; Amoxicillin, Flucloxacillin and Metronidazole without authorisation on more than one occasion between February 2015 and May 2017 and on an unknown date in 2013 or 2104, whilst working at the Rawdon Lights Dental Care Practice, Leeds (“the Practice”). It is alleged by the Council that Ms Gordon took the antibiotics for personal use and distributed them to colleagues, Witness A and Witness B, which was inappropriate and dishonest.

Evidence

By way of factual evidence from the GDC, the Committee was provided with the following signed witness statements: a signed witness statement, dated 18 August 2017 from Witness C, the Registered Dentist at the Practice; a signed witness statement, dated 04 September 2017 from Witness B, a Registered Dental Nurse at the Practice, a signed witness statement, dated 06 September 2017, from Witness D, a Registered Dental Nurse at the Practice; a signed witness statement, dated 04 September 2017 from Witness GE, a part-time Receptionist at the Practice; and a signed witness statement dated 05 September 2017 from Witness A, the Senior Receptionist at the Practice.

In addition to their witness statements, the Committee heard oral evidence via telephone from Witness A, Witness D and Witness C.

The Committee also had sight of the correspondence sent to the GDC by Ms Gordon. This comprised of an email dated 19 June 2017 in which she acknowledged she had taken antibiotics for personal use only and did not distribute them to others; a letter dated 20 February 2018 in which she stated she was not currently working as a Dental Nurse and does not intend to do so in the future; and a letter dated 27 September 2018 in which she informed the Council she would not be attending the PCC hearing and outlined her current position in relation to the allegations.

Further provided to the Committee was the report of expert witness, Mr Martin Fulford, called by the GDC, dated 05 September 2017. Mr Fulford also gave oral evidence to the Committee.

The Committee’s assessment of the witnesses who gave oral evidence at the hearing

The Committee considered the oral evidence of the factual witnesses; Witness D, Witness C and Witness B. It found their evidence to be straightforward, clear and helpful in assisting the Tribunal.

The Committee considered the evidence of the factual witness, Witness A. The Committee had concerns regarding an inconsistency between the accounts given by Witness B and Witness A regarding whether or not Witness A had received antibiotics from Ms Gordon in the past.

When considering the hearsay evidence of the factual witness, Witness GE, the Committee noted that the witness was not working at the Practice at the material time and therefore found her evidence of limited assistance.

In relation to the expert witness in this case, Mr Fulford, the Committee found his evidence to be knowledgeable, credible and helpful in his assessment of the allegations.

The Committee’s Findings of Fact

The Committee took account of all the evidence presented to it, both oral and documentary. It considered the submissions made by Mr Thomas on behalf of the GDC. The Committee also heard and accepted the advice of the Legal Adviser. In accordance with that advice it has

considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and the standard of proof is the civil standard, that is, whether the alleged matters are proved on the balance of probabilities.

The Committee's findings in relation to each head of charge are as follows:

"That, being a registered dental care professional:

1.	<p><i>At all relevant times, you were employed as a dental nurse at Rawdon Lights Dental Care, 16 Harrogate Road, Rawdon, Leeds LS19 6HJ ("the Practice").</i></p> <p>Found proved.</p>
2.	<p><i>On one or more occasions between 4 February 2015 and 11 May 2017, you ordered delivery to the Practice of one or more of the following antibiotics when you were not authorised to do so:</i></p>
2 (a).	<p><i>penicillin;</i></p> <p>Found proved.</p> <p>The Committee had regard to an invoice for penicillin made to the Practice on 28 October 2015.</p> <p>The Committee accepted Witness C's statement in which he said "<i>her role was that of a general dental nurse and she was also responsible for practice management duties. In this aspect of her role she was responsible for supplies and the tallying of invoices to make sure they could be paid</i>". Witness C also told the Committee that he did not provide antibiotics directly to patients at the Practice and that there was therefore no clinical justification for the Registrant to order them.</p> <p>In spite of that, nine invoices relating to the purchase of antibiotics were found during the investigation. Six of these had Ms Gordon's name as a reference. Witness B also gave a detailed account of a conversation within which Ms Gordon told her that she ordered antibiotics for herself. The Committee also took account of Witness C's meeting with Ms Gordon on 22 May 2017 where she admitted to him that she had ordered antibiotics.</p> <p>Witness C told the Committee that the Registrant was not authorised to order any antibiotics of her own volition as it was outside the scope of her practice, nor was she asked to by the witness to do so.</p> <p>The Committee also accepted the expert evidence of Mr Fulford that the Registrant ordering antibiotics to the Practice would be a breach of the laws governing the management of prescription only medications (POMs).</p>
2 (b).	<p><i>amoxicillin;</i></p> <p>Found proved.</p> <p>The Committee had regard to invoices for amoxicillin made to the Practice on 04 February 2015, 01 April 2015, 28 May 2015, 09 June 2015, 29 June 2015, 20 June 2016, 09 August 2016, 17 January 2017 and 10 May 2017.</p> <p>The Committee accepted Witness C's statement in which he said "<i>her role was that of a general dental nurse and she was also responsible for practice management duties. In this aspect of her role she was responsible for supplies and the tallying of</i></p>

	<p><i>invoices to make sure they could be paid</i>'. Witness C also told the Committee that he did not provide antibiotics directly to patients at the Practice and that there was therefore no clinical justification for the Registrant to order them.</p> <p>In spite of that, nine invoices relating to the purchase of antibiotics were found during the investigation. Six of these had Ms Gordon's name as a reference. Witness B also gave a detailed account of a conversation within which Ms Gordon told her that she ordered antibiotics for herself. The Committee also took account of Witness C's meeting with Ms Gordon on 22 May 2017 where she admitted to him that she had ordered antibiotics.</p> <p>Witness C told the Committee that the Registrant was not authorised to order any antibiotics of her own volition as it was outside the scope of her practice, nor was she asked to by the witness to do so.</p> <p>The Committee also accepted the expert evidence of Mr Fulford that the Registrant ordering antibiotics to the Practice would be a breach of the laws governing the management of POMs.</p>
<p>2 (c).</p>	<p><i>flucloxacillin</i>;</p> <p>Found proved.</p> <p>The Committee had regard to an invoice for flucloxacillin made to the Practice on 20 June 2016.</p> <p>The Committee accepted Witness C's statement in which he said "<i>her role was that of a general dental nurse and she was also responsible for practice management duties. In this aspect of her role she was responsible for supplies and the tallying of invoices to make sure they could be paid</i>". Witness C also told the Committee that he did not provide antibiotics directly to patients at the Practice and that there was therefore no clinical justification for the Registrant to order them.</p> <p>In spite of that, nine invoices relating to the purchase of antibiotics were found during the investigation. Six of these had Ms Gordon's name as a reference. Witness B also gave a detailed account of a conversation within which Ms Gordon told her that she ordered antibiotics for herself. The Committee also took account of Witness C's meeting with Ms Gordon on 22 May 2017 where she admitted to him that she had ordered antibiotics.</p> <p>Witness C told the Committee that the Registrant was not authorised to order any antibiotics of her own volition as it was outside the scope of her practice, nor was she asked to by the witness to do so.</p> <p>The Committee also accepted the expert evidence of Mr Fulford that the Registrant ordering antibiotics to the Practice would be a breach of the laws governing the management of POMs.</p>
<p>2 (d).</p>	<p><i>metronidazole</i>.</p> <p>Found proved.</p> <p>The Committee had regard to an invoice for flucloxacillin made to the Practice on 10 May 2017.</p> <p>The Committee accepted Witness C's statement in which he said "<i>her role was that</i></p>

	<p><i>of a general dental nurse and she was also responsible for practice management duties. In this aspect of her role she was responsible for supplies and the tallying of invoices to make sure they could be paid'. Witness C also told the Committee that he did not provide antibiotics directly to patients at the Practice and that there was therefore no clinical justification for the Registrant to order them.</i></p> <p>In spite of that, nine invoices relating to the purchase of antibiotics were found during the investigation. Six of these had Ms Gordon's name as a reference. Witness B also gave a detailed account of a conversation within which Ms Gordon told her that she ordered antibiotics for herself. The Committee also took account of Witness C's meeting with Ms Gordon on 22 May 2017 where she admitted to him that she had ordered antibiotics.</p> <p>Witness C told the Committee that the Registrant was not authorised to order any antibiotics of her own volition as it was outside the scope of her practice, nor was she asked to by the witness to do so.</p> <p>The Committee also accepted the expert evidence of Mr Fulford that the Registrant ordering antibiotics to the Practice would be a breach of the laws governing the management of POMs.</p>
<p>3.</p>	<p><i>On 11 May 2017 and/or on other occasions between 4 February 2015 and 11 May 2017, you took one or more of the antibiotics listed in paragraph 2 above from the Practice when you were not authorised to do so.</i></p> <p>Found proved.</p> <p>The Committee accepted Witness B's evidence that the Registrant told her she had ordered antibiotics to the Practice for her upcoming holiday and that she saw Ms Gordon take two packets of antibiotics and put them in her bag when they were delivered to the Practice on 11 May 2017.</p> <p>The Committee also considered Witness C's evidence which stated no antibiotics were stored at the Practice, antibiotics were not issued directly to patients, and that Witness C told the Committee that the Registrant admitted to him on 22 May 2017 that she had taken antibiotics from the Practice.</p> <p>The Committee also acknowledged the email from the Registrant to the GDC dated 19 June 2017 in which she stated, "<i>I do admit that I have taken some antibiotics for personal use ONLY</i>".</p> <p>The Committee determined, on the balance of probabilities, that Ms Gordon took antibiotics from the Practice on more than one occasion when she was not authorised to do so.</p>
<p>4.</p>	<p><i>On an unknown date in 2013 or 2014, you gave antibiotics of a type unknown from the Practice to Witness A when you were not authorised to do so.</i></p> <p>Found not proved.</p> <p>The Committee considered the written statement of Witness B in which she said that Witness A told her she had never received antibiotics at the Practice from Ms Gordon. However, in her own written statement, Witness A said that she told Witness C on 22 May 2017 that she did receive antibiotics from Ms Gordon. The Committee were concerned about this inconsistency and determined that the</p>

	Council have not discharged the burden of proof in respect of this charge.
5.	<p><i>On 11 May 2017, you gave antibiotics, namely a packet of amoxicillin, from the Practice to Witness B when you were not authorised to do so.</i></p> <p>Found proved.</p> <p>Ms Gordon said in her email on 19 June 2017 that she had only taken antibiotics for her personal use and had not given them to anyone else as alleged. However, the Committee preferred the evidence of Witness B who provided a detailed account in her written statement that Ms Gordon gave her amoxicillin on 11 May 2017, which she kept in her locker, that she raised the matter in the Practice the following day and that she later handed the antibiotics to Witness C.</p> <p>The Committee was also persuaded by Witness C's account of a conversation he had with Ms Gordon on 22 May 2017 where he told her it had been escalated to him that she had ordered three packets of antibiotics to the Practice and that she had taken two packets for herself and given a packet of amoxicillin to Witness B on 11 May 2017. Witness C said he asked Ms Gordon if this was true, and she said yes. The Committee also had sight of an invoice dated 10 May 2017 referring to an order for two packets of amoxicillin and one packet of metronidazole which had Ms Gordon's name as the reference.</p>
6.	<i>Your conduct in relation to paragraph 2 was:</i>
6 (a).	<p><i>inappropriate;</i></p> <p>Found proved.</p> <p>The Committee had regard to the GDCs Scope of Practice document and noted that prescribing antibiotics is not listed in the tasks Dental Nurses are permitted to undertake.</p> <p>The Committee took account of Mr Fulford's expert evidence which stated that POMs must only be ordered either directly by or under the authorisation of an appropriate practitioner, and concluded it was inappropriate for the Registrant to order the antibiotics when she was not authorised to do so.</p> <p>Mr Fulford also told the Committee that inappropriate and indiscriminate use of antibiotics can lead to the emergence of resistant strains of bacteria which are very difficult to treat, and that this has now become a worldwide major public health problem. He also pointed out the significant risks to individuals ingesting antibiotics which can lead to allergic reactions, the most severe form of which is anaphylaxis, which can result even in death.</p> <p>The Committee therefore determined that Ms Gordon's conduct was inappropriate. She acted outside the scope of her practice by ordering antibiotics as she was not authorised to do so.</p>
6 (b).	<i>dishonest in that:</i>
6 (b)(i).	<p><i>you knew you were not allowed to order the antibiotics; and/or</i></p> <p>Found proved.</p> <p>The Committee considered that Ms Gordon knew or would have known that she was not authorised to order antibiotics, as it was both outside her scope of practice</p>

	<p>and the Practice never issued antibiotics directly to patients.</p> <p>The Committee is also satisfied Ms Gordon would have known, on the balance of probabilities, that she was not allowed to order the antibiotics for her personal use or to give to others. Having taking account of Mr Fulford's evidence, the Committee determined that the Registrant knowingly circumvented the established regulatory regime for management of POMs.</p> <p>The Committee concluded that Ms Gordon's conduct would be considered dishonest by the objective standards of ordinary, decent people.</p>
6 (b)(ii).	<p><i>you intended to take the antibiotics and/or give the antibiotics to others.</i></p> <p>Found proved.</p> <p>The Committee considered the facts found proved that Ms Gordon ordered antibiotics to the Practice despite knowing that she was not authorised to do so, and did this both for personal use and gave them to Witness B.</p> <p>The Committee accepted the evidence of Witness B that the Registrant told her that she had ordered antibiotics that she intended to take with her on holiday and, on occasion, to give to others.</p> <p>The Committee concluded that the Registrant's conduct in having the intention to take the antibiotics and/or to give them to others was dishonest by the objective standard of ordinary, decent people.</p>
7.	<p><i>Your conduct in relation to paragraphs 3, 4 and/or 5 was:</i></p>
7 (a).	<p><i>inappropriate;</i></p> <p>Found proved in relation to paragraphs 3 and 5.</p> <p>Found not proved in relation to paragraph 4.</p> <p>In relation to paragraphs 3 and 5, the Committee is satisfied that Ms Gordon acted outside the scope of her practice as a Dental Nurse by ordering the antibiotics without authorisation for her personal use, in taking them away from the Practice and in giving them to Witness B.</p> <p>The Committee accepted that Ms Gordon removed the antibiotics from the Practice without the knowledge and permission of her employer. It determined that the Registrant's actions contravened the accepted regulatory regime for the management of POMs and represented a significant risk both to the public health and to the health of individuals in receipt of the antibiotics.</p> <p>In relation to paragraph 4, this is found not proved.</p>
7 (b).	<p><i>dishonest in that:</i></p>
7 b(i).	<p><i>you knew the antibiotics in question did not belong to you; and/or</i></p> <p>Found proved in relation to paragraphs 3 and 5.</p> <p>Found not proved in relation to paragraph 4.</p> <p>In relation to paragraphs 3 and 5, the Committee finds this charge proved as Ms Gordon ordered the antibiotics to the Practice knowing that the Practice would have to pay for them and that, therefore, they did not belong to her. The Committee</p>

	<p>determined that her conduct was dishonest by the objective standard of ordinary, decent people.</p> <p>In relation to paragraph 4, this is found not proved.</p>
7 (b)(ii).	<p><i>you knew you were not authorised to take the antibiotics and/or give the antibiotics to others.</i></p> <p>Found proved in relation to paragraphs 3 and 5.</p> <p>Found not proved in relation to paragraph 4.</p> <p>In relation to paragraphs 3 and 5, the Committee considered that Ms Gordon knew, or would have known that she was not authorised to order the antibiotics and take them for her personal use or to distribute to others. The Committee determined that the Registrant knowingly circumvented the established regulatory regime for the management of POMs.</p> <p>The Committee determined that her conduct was dishonest by the objective standard of ordinary, decent people.</p> <p>In relation to paragraph 4, this is found not proved.</p>

We move to Stage Two.”

On 4 October 2018 the Chairman announced the determination as follows:

“Ms Gordon was neither present nor represented at this Professional Conduct Committee (PCC) hearing. Mr Gareth Thomas, of Counsel, represented the General Dental Council (GDC).

Having reached its findings on the facts, the Committee’s tasks at this second stage of the hearing have been to consider whether the facts found proved amount to misconduct and, if so, whether Ms Gordon’s fitness to practise is currently impaired by reason of that misconduct. The Committee noted that if it determined current impairment, it would need to go on to consider the issue of sanction.

In reaching its decisions, the Committee considered all the evidence presented to it, both at the fact-finding stage and this stage. The evidence received by the Committee at this stage was a letter from Witness C dated 07 June 2017, provided by the Council. It also received a letter from the Registrant’s representatives dated 04 October 2018 in which they confirmed the Registrant did not wish to provide any representations at this stage but drew to the Committee’s attention the Registrant’s letter dated 27 September 2018.

In addition to the evidence, the Committee took account of the submissions made by Mr Thomas on behalf of the GDC. The Committee accepted the advice of the Legal Adviser. It reminded itself that misconduct and impairment are matters for its own independent judgement. There is no burden or standard of proof at this stage of the proceedings.

GDC submissions

In his submissions, Mr Thomas told the Committee that on the basis of the matters found proved, the Registrant’s fitness to practise is impaired by reason of her misconduct. He drew the Committee to the expert evidence that, in his opinion, Ms Gordon’s actions fell far below the standards expected of her as a registered dental nurse.

With regard to impairment, Mr Thomas invited the Committee to conclude that Ms Gordon's fitness to practise is currently impaired by reason of her misconduct. He told the Committee that the misconduct in this case is serious and the Registrant has not engaged meaningfully with the regulator to provide any evidence of the misconduct being remedied. He also submitted that Ms Gordon has provided limited insight, has not offered an explanation for her course of conduct or an understanding as to the legal and public health risks implicit in her actions, or how she would avoid its repetition in the future. Regarding the public interest, Mr Thomas submitted that a conclusion of no current impairment would undermine public confidence in the dental profession and the regulator.

With regard to sanction, Mr Thomas invited the Committee to consider the importance of a finding of dishonesty and the sanctions that can it can lead to. Mr Thomas submitted on behalf of the Council that erasure is the only appropriate sanction in this case, and lesser sanctions would not be workable or appropriate given the severity of the findings and the Registrant's lack of meaningful engagement or insight.

Decision on Misconduct

The Committee took into account that a determination of misconduct in the regulatory context requires a serious falling short of the professional standards expected of a registered dental professional.

It had regard to the GDC's standards, as contained in the publication '*GDC Standards for the Dental Team (30 September 2013)*' and found the following standards are engaged in this case:

- 1.3 *Be honest and act with integrity.*
- 1.9 *Find out about laws and regulations that affect your work and follow them.*
- 7.2 *Work within your knowledge, skills, professional competence and abilities.*
- 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.*
- 9.2 *Protect patients and colleagues from risks posed by your health, conduct or performance.*

The Committee also had regard to the GDC's *Scope of Practice document (30 September 2013)* which sets out the tasks that can be performed by dental nurses.

The Committee found proved that Ms Gordon's conduct was both inappropriate and dishonest. The Committee considered the Registrant's actions in ordering and taking antibiotic medicine for herself, breaching the laws governing the prescription of POMs and in giving a colleague antibiotic medication. It determined that her conduct fell far below the standard expected of a registered dental nurse and crossed the threshold of seriousness required for a conclusion of misconduct. The Committee also accepted the expert evidence that Ms Gordon's actions fell far below the expected standards, regardless of whether the Committee found dishonesty in this case.

Accordingly, the Committee determined the facts found proved amount to misconduct.

Decision on Impairment

The Committee went on to consider whether Ms Gordon's fitness to practise is currently impaired by reason of her misconduct. It had regard to the over-arching objective of the GDC, which involves: the protection, promotion and maintenance of the health, safety and well-being of the public; the promotion and maintenance of public confidence in the dental profession; and the

promotion and maintenance of proper professional standards and conduct for the members of the dental profession.

The Committee concluded that the misconduct in this case involves dishonesty and is not easily remedied as it points to character and attitudinal issues. It considered that a high degree of insight and remediation would need to be evidenced by the Registrant in order to satisfy the Committee that the misconduct in this case has been remedied. In assessing whether the Registrant has remedied her misconduct, the Committee is of the view that there is very limited evidence of insight or remorse. The Registrant provided a limited apology but did not offer any explanation for her conduct or show an understanding of the legal implications of her actions. She did not appear to consider the risks to public health or the health of individuals. Ms Gordon, in her letter dated 27 September 2018, attributed her actions to “naïve and misconceived understanding”. The Committee considered that this showed an unsatisfactory and concerning lack of insight into both the seriousness and the potential adverse outcomes of her actions. The Committee is not satisfied that it is highly unlikely her conduct would be repeated.

The Committee has borne in mind the wider public interest, including the need to declare and uphold proper standards of conduct and behaviour, in order to maintain public confidence in the profession. The Committee determined it was irresponsible and unprofessional for Ms Gordon to have acted dishonestly and beyond her scope of her practice as a registered Dental Nurse, and the public would be deeply concerned to learn that a dental nurse had acted in this manner. The Committee therefore concluded public confidence in the profession and the regulatory process would be significantly undermined were the Committee not to make a finding of current impairment.

Having regard to all of this, the Committee concluded that Ms Gordon’s fitness to practise is currently impaired by reason of her misconduct.

Decision on Sanction

The Committee next considered what sanction, if any, to impose on Ms Gordon’s registration. It recognised 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 had regard to the GDC’s ‘*Guidance for the Practice Committees: Including Indicative Sanctions Guidance*’ (October 2016) (‘the Guidance’). The Committee applied the principle of proportionality, balancing the public interest with the Registrant’s interests. The Committee considered the range of sanctions available to it, beginning with the least serious.

The Committee took the view that Ms Gordon’s conduct represented a serious level of dishonesty in that she was dishonest over an extended period of time (between 2015 and 2017), she dishonestly ordered antibiotics without authorisation, took them away from the Practice for her own use and also gave antibiotics to another colleague.

The Committee considered the following aggravating and mitigating factors in this case:

Aggravating:

- The risk of actual harm to herself and a colleague and the wider public health risk;
- The Registrant’s abuse of a position of trust;
- Her actions involved ordering POMs and taking them away from the Practice when she was not authorised to do so;

- The misconduct showed evidence of planning and was repeated over a significant period of time (between 2015 and 2017);
- Ms Gordon undermined an established regulatory regime by ordering antibiotics when she was not authorised to do so;
- Her actions involved serious dishonesty;
- Ms Gordon has shown limited insight into the seriousness of her misconduct.

Mitigating:

- The Registrant's previous good character and no previous fitness to practise history;
- The positive testimonial provided by her former employer;
- Ms Gordon's limited apology expressed in her letter to the Committee.

The Committee determined that it would be inappropriate to conclude this case without taking any action or by the imposition of a reprimand, given the seriousness of the misconduct and the determination of current impairment. Additionally, the Committee determined that these would not mark the public interest concerns in this case.

The Committee next considered whether a period of conditional registration would be appropriate. The Committee was mindful that any conditions imposed must be proportionate, measurable and workable. The Committee considered that conditions would require meaningful engagement and cooperation by Ms Gordon in order to be workable and noted that this is absent in this case. Furthermore, there is an explicit statement from Ms Gordon that she does not intend to return to practice as a Dental Nurse. The Committee therefore concluded that conditions would not be appropriate, workable or proportionate in the circumstances of this case.

The Committee went on to consider whether a period of suspension would be proportionate and appropriate in this case. It noted paragraph 7.28 of the Guidance:

Suspension is appropriate for more serious cases and may be appropriate when all or some of the following factors are present (this list is not exhaustive):

- *there is evidence of repetition of the behaviour;*
- *the registrant has not shown insight and/or poses a significant risk of repeating the behaviour;*
- *patients' interests would be insufficiently protected by a lesser sanction;*
- *public confidence in the profession would be insufficiently protected by a lesser sanction;*
- *there is no evidence of harmful deep-seated personality or professional attitudinal problems (which might make erasure the appropriate order).*

The Committee took the view that Ms Gordon's misconduct represented a risk of serious harm to herself and to a colleague and is seriously damaging to both the reputation of the profession and public confidence. The Committee had limited evidence before it to show that Ms Gordon has sufficient insight into the seriousness of her actions and their potential consequences. Ms Gordon has not provided any assurance to this Committee that her misconduct would not be repeated. Furthermore, the Committee was concerned that there was evidence of a professional attitudinal

problem, reflected both in the Registrant's persistent lack of meaningful engagement with regulatory processes and a lack of evidence of remediation.

The Committee then considered whether the issues identified are fundamentally incompatible with Ms Gordon remaining on the Register.

The Committee considered the Guidance in relation to considering imposing a sanction of erasure. The Committee had particular regard to paragraph 7.34:

The ability to erase exists because certain behaviours are so damaging to a registrant's fitness to practise and to public confidence in the dental profession that removal of their professional status is the only appropriate outcome. Erasure is the most severe sanction that can be applied by the PCC and should be used only where there is no other means of protecting the public and/or maintaining confidence in the profession.

Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion:

- *serious departure(s) from the relevant professional standards;*
- *where serious harm to patients or other persons has occurred*
- *where a continuing risk of serious harm to patients or other persons is identified;*
- *the abuse of a position of trust;*
- *serious dishonesty, particularly where persistent or covered up;*
- *a persistent lack of insight into the seriousness of actions or their consequences.*

The Committee took into account the adverse impact that the sanction of erasure may have on Ms Gordon. However, in all the circumstances of this case, the Committee concluded that Ms Gordon's serious and repeated dishonesty over a period of time was unprofessional, irresponsible and constituted a serious departure from the relevant professional standards, which together with her lack of insight into the seriousness of her actions is fundamentally incompatible with her being a registered Dental Nurse. In reaching this decision, the Committee took into account the effect of such a sanction on Ms Gordon but noted her stated intention not to practice as a Dental Nurse again. The Committee concluded that there is no other sanction available to it that would be proportionate and appropriate to protect the public and maintain public confidence in the profession, and therefore the only proportionate sanction is that of erasure."

Decision on immediate order

"Having directed that Ms Gordon's name be erased from the Dentists' Register, the Committee has considered whether to make an order for immediate suspension of Mr Gordon's registration in accordance with Section 30(1) of the Dentists Act 1984 (as amended) (the Act).

Mr Thomas, on behalf of the GDC, submitted that such an order is necessary for the protection of the public and is otherwise in the public interest, given the gravity of the Committee's findings.

Having regard to the risks to patients identified in its decision to make a direction of erasure, the Committee is satisfied that it would be inconsistent to allow Ms Gordon the opportunity to continue to practise during the intervening appeal period. In accordance with Section 30(1) of the Act, the Committee has determined that it is necessary for the protection of the public and is otherwise in the public interest that Ms Gordon's registration be suspended forthwith.

The effect of this direction is that Ms Gordon's registration will be suspended. Unless Ms Gordon exercises her right of appeal, her name will be erased from the Dentists' Register 28 days from the date on which notice of this decision is deemed to have been served on her.

Should Ms Gordon exercise her right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

The Interim Suspension Order currently imposed on Ms Gordon's registration is hereby revoked with immediate effect.

That concludes this case."