

HEARING HEARD IN PUBLIC

MANSELL, Tracy Anne

Registration No: 156970

PROFESSIONAL CONDUCT COMMITTEE

DECEMBER 2016 – DECEMBER 2019

Most recent outcome: Suspended indefinitely *

*See page 16 for the latest determination

Tracy Anne MANSELL, a dental nurse, Verified competency in Dental Nursing was summoned to appear before the Professional Conduct Committee on 14 December 2016 for an inquiry into the following charge:

Charge

“That being a registered dental professional:

1. At all material times you were practising as a dental nurse at Chopra & Associates Dental Surgeries, 225, Faversham Road, Kennington, Ashford Kent, TN24 9AF.
2. You claimed incorrect finishing times on your timesheets on dates on or around:
 - a. 20 April 2015 to 23 April 2015.
 - b. 27 April 2015 to 30 April 2015.
3. Your actions in relation to 2a and / or 2b above were;
 - a. Misleading.
 - b. Dishonest.
4. On or around 30 April 2015 you failed to maintain adequate standards of cross infection control in that you:
 - a. Took dirty instruments from Surgery Room A, through the surgery, to the Decontamination Room, without covering them appropriately and / or at all.
 - b. Placed dirty instruments next to the autoclave.
 - c. Used a computer in the Decontamination Room without changing gloves.
 - d. Picked up paperwork in the Decontamination Room and carried it through the surgery and into Surgery Room A without changing gloves.
 - e. Did not wash your hands after touching dirty instruments.
 - f. Did not wash your hands before touching and / or packaging clean instruments.
 - g. Did not wash your hands before returning to Surgery Room A.
5. On or around 30 April 2015 you failed to use any and / or any appropriate personal protective equipment when you:

- a. Took dirty instruments from Surgery Room A, through the surgery, to the Decontamination Room without wearing any and or / any appropriate gloves.
 - b. Took clean instruments out of the autoclave without wearing any gloves.
 - c. Put dirty instruments into the autoclave without wearing any gloves.
 - d. Took clean instruments from the Decontamination Room, through the surgery, to Surgery Room A without wearing any / and or any appropriate gloves.
 - e. Packaged clean instruments without wearing any gloves.
6. In relation to Heads of Charge 4 and / or 5 above, you failed to adhere to current guidance in force at the time, namely Health Technical Memorandum 01-05: Decontamination in primary care dental practices (2013 edition) in respect of infection control and decontamination.
7. From dates on or around October 2013 to May 2015 you:
- a. Failed to have any and / or any adequate indemnity insurance.
 - b. Treated patients without any and / or any adequate indemnity insurance.
8. You failed to respond adequately and / or at all to your employer's requests for evidence of your indemnity insurance for the period between October 2013 and May 2015.

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

On 16 December 2016 the hearing was adjourned part heard.

On 2 June 2017 the Chairman made the following statement regarding the finding of facts:

“Mrs Mansell,

Background

It is alleged that whilst you were employed as a Dental Nurse at Chopra & Associates Dental Surgeries, you claimed incorrect finishing times on your timesheets, failed to maintain adequate standards of cross infection control and failed to adhere to the laws and regulations in force at the time in respect of decontamination. Further, the allegations include concerns that you failed to have indemnity insurance.

Admissions

At the outset of the hearing, you made the following admissions: charges 1, 7 (a)-(b) and 8. The Committee has found these facts proved by reason of those admissions.

The evidence

In considering the allegations against you, the Committee had regard to all the evidence before it, both documentary and oral. This includes the GDC's main prosecution bundle which contains the signed witness statement of Witness 1, with exhibits.

The Committee had regard to Witness 1's written and oral evidence regarding the factual matters in the case. It considered that an over-riding feature of her evidence was targeted and at times, unfair towards you. The Committee considered that her evidence was selective. It was provided with screenshots of the CCTV footage which in the Committee's view, did not largely assist them as they would have preferred to have seen the rolling CCTV footage of events that were outlined by Witness 1 in her

witness statement. The Committee further noted that Witness 1's evidence was not supported by other witnesses which were mentioned by her, such as other members of staff to whom she referred in the practice including the dentist. The Committee therefore determined that it did not find Witness 1 wholly credible and that the weight of her evidence was significantly reduced due to there being a lack of direct and supporting evidence.

With regard to your evidence, the Committee took into account that you were not legally represented and attended via Skype, it accepted that this would make the experience of giving evidence more stressful for you. The Committee noted that in the giving of your evidence you were unable to, at times, provide a clear answer, suggesting to the Committee that you did not have a particularly good recall of the events in question, possibly due to lapse of time. The Committee noted that most of your answers appeared to be based on what you said you would normally do in clinical practice, as opposed to what actually happened. However, in the light of the Committee's assessment of your evidence, it decided that it found you credible and preferred your evidence to Witness 1's.

The Committee received a report, dated 31 January 2016, prepared by Mr Morgenstein, the expert witness for the GDC. Mr Morganstein also gave oral evidence to the Committee. It found his report to be thorough and it noted that he was measured and reasonable when giving his opinion in person. The Committee found the evidence of Mr Morganstein helpful, however, it accepted that his opinion was limited to commenting on the commentary given by Witness 1 as he had not seen the rolling CCTV footage either. Mr Morganstein's evidence was therefore hampered by the fact that it was so heavily based upon Witness 1's commentary which the Committee did not find to be wholly credible.

The Committee received advice from the Legal Advisor in relation to dishonesty which was alleged in Charge 3(b). She advised the Committee to apply a two-stage test adapted from the case of R v Ghosh [1982] 2 All ER 689. This was as follows:

First, to decide whether, according to the ordinary standards of a reasonable and honest dental care professional, what was done was dishonest. If it was not dishonest by those standards, that is the end of the matter and the prosecution fails.

Second, if it was dishonest by those standards, whether the dental care professional herself must have realised that what she was doing was, by those standards, dishonest.

The Committee considered carefully the submissions made by both parties. It accepted the advice of the Legal Adviser. It bore in mind that the burden of proof is on the GDC and that it must decide the facts according to the civil standard of proof, namely on the balance of probabilities.

I will now announce the Committee's findings in relation to each of the charges:

1.	At all material times you were practising as a dental nurse at Chopra & Associates Dental Surgeries, 225, Faversham Road, Kennington, Ashford, Kent, TN24 9AF. Admitted and Found Proved as a matter of fact.
2.	You claimed incorrect finishing times on your timesheets on dates on or around: a. 20 April 2015 to 23 April 2015. b. 27 April 2015 to 30 April 2015.

	<p>Found Not Proved in its Entirety</p> <p>In Witness 1's written and oral testimony, she stated that she was able to identify from the CCTV footage, the exact times that you had finished working at the surgery. Witness 1 further referred to the timesheets that were completed by you and alleged that the finishing times that you had written were not in keeping with the times recorded on the CCTV stills.</p> <p>You disputed this charge and told the Committee that whilst you may have changed out of your uniform and into your own clothes, you were still performing some of your duties before you actually vacated the practice.</p> <p>The Committee considered the CCTV stills and found that it was not entirely persuaded by that evidence as it failed to provide a full and accurate picture. The Committee further noted that the GDC did not adduce any direct or further evidence to support the CCTV stills that were provided. Accordingly, the Committee concluded that on a balance of probabilities the GDC failed to prove this charge.</p>
<p>3.</p>	<p>You actions in relation to 2a and / or 2b above were;</p> <ul style="list-style-type: none"> a. Misleading. b. Dishonest. <p>Found Not Proved in its Entirety</p> <p>The Committee found charge 2 (a) and (b) not proved, accordingly this charge does not need to be considered.</p>
<p>4.</p>	<p>On or around 30 April 2015 you failed to maintain adequate standards of cross infection control in that you:</p> <ul style="list-style-type: none"> a. Took dirty instruments from Surgery Room A, through the surgery, to the Decontamination Room, without covering them appropriately and / or at all. b. Placed dirty instruments next to the autoclave. c. Used a computer in the Decontamination Room without changing gloves. d. Picked up paperwork in the Decontamination Room and carried it through the surgery and into Surgery Room A without changing gloves. e. Did not wash your hands after touching dirty instruments. f. Did not wash your hands before touching and / or packaging clean instruments. g. Did not wash your hands before returning to Surgery Room A. <p>Charge 4(a) admitted and Found proved. Charge 4(b)-(g) Not Found Proved</p> <p>During your oral evidence, you made an admission to charge 4(a). The Committee accepted your admission and had regard to the evidence before it. It noted from a particular CCTV still that you were seen wearing gloves and carrying a tray of instruments, which were uncovered into the decontamination room. The Committee concluded that it could properly be</p>

	<p>inferred that you took dirty instruments into the decontamination room without covering them. Accordingly charge 4 (a) is found proved only.</p> <p>The Committee considered charge 4 (b)-(g) and concluded that they were found not proved. The Committee had regard to Witness 1's evidence and the CCTV stills that she provided. However, it did not consider her to be a wholly credible witness and found that the CCTV stills did not provide clear and unambiguous evidence to prove the allegations. The Committee considered they served more as edited highlights and would have preferred and benefitted more from seeing a rolling footage of the events.</p>
5.	<p>On or around 30 April 2015 you failed to use any and / or any appropriate personal protective equipment when you:</p> <ol style="list-style-type: none"> a. Took dirty instruments from Surgery Room A, through the surgery, to the Decontamination Room without wearing any and or / any appropriate gloves. b. Took clean instruments out of the autoclave without wearing any gloves. c. Put dirty instruments into the autoclave without wearing any gloves. d. Took clean instruments from the Decontamination Room, through the surgery, to Surgery Room A without wearing any / and or any appropriate gloves. e. Packaged clean instruments without wearing any gloves. <p>Found Not Proved in its Entirety</p> <p>In relation to charge 5(a), the Committee had regard to Witness 1's evidence and the CCTV still. The Committee noted from the CCTV still that you were wearing gloves when you took the dirty instruments from the surgery to the decontamination room. However, it was not provided with any further evidence to determine whether the gloves were appropriate or not.</p> <p>In respect of charge 5(b)-(e), the Committee found that there appeared to be a lack of evidence to support what Witness 1 has alleged. It concluded that it could not therefore safely rely on Witness 1's evidence or the CCTV stills alone in assessing whether you failed to use any and/or any appropriate personal protective equipment, based on the same reasons in charge 4 above. Accordingly, this charge is found not proved.</p>
6.	<p>In relation to Heads of Charge 4 and / or 5 above, you failed to adhere to current guidance in force at the time, namely Health Technical Memorandum 01-05: Decontamination in primary care dental practices (2013 edition) in respect of infection control and decontamination.</p> <p>Found Proved</p> <p>The Committee found this charge proved based on its finding in charge 4(a).</p>
7.	<p>From dates on or around October 2013 to May 2015 you:</p> <ol style="list-style-type: none"> a. Failed to have any and / or any adequate indemnity

	<p>insurance.</p> <p>b. Treated patients without any and / or any adequate indemnity insurance.</p> <p>Admitted and Found Proved</p>
8.	<p>You failed to respond adequately and / or at all to your employer's requests for evidence of your indemnity insurance for the period between October 2013 and May 2015.</p> <p>Admitted and Found Proved</p>

We move to Stage 2.”

On 2 June 2017 the Chairman announced the determination as follows:

“Mrs Mansell,

Having announced its findings on all the facts, the Committee heard submissions on the matters of misconduct, impairment and sanction.

Mr Round outlined the specific issues identified in respect of the facts in accordance with the standards, which in his submission, have been breached. Mr Round submitted that the facts found proved by the Committee amount to misconduct that is serious.

Mr Round then moved on to the issue of current impairment, and addressed the Committee on the factors that it must consider, including your insight and any remediation. He submitted that there is a risk of repetition in this case. He also addressed the Committee on the need to have regard to protecting the public and the wider public interest. This includes the need to declare, maintain and uphold proper standards to maintain public confidence in the profession and in the GDC as a regulatory body. Mr Round submitted on behalf of the GDC that you are currently impaired by reason of misconduct.

Mr Round addressed the Committee on the matter of sanction and invited the Committee to consider whether this is a case where a period of suspension for 9-12 months would be proportionate. He referred the Committee to the specific matters for consideration as set out in the ‘*Guidance for the Practice Committees*’ as published by the GDC in October 2015.

Your response was minimal. You told the Committee that you did not have much to say and that the entire process over the course of 2 years has affected your health. You told the Committee that if you were to commence practising again, you would make sure that you are covered by appropriate indemnity insurance.

The Committee took into account the submissions made by you and Mr Round, as well as the documentation before it. The Committee accepted the advice of the Legal Adviser.

Decision on Misconduct:

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

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

The Committee concluded that your conduct was in breach of the *Standards for the Dental Team (2013)* as set out below.

Standards for the Dental Team (2013)

Standard 1.5 you must treat patients in a hygienic and safe environment

Standard 1.9 You must find out about laws and regulations that affect your work and follow them

Standard 1.7 You must put patients' interest before your own or those of any colleagues' business or organisation.

Standard 1.8 You must have appropriate arrangements in place for patients to seek compensation if they have suffered harm.

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

The Committee considered that the unwarranted risk of cross infection, to which patients, colleagues and you were exposed were serious. The Committee was informed that you treated a large number of patients over a protracted period of time where you should have ensured adequate standards of cross infection control were implemented by you in terms of the guidance in force at the time.

The Committee considered that at the material time it was your responsibility to ensure that you were covered by an appropriate indemnity policy. Witness 1 told the Committee that she had circulated an email to all members of staff including you to ensure that all staff were covered by professional indemnity policy. You admitted to not having any indemnity insurance in place.

The Committee was of the view that the breaches in this case were serious, fundamental to the practice of a dental professional and capable of undermining public confidence in the profession.

The Committee considered that whilst there is nothing to suggest that there has been any patient harm caused, your actions had the potential to place patients at unwarranted risk, whether physical or financial harm. It also concluded that your conduct had the effect of bringing the profession into disrepute and that you breached fundamental tenets of the profession.

The Committee considered that the facts found proved demonstrated conduct that fell far below that required of a registered dental care professional. The breaches of standards were serious. Accordingly, the Committee concluded that the facts found proved amounted to misconduct.

Decision on Impairment

The Committee went on to consider whether your fitness to practise is currently impaired by reason of your misconduct. In doing so, it exercised its own independent judgement. Throughout its deliberations, it bore in mind that its primary duty is to address the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour.

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.

By their nature, failings in cross infection control are, of themselves, capable of remediation. However, the Committee has no evidence before it to demonstrate that you have taken any steps to address the failings identified, nor was there any recognition from you to demonstrate that your conduct was inappropriate.

An adequate professional indemnity policy is a legal requirement by which patients who are exposed to harm, as a result of care from a dental professional, can obtain an appropriate level of compensation. The lack of such a policy is capable of resulting in a serious detriment to any patient who suffers such harm. The Committee considered that practising without adequate indemnity insurance is a serious matter. You told the Committee that if you did decide to practise again, that you would ensure that you were properly indemnified.

The Committee considered that in the absence of evidence of any remediation and full insight there remains a risk of repetition.

The Committee bore in mind that its primary function is not only to protect patients but also to take account of the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator, and upholding proper standards and behaviour. The misconduct identified in this case was, in the view of the Committee, so serious that the need to uphold proper professional standards and public confidence in the profession would be significantly undermined if a finding of impairment were not made in the circumstances.

Having regard to all of these matters the Committee concluded that your fitness to practise is currently impaired by reason of misconduct.

Decision on sanction

The Committee next considered what sanction, if any, to impose on your registration. It recognised that the purpose of a sanction is not to be punitive, although it may have that effect, but rather to protect patients and the wider public interest.

The Committee took into account the GDC's '*Guidance for Professional Committees*'. The Committee applied the principle of proportionality, balancing the public interest with your own interests. The Committee considered the range of sanctions starting from the least serious.

In the light of the findings against you, the Committee determined that it would be inappropriate to conclude this case without taking any action or with a reprimand, as neither would address the lack of insight and remediation. The Committee concluded that there is evidence that you may pose a risk to the wider public given that the public is entitled to believe that any registered professional is practising safely in accordance with cross infection control policies and that they are appropriately indemnified.

The Committee considered that to take no action or to impose a reprimand would not reassure the public about the standards to be expected of a registered dental care professional.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee was mindful that any conditions imposed must be proportionate, measurable, appropriate and workable. The Committee determined in this case that there are no conditions that could deal with the finding of misconduct.

The Committee then considered whether a suspension order would be proportionate and appropriate in this case. The Committee was in no doubt that your conduct was unacceptable and is damaging to the reputation of the profession and to the public's confidence in dental care professionals. With regard to the lack of indemnity insurance the Committee considered that you continued to practice with the full knowledge of not having indemnity insurance at the time.

The Committee considered the mitigating circumstances in this case, including that you were previously a person of good character, made some early admissions to the

charges and that you showed some remorse. The Committee had regard to the fact that the risk highlighted in this case was potential rather than actual.

Taking into account all of the above, the Committee determined that the appropriate and proportionate sanction in this case is that of suspension for a period of six months. The Committee considered it necessary in the circumstances of this case to require a review prior to the expiry of the order. A reviewing Committee may be assisted by evidence that you are able to obtain adequate indemnity insurance. Further, that Committee may be helped by evidence of steps you have taken to demonstrate insight into the impact of your actions on patients and the profession. It may also be assisted by evidence of reflection to show that you have improved your understanding of appropriate cross infection control guidance.

The Committee considered that this is proportionate to address the gravity of the matters identified in this case and to mark the importance of maintaining the standards expected of a registered dental care professional. The Committee concluded that, in all the circumstances of this case, erasure would be disproportionate.

The Committee is aware that the effect of this order is that you will be prevented from working as a registered dental care professional. This could result in financial hardship. However, in applying the principle of proportionality, the Committee determined that your interests in this regard were outweighed by that of the wider public interest.

Unless you exercise your right of appeal, your name will be substantively suspended from the register, for a period of six months, 28 days from the date when notice of this determination is deemed to have been served upon you.

The Committee now invites submissions from Mr Round as to whether your registration should be suspended immediately pending its substantive determination taking effect.

Decision on immediate order of suspension

The Committee took account of the submissions made by Mr Round that an immediate order should be imposed on your registration. The Committee accepted the advice of the Legal Adviser.

Having directed that your name be suspended 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 suspension, including your lack of insight and the identified risk of repetition, to direct otherwise would be inappropriate. 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, you have not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of suspension. If you do lodge an appeal, this immediate order will continue in effect until that appeal is determined.

The Committee noted that there was currently an interim order of suspension on your 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 your registration is revoked pursuant to Section 36U of the Dentists Act 1984, as amended.

Unless you exercise your right of appeal, your name will be suspended from the register 28 days from the date upon which this decision is deemed served on you.

That concludes this case.”

At a review hearing on 15 December 2017 the Chairman announced the determination as follows:

“Ms Mansell is neither present nor represented at this resumed hearing of the Professional Conduct Committee (PCC). Mr McNeilly is the Case Presenter for the General Dental Council (GDC).

At the outset, Mr McNeilly made an application under Rule 54 of the GDC (Fitness to Practise) Rules 2006 Order of Council (the Rules), to proceed with the hearing notwithstanding Ms Mansell’s absence. The Committee took account of Mr McNeilly’s submissions in respect of the application and had regard to the supporting documentation provided. It accepted the advice of the Legal Adviser.

Decision on service of the Notification of Hearing

The Committee considered whether notice of the hearing had been served on Ms Mansell in accordance with Rules 28 and 65 of the Rules. It received a bundle of documents containing a copy of the Notification of Hearing letter, dated 17 November 2017, and a Royal Mail ‘Track and Trace’ receipt confirming that the letter was sent to Ms Mansell’s registered address by Special Delivery was signed for in the name of ‘MANSELL’. A copy of the letter was also sent to her by email.

The Committee was satisfied that the letter contained proper notification of today’s review hearing, including its time, date and venue, as well as notification that the Committee had the power to proceed with the hearing in Ms Mansell’s absence. On the basis of the information provided, the Committee was satisfied that notice of the hearing had been served on Ms Mansell in accordance with the Rules.

Decision on proceeding with the hearing in the absence of Ms Mansell

The Committee next considered whether to exercise its discretion under Rule 54 of the Rules to proceed with the hearing in the absence of Ms Mansell. It approached this issue with the utmost care and caution. The Committee took into account the factors to be considered in reaching its decision as set out in the case of *R v Jones [2003] 1 AC 1HL*. It remained mindful of the need to be fair to both Ms Mansell and the GDC, and it had regard to the public interest in the expeditious review of the suspension order in place on Ms Mansell’s registration. The Committee took into account that the current order is due to expire on 4 January 2018.

The Committee noted from the Notification of Hearing letter of 17 November 2017 that Ms Mansell was asked to confirm by 27 November 2017, whether she would be attending today’s hearing and/or whether she would be represented. On more than one occasion, the GDC sent out letters to Ms Mansell reminding her of the suspension order made by the initial PCC. Ms Mansell contacted the GDC via telephone on 11 September and subsequently emailed the GDC stating: *“Please take this email as notice i will not be attending nor do I wish every to practice as a nurse again after my treatment over the last 3 years , which i feel I have hang out to dry , by all involved Please take notice of this email”*

The GDC further sent emails on 12 and 14 December 2017 asking her to confirm whether she will be attending today's hearing and whether she would be legally represented. Ms Mansell was also informed that if she was unable to attend in person, she could request to attend remotely by Skype or by telephone.

The information before the Committee indicates that there has been no response from Ms Mansell. She has not provided a reason for her non-attendance, either in person or remotely, nor has she requested an adjournment. The Committee therefore concluded that Ms Mansell had voluntarily absented herself from today's proceedings. It decided that an adjournment was unlikely to secure her attendance on a future date.

In all the circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in the absence of Ms Mansell and/or any representative on her behalf.

Background to Ms Mansell's case

Ms Mansell's case was first considered by the PCC at a hearing in June 2017. That Committee considered and found proved allegations in relation to Ms Mansell not adhering to appropriate cross infection control procedures. Findings were also made in relation to Ms Mansell's failure to hold indemnity insurance and failing to respond to her employer's requests in relation to it.

That Committee found that the facts found proved against Ms Mansell amounted to misconduct and it determined that her fitness to practise was impaired by reason of that misconduct. In its determination on impairment, that Committee stated as follows:

"By their nature, failings in cross infection control are, of themselves, capable of remediation. However, the Committee has no evidence before it to demonstrate that she had taken any steps to address the failings identified, nor was there any recognition from her to demonstrate that her conduct was inappropriate.

An adequate professional indemnity policy is a legal requirement by which patients who are exposed to harm, as a result of care from a dental professional, can obtain an appropriate level of compensation. The lack of such a policy is capable of resulting in a serious detriment to any patient who suffers such harm. The Committee considered that practising without adequate indemnity insurance is a serious matter. You told the Committee that if you did decide to practise again, that you would ensure that you were properly indemnified."

That Committee also took into account the wider public interest and it concluded that to make a finding of no current impairment would send a message to the public and the profession that Ms Mansell's conduct was acceptable.

That Committee determined to suspend Ms Mansell's registration for a period of 6 months and imposed an immediate order of suspension. It directed a review of her case prior to the end of the 6 month period. In doing so, it stated that:

"A reviewing Committee may be assisted by evidence that you are able to obtain adequate indemnity insurance. Further, that Committee may be helped by evidence of steps you have taken to demonstrate insight into the impact of your actions on patients and the profession. It may also be assisted by evidence of reflection to show that you have improved your understanding of appropriate cross infection control guidance."

Today's review

In comprehensively reviewing Ms Mansell's case today, the Committee considered all the evidence before it. It took account of the submissions made by Mr McNeilly on

behalf of the GDC and accepted the advice of the Legal Adviser. No material or written submissions were received from, or on behalf of, Ms Mansell.

Mr McNeilly told the Committee that there is no evidence that Ms Mansell has practised dentistry in the UK in contravention of her current suspension order. He stated, however, that to date, there is no evidence that Ms Mansell has remedied any of the failings identified by the previous Committee; in fact, there has been a regression in her remediation in terms of her lack of engagement with her regulator. Mr McNeilly said that the communication has been one sided in that Ms Mansell has not engaged all with the GDC, save for her email of 11 September 2017, in which she stated that she was no longer wishes to practise and wants to be removed from the register.

In relation to the matters before the Committee today Mr McNeilly's submission was that the position is no different than it was at the time of Ms Mansell's substantive PCC hearing in June 2017. He stated that in the circumstances, the GDC had no option but to invite the Committee to find that Ms Mansell's fitness to practise remains impaired. Mr McNeilly further invited the Committee, if it found current impairment, to extend the period of Ms Mansell's suspension order by a period of 12 months.

Decision on impairment

In reaching its decision on whether Ms Mansell's fitness to practise remains impaired, the Committee exercised its own judgement. 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.

Ms Mansell's clinical failings, as found by the initial PCC, were serious, concerned basic and fundamental areas of dental nursing and were capable of undermining public confidence in the dental profession.

This Committee accepted the submission of Mr McNeilly and the advice of the Legal Adviser regarding the case of *Bamgbelu v GDC [2013] EWHC 1169 (Admin)*. It noted that there is a persuasive burden on Ms Mansell to demonstrate that she has addressed her past impairment.

The information before this reviewing Committee today indicates that Ms Mansell has failed to engage meaningfully in any way with the GDC. Consequently, it has received no evidence to indicate that she has made any efforts to fulfil the recommendations made by the Committee in June 2017.

In this Committee's view, Ms Mansell's ongoing failure to engage effectively with the Council demonstrated that she appears not to have developed any insight into the concerns identified at the hearing in June 2017. Taking into account this lack of insight and the absence of any evidence of remediation to show that Ms Mansell has addressed the findings of the initial Committee, this Committee concluded that the serious clinical and attitudinal concerns must remain.

Having taken all the information before it into account, the Committee continues to be concerned about the serious risk of repetition.

In all the circumstances, the Committee decided that a finding of current impairment is necessary for the protection of the public. The Committee also decided that public confidence in the dental profession would be undermined if such a finding were not made in the circumstances of this case.

Accordingly, the Committee has determined that Ms Mansell's fitness to practise remains impaired by reason of her misconduct.

Decision on Sanction

The Committee considered what action, if any, to take in respect of Ms Mansell's registration. It had regard to its powers under Section 36Q of the *Dentists Act 1984 (as amended)*, which sets out the options available to it. The Committee took into account that the purpose of any 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 '*Guidance for the Practice Committees including Indicative Sanctions Guidance (effective from October 2016)*'. It applied the principle of proportionality, balancing the public interest with Ms Mansell's own interests. It considered the available sanctions in ascending order.

In the light of the Committee's outstanding concerns about public safety, it determined that it would be inappropriate to terminate the current suspension order or to allow it to lapse. It decided that some ongoing restriction of Ms Mansell's registration is necessary to safeguard the public and to uphold the wider public interest and confidence in the profession.

The Committee next considered whether to terminate Ms Mansell's suspension order and replace it with an order of conditions. However, the Committee concluded that conditional registration would not be suitable in this case, where the registrant has failed to engage meaningfully in the regulatory process in any way. It also took into account the serious nature of Ms Mansell's clinical failings and her lack of indemnity insurance, which have yet to be addressed. It therefore determined that the imposition of conditions would not be appropriate, workable or proportionate.

In all the circumstances, the Committee determined to extend the period of the suspension order on Ms Mansell's registration. This Committee has found that she has failed to engage meaningfully with the GDC and the remedial process. As a result, the failings identified in her practice, the issues regarding her lack of indemnity insurance and her attitude towards her regulatory body remain a real concern. In view of this, the Committee concluded that members of the public and the wider public interest would not be sufficiently protected by a lesser sanction than suspension.

The Committee has decided to extend the suspension order by a period of 12 months. In deciding on this period, the Committee took into account the absence of any evidence of progress made by Ms Mansell since the findings made against her in June 2017. It considered that a significant amount of engagement and remediation will now be required on her part to address all the identified failings. The Committee concluded that a 12 month suspension is required to mark the seriousness of her failings and to ensure that members of the public and the wider public interest remain protected adequately. It would also afford her an opportunity to develop remediation.

A Committee will review Ms Mansell's case at a resumed hearing to be held shortly before the end of the extended period of suspension. That Committee will consider whether it should take any further action in relation to her registration. She will be informed of the date and time of that resumed hearing.

The reviewing Committee would be assisted by:

- demonstration from Ms Mansell that she has engaged with the GDC as her regulator;
- evidence that Ms Mansell has developed insight into the concerns identified by the Committee; and

- evidence that Ms Mansell has taken steps to remedy her failings.

Unless Ms Mansell exercises her right of appeal, her current suspension order will be extended by a period of 12 months, 28 days from the date when notice of this Committee's direction is deemed to have been served upon her. In the event that Ms Mansell does lodge an appeal against this decision, the current suspension order will continue to remain in force until the appeal has been decided.

That concludes this determination.”

At a review hearing on 29 November 2018, the Chair announced the determination as follows:

“Neither party is present at this resumed hearing of the Professional Conduct Committee (PCC). The GDC has invited the Committee to conduct the hearing on the papers in the absence of both parties.

Purpose of hearing

The purpose of today's hearing is to review a substantive direction of suspension first imposed on Mrs Mansell's registration by the PCC on 2 June 2017 for a period of six months. The hearing is being held in accordance with section 36Q (1) of the Dentists Act 1984 (as amended) ('the Act'). The suspension was reviewed by the PCC on 15 December 2017 and was extended for a further period of 12 months.

Service

The Committee first considered whether service has been properly effected in accordance with Rules 28 and 65 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules').

In its written representations to the Committee the GDC has submitted that Mrs Mansell has been properly notified of today's hearing. The Committee noted that a notice of hearing was sent to Mrs Mansell's registered address on 19 October 2018 using the Royal Mail's Special Delivery postal service. That notice set out the date, time and venue of the hearing, as well as confirming the nature of the hearing and the powers available to the Committee. The Royal Mail's Track and Trace service records that an attempt was made to deliver the notice on the morning of the following day, namely 20 October 2018, but that the recipient refused delivery. A copy of the notice was also sent by email to Mrs Mansell on 19 October 2018.

The Committee accepted the advice provided by the Legal Adviser. Having regard to the GDC's submissions and the evidence placed before it the Committee was satisfied that service has been properly effected in accordance with the Rules.

Proceeding in absence

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mrs Mansell in accordance with Rule 54 of the Rules. It was mindful that the discretion to proceed in the absence of a registrant must be exercised with the utmost care and caution. The Committee notes that the GDC has invited the Committee to proceed in the absence of Mrs Mansell.

The Committee accepted the advice of the Legal Adviser. It determined that it would be appropriate and fair to proceed with the hearing in Mrs Mansell's absence. The Committee considers that there is a clear public interest in ensuring that the suspension order is reviewed before its expiry, and that the GDC has made all reasonable efforts to inform Mrs Mansell of today's hearing. The Committee considers that an adjournment would serve no useful purpose, as it would be unlikely to secure

her attendance in circumstances where Mrs Mansell has not engaged with the Council for a considerable period of time. Mrs Mansell appears to have voluntarily absented herself. The Committee therefore determined to proceed in the absence of Mrs Mansell.

Existing order

In June 2017 the PCC held a hearing to consider allegations about Mrs Mansell's conduct. The allegations which the Committee found proved related to failures in maintaining adequate standards of cross-infection control, practising whilst not having adequate indemnity insurance, and failing to respond to her employer's requests for proof of the same.

On 2 June 2017 the Committee determined that the facts that it had found proved amounted to misconduct and that Mrs Mansell's fitness to practise was impaired as a result. The Committee determined that Mrs Mansell's name should be suspended from the register for a period of six months, with a review hearing to take place prior to the expiry of the suspension.

On 15 December 2017 the PCC held a review of the suspension order. Mrs Mansell was not present, and provided no information about any steps that she may have taken to reflect upon and remedy the misconduct that had previously been identified. That Committee noted that the only communication that Mrs Mansell had had with the Council since the imposition of the suspension was an email in which she stated that she no longer wished to practise. The Committee determined that in the circumstances Mrs Mansell's fitness to practise continued to be impaired, and that her suspension should be extended for a further period of 12 months. That Committee directed that the extended period of suspension should be reviewed before its end, and that today's reviewing Committee may be assisted by evidence of Mrs Mansell's renewed engagement, the development of insight, and evidence of remedial steps.

Committee's determination

The Committee has carefully considered all the information presented to it, including the written documentation and submissions provided by the GDC. The Committee notes that the GDC submits that Mrs Mansell's fitness to practise remains impaired, and that it may be appropriate to extend her suspended registration for a further period of 12 months. In its deliberations the Committee has had regard to the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016). The Committee has accepted the advice of the Legal Adviser.

Impairment

The Committee has determined that Mrs Mansell's fitness to practise remains impaired. It notes that Mrs Mansell has not provided any information whatsoever about any steps that she may have taken to remedy the misconduct that was previously found, or to develop and demonstrate insight into her actions. There is no information available to suggest that she has reflected upon and remedied any of the issues which led to the previous Committee's findings of facts, misconduct and impairment. There has been no material change in circumstances and Mrs Mansell has not engaged in any way with these proceedings since her suspension was extended 12 months ago. The Committee has therefore concluded that the same risks to public safety and to public trust and confidence in the profession persist, and that accordingly Mrs Mansell's fitness to practise remains impaired.

Sanction

The Committee considers that it would not be appropriate to terminate the suspension given the continued risks that arise from Mrs Mansell's continued impairment.

The Committee next considered whether it could formulate conditions which would be workable and which would address the risks that persist. The Committee concluded that it could not formulate any conditions which would be practicable or workable, given that Mrs Mansell has not engaged with these proceedings for a considerable period of time and indeed appears to have disengaged from the regulatory process. The Committee also considers that conditions would not adequately address the risks that persist.

The Committee then went on to consider whether it would be appropriate to extend the current period of suspension. It has determined that suspension remains the proportionate and appropriate sanction in the circumstances. There remains a risk of harm to the public and to public trust and confidence in the profession arising from Mrs Mansell's continued impairment. A further period of suspension is required to continue to protect the public, to declare and uphold proper standards of conduct and behaviour and to maintain trust and confidence in the profession.

In view of the risks to patients and to the wider public interest, as well as the absence of any evidence of remediation, the Committee hereby directs that Mrs Mansell's registration be suspended for a further period of 12 months. This period of time is proportionate to the ongoing risks that have been identified. Such a period of time will also allow Mrs Mansell to demonstrate insight into and remediation of the matters that have precipitated these proceedings, should she be minded to do so. The Committee has further determined that the suspension should again be reviewed prior to its expiry.

Recommendations

Although it is mindful that the task of reviewing this extended suspension is entirely one for the next PCC, the Committee considers that the next reviewing Committee may find it helpful to have sight of the following:

- Evidence of Mrs Mansell's engagement with the regulator and these proceedings
- Evidence of insight into the misconduct that has been identified
- Evidence of steps taken to remedy her misconduct

Right of appeal

Mrs Mansell will have 28 days from the date on which notice of this decision is deemed to have been served on her to appeal against this decision. Should she decide to appeal, the extant suspension will remain in force until the resolution of any such appeal. Should she decide not to appeal, the current suspension will be extended for a period of 12 months from the date on which it would otherwise expire, namely 4 January 2019.

That concludes this case for today."

At a review hearing on 5 December 2019 the Chairman announced the determination as follows:

"Service of Notice of Hearing

This is a Professional Conduct Committee (PCC) review hearing of Mrs Mansell's case, which is being held in accordance with Section 36Q of the Dentists Act 1984 (as amended) (the Act). Mrs Mansell is neither present nor represented at the hearing. Mr Ahmed appears on behalf of the General Dental Council (GDC). In the absence of Mrs Mansell, the Committee first considered whether the Notification of Hearing had been served on her in accordance with Rules 28 and 65 of the General Dental Council

(Fitness to Practise) Rules 2006 ('the Rules'). In so doing, it has had regard to the submissions made by Mr Ahmed. It has accepted the advice of the Legal Adviser.

The Committee has received a bundle of documents which contains a copy of the Notice of Hearing dated 31 October 2019, addressed to Mrs Mansell at her registered address, and with a note that the letter is being sent by special delivery and by email. The Committee is satisfied that the Notice of Hearing contains the prescribed information set out in Rule 28, namely the date, time and venue of the hearing. It is further satisfied that the Notice of Hearing was sent to Mrs Mansell more than 28 days in advance of today's hearing, in accordance with Rule 28. The Royal Mail track and trace receipt confirms that the item was delivered to Mrs Mansell's registered address and was signed for in the name of 'Mansell' on 1 November 2019.

The Committee notes that on 31 October 2019 the GDC sent an email to Mrs Mansell, enclosing a copy of the Notice of Hearing dated 31 October 2019 as well as a copy of the determination dated 29 November 2019.

The Committee has accepted the Legal Adviser's advice. Having regard to all the documents before it, the Committee is satisfied that the requirements of service have been met in accordance with the Rules.

Proceeding in the absence of the Registrant

The Committee went on to consider whether to proceed in the absence of Mrs Mansell, in accordance with Rule 54. Mr Ahmed invited the Committee to proceed. He referred to the steps taken by the GDC to notify Mrs Mansell of today's hearing. No response has been received from her. He referred to Mrs Mansell's failure to engage with the GDC, as well as her absence at some of the previous hearings. Mr Ahmed submitted that there is a public interest in proceeding with the hearing today, given that the current order is due to expire on 4 January 2020.

The Committee has considered the submissions made on behalf of the GDC. It has accepted the advice of the Legal Adviser. The Committee notes the attempts made by the GDC to secure Mrs Mansell's engagement in these proceedings. This includes sending Mrs Mansell the Notice of Hearing and attempting to contact her by telephone. The Committee's attention has been drawn to a copy of an attendance note dated 4 December 2019, which states that the GDC called Mrs Mansell's mobile telephone number on two occasions, but although the number rang, there was no option to leave a message. The GDC also called Mrs Mansell's home number but the number showed as being "invalid."

The Committee is mindful that as a registered dental professional, Mrs Mansell has a duty to engage with her regulator. Her last contact with the GDC was an email dated 11 September 2017 in which she stated: *"Please take this email as notice i will not be attending nor do I wish every to practice as a nurse again after my treatment over the last 3 years , which i feel I have hang out to dry , by all involved Please take notice of this email"*. Since then Mrs Mansell has not been in contact with the GDC. She has not requested an adjournment of today's review hearing and there is nothing before the Committee to suggest that she would attend a future hearing, given her stated position as of 11 September 2017. The Committee has concluded that Mrs Mansell has voluntarily absented herself from these proceedings. In addition, the Committee considers that there is a clear public interest in reviewing the order today, given that the current order is due to expire in January 2020. Accordingly, the Committee has determined that it is fair to proceed with today's review hearing in the absence of Mrs Mansell.

Background

Mrs Mansell's case was first considered by the PCC at a hearing in June 2017. She was present at that hearing but she was not represented. At the outset of the hearing Mrs Mansell made a number of admissions to the charges against her. The PCC found proved that Mrs Mansell failed to maintain adequate standards of cross-infection control, practising between around October 2013 to May 2015 whilst not having adequate indemnity insurance, and failing to respond to her employer's requests for proof of the same.

The PCC in June 2017 determined that the facts found proved amounted to misconduct and that Mrs Mansell's fitness to practise was impaired as a result. The PCC had no evidence before it to satisfy it that Mrs Mansell had taken steps to address the failings identified or any recognition from her that her conduct was inappropriate. The PCC determined that Mrs Mansell's name should be suspended from the Register for a period of six months, with a review hearing to take place prior to the expiry of the suspension.

On 15 December 2017 the PCC carried out a review of the suspension order. Mrs Mansell did not attend the hearing. The PCC decided to proceed in her absence, having regard to the content of her email to the GDC dated 11 September 2017. It concluded that Mrs Mansell had voluntarily absented herself from attending that hearing.

The PCC had no information before it as to the steps Mrs Mansell may have taken to reflect upon and remedy the misconduct that had previously been identified. It determined that Mrs Mansell's fitness to practise remained impaired and directed that the order of suspension be extended for a further period of 12 months. It directed that the order be reviewed before its expiry and indicated that the Committee reviewing the order may be assisted by evidence of Mrs Mansell's renewed engagement, evidence that she had developed insight into the concerns identified by the PCC and evidence of remediation.

The PCC reviewed the order on 29 November 2018. Neither party was present. The PCC decided to proceed in the absence of parties, having been satisfied that Mrs Mansell had been notified of the hearing in accordance with the Rules and the Act. It also concluded that Mrs Mansell had voluntarily herself from the proceedings, noting that she had not engaged with the GDC for a considerable period of time. At that hearing the PCC bore in mind the absence of any information available from Mrs Mansell to suggest that she had reflected upon and remedied any of the issues which led to the PCC's previous findings of fact, misconduct and impairment. It also bore in mind Mrs Mansell's lack of engagement with the GDC since her suspension was extended 12 months previously. It concluded that the same risks to public safety remained and determined that Mrs Mansell's fitness to practise remained impaired. It directed that Mrs Mansell's registration be suspended for a further period of 12 months.

Today's review

The Committee has comprehensively reviewed the current order of suspension. In so doing, it has had regard to the GDC bundle as well as the submissions made by Mr Ahmed. There is no new material before the Committee save for correspondence dated 30 November 2018, 3 December 2018, 8 January 2019, 16 April 2019 and 5 September 2019 from the GDC to Mrs Mansell in connection with these proceedings. Mrs Mansell has not responded to any of these communications. Therefore, there is no information from Mrs Mansell in connection with the recommendations of the previous PCCs.

Mr Ahmed submitted that there is no evidence to show any material change in the position since the last hearing. Mrs Mansell has not shown any insight into the conduct found proved or provided any evidence of remediation to demonstrate that there is limited or no risk of repetition of the same conduct. The GDC's position is that Mrs Mansell's fitness to practise remains impaired.

Mr Ahmed submitted that the appropriate outcome in this case is an order of indefinite suspension on Mrs Mansell's registration. He confirmed that the provisions of 36Q of the Act have been met, given that Mrs Mansell's registration will have been suspended continuously for two years from the date on which the direction takes effect, namely from June 2017 until January 2020, and the direction is made less than two months before the date on which the period of suspension would otherwise expire (4 January 2020).

The Committee has considered the submissions made. Throughout its deliberations, it has borne in mind that its primary duty is to address the public interest, which includes the protection of patients, 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 has accepted the advice of the Legal Adviser.

The Committee has been referred to the case of *Abrahaem v General Medical Council* [2008] *EWHC 183 (Admin)* where it was held at paragraph 23 that "there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairments."

There is no evidence before this Committee that Mrs Mansell has addressed any of the deficiencies identified by the PCC at the initial hearing in June 2017 or at the review hearings in December 2017 and November 2018, despite being given ample opportunity to do so. Further, Mrs Mansell's engagement with the GDC during this time has been extremely limited, save for her email to the GDC dated 11 September 2017, notifying the GDC that she had no intention of working as a dental nurse anymore. In the absence of any evidence of remediation to demonstrate that she has addressed the concerns identified by the PCC in June 2017, the Committee considers that Mrs Mansell remains a risk to the public. Accordingly, it has determined that her fitness to practise remains impaired.

The Committee next considered what direction to give. In so doing, it has had regard to the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (October 2016, updated May 2019). It has had regard to the GDC's submissions.

In the Committee's judgement, Mrs Mansell has continued to demonstrate no commitment to remediate her deficiencies or engage with the GDC. In these circumstances, the Committee concluded that terminating the current suspension order would not be appropriate or sufficient for the protection of the public.

The Committee considered whether to replace the current suspension order with one of conditions. In so doing, it had regard to the absence of any evidence of remediation from Mrs Mansell and her lack of engagement with the GDC since 2017, with no indication that she would engage in the future. Indeed, it is clear from her email to the GDC dated 11 September 2017 that she no longer wished to practise as a dental nurse again. In these circumstances, the Committee is not satisfied that conditions are appropriate, workable or sufficient for the protection of the public.

The Committee then went on to consider whether to direct that the current period of suspension be extended for a further period. It has borne in mind Mrs Mansell's

continuing lack of engagement with the GDC, as well as the absence of any insight or remediation. In these circumstances, the Committee has concluded that a further period of suspension of 12 months would serve no useful purpose and would not be in Mrs Mansell's interests, particularly given her stated position that she does not wish to practise as a dental nurse again. Accordingly, the Committee directs that Mrs Mansell's registration be suspended indefinitely. It is satisfied that this is the proportionate and appropriate outcome. It is further satisfied that the requirements of Section 36Q of the Act are met.

The effect of the foregoing direction is that, unless Mrs Mansell exercises her right of appeal, her registration will be suspended indefinitely from the date on which the direction takes effect. The intervening period between the current order expiring and this order of indefinite suspension coming into effect will be covered by the extension of the current order of suspension.

That concludes this case for today.”