HEARING HEARD IN PUBLIC

FOLTA, Tomas

Registration No: 101515

PROFESSIONAL CONDUCT COMMITTEE

SEPTEMBER – NOVEMBER 2019

Most recent outcome: Suspension extended for 12 months (with a review) **

** See page 32 for the latest determination

Tomas FOLTA, a dentist, registered under s16(2A) of the Dentists Act 1984 2006, was summoned to appear before the Professional Conduct Committee on 24 September 2019 for an inquiry into the following charge:

Charge (as AMENDED on 16 and 17 September 2019)

That being a dentist registered under the Dentists Act 1984 under registration number 101515:

1. You failed to take radiographs when it was indicated to do so:

   a. On or around 19 September 2012 you did not take bitewing radiographs of Patient A;

   b. On or around 6 November 2013 you did not take bitewing radiographs of Patient B;

   c. On or around 16 December 2013 you did not take a periapical radiograph of Patient B's LL8;

   d. WITHDRAWN;

   e. Between 7 June 2011 and 9 December 2014 you did not take bitewing radiographs of Patient F;

   f. On or around 16 July 2014 you did not take a periapical radiograph of Patient H's UR8;

   g. Between 18 April 2011 and 28 February 2013 you did not take bitewing radiographs of Patient I;

   h. Between 23 February 2011 and 15 November 2012 you did not take bitewing radiographs of Patient J;

   i. WITHDRAWN;

   j. Between 1 July 2011 and 9 June 2014 you did not take any bitewing radiographs of Patient M;

k. On or around 8 October 2010 you did not take bitewing radiographs of Patient O.

2. You failed to provide an adequate standard of care, in that:

a. On or around 13 January 2014 you failed to diagnose caries which were present in one or more of Patient B's teeth at:

i. LR2;

ii. LR4;

iii. LL3;

iv. LL4;

v. LL5;

vi. LL6;

vii. LL7.

b. On or around 22 January 2014 you provided inadequate treatment to Patient B's LR4 in that you:

i. WITHDRAWN

ii. failed to detect caries in LR4.

c. Between 28 December 2011 and 6 February 2012 you carried out root canal treatment of Patient K's UR6 to a poor standard in that you:

i. failed to take radiographs of Patient K on 28 December 2011 before treatment commenced;

ii. failed to fill all three roots; and/or

iii. WITHDRAWN.

d. At the completion of the root canal treatment of Patient K's UR6 on or around 6 February 2012 you did not:

i. Offer to repeat the root canal treatment;

ii. Advise on extraction of the tooth;

iii. Refer to a specialist endodontist;

iv. Inform the patient of the poor prognosis of the UR6.

e. Between 2 November 2011 and 18 March 2015 you failed to diagnose and/or treat, adequately or at all, Patient L's periodontal disease;

f. Between 5 July and 19 July 2012 you failed to carry out an adequate assessment before placing a crown at Patient N's UR7;

g. Between 12 June 2013 and 17 September 2013 you carried out root canal treatment of Patient N's UL5 to a poor standard;

h. Between 6 October and 27 October 2014 you failed to carry out an adequate assessment before placing a crown a Patient N's UL5;

i. On or around 20 December 2012 you failed to diagnose periodontal bone loss in relation to Patient J.

3. You failed to obtain informed consent in relation to the extraction of Patient B's LL8 which took place on or around 16 December 2013

4. WITHDRAWN.

5. You prescribed antibiotics without adequate justification:

a. You prescribed amoxicillin to Patient M:

i. On or around 1 July 2011;

ii. On or around 3 November 2011.

b. On or around 15 June 2011 you prescribed amoxicillin to Patient N.

6. You failed to maintain an adequate standard of record keeping in relation to radiographs:

a. On or around 6 February 2012 you did not adequately or at all report on the periapical radiograph taken of Patient K;

b. On or around 1 July 2013 you did not adequately or at all report on the periapical radiograph taken of Patient N;

c. On or around 7 August 2013 you did not adequately or at all report on the periapical radiograph taken of Patient N;

d. On or around 3 September 2012 you did not adequately or at all report on the bitewing radiographs taken of Patient O.

7. You failed to maintain an adequate standard of record keeping in that:

a. Between 13 January 2014 and 17 November 2014 you did not make any, or any adequate, record that Patient B had been advised of the poor prognosis of LL6 and/or LL7;

b. Between 6 November 2013 and 17 November 2014 you did not make any, or any adequate, record of preventative advice and/or treatment in relation to caries provided to Patient B;

c. Between 6 November 2013 and 17 November 2014 you did not make any record in relation to Patient B of:

   i. Smoking;

   ii. Alcohol consumption;

   iii. Screening for oral cancer.

d. Between 15 October 2010 and 5 June 2015 you did not make any record in relation to Patient C of:

   i. Smoking;

   ii. Alcohol consumption;

   iii. Screening for oral cancer.

e. Between 7 June 2011 and 9 December 2014 you did not make any record in relation to Patient F of:

   i. Smoking;

   ii. Alcohol consumption;

   iii. Screening for oral cancer.

f. On or around 27 May 2014 you did not make any record that Patient L:

   i. Had been advised of the periodontal condition;

   ii. Had been advised of treatment options.

g. WITHDRAWN:

   i. WITHDRAWN;

   ii. WITHDRAWN.

As a result of the matters set out above your fitness to practise is impaired by reason of your misconduct and/or deficient professional performance.

This is a Professional Conduct Committee hearing in respect of Mr Folta. He is not present and is not represented at this hearing. Mr Matthew Corrie, Counsel, appears on behalf of the General Dental Council (GDC).

At the outset, Mr Corrie made an application pursuant to Rule 54 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules'), to proceed with the hearing notwithstanding Mr Folta's absence. The Committee took into account Mr Corrie's submissions in respect of the application and had regard to the supporting documentation he provided. It accepted the advice of the Legal Adviser.

Decision on service of the Notification of Hearing

The Committee first considered whether notice of the hearing had been served on Mr Folta in accordance with Rules 13 and 65, and section 50A of the Dentists Act 1984 (as amended) ('the Act'). It received a bundle of documents containing a copy of the Notification of Hearing letter, dated 5 August 2019. The bundle also contained a Royal Mail 'Track and Trace' receipt confirming that the letter was sent to Mr Folta's registered address by recorded delivery. The Committee took into account that there is no requirement within the Rules for the GDC to prove receipt of the letter, only that it was sent. The Committee noted however, that the letter was delivered on 6 August 2019 and was signed for in the printed name of 'FOLTA'.

The Committee was satisfied that the Notification of Hearing letter of 5 August 2019 contained proper notification of this hearing, including its start date, time and venue, as well as notification that the Committee could proceed with the hearing in Mr Folta's absence. On the basis of the information provided to it, the Committee was satisfied that service had been effected in accordance with the Rules and the Act.

Decision on whether to proceed with the hearing in the absence of the registrant

The Committee next considered whether to exercise its discretion under Rule 54 to proceed with the hearing in the absence of Mr Folta and/or any representative on his behalf. It approached this issue with the utmost care and caution.

The Committee took into account the factors to be considered when reaching its decision, as set out in the cases of R v Jones [2003] 1 AC 1HL and GMC v Adeogba and GMC v Visvardis [2016] EWCA Civ 162. The Committee remained mindful of the need to be fair to Mr Folta, as well as to the GDC. It took into account that fairness to the GDC included having regard to the public interest in dealing with Mr Folta's case expeditiously.

The Committee was satisfied, on the information before it, that Mr Folta is aware of this hearing. It had regard to his email to the GDC, dated 10 September 2019, in which he stated that *"after long reflection about the upcoming hearing, I decided not to attend."* The GDC responded to Mr Folta by way of an email, also dated 10 September 2019 and informed him that he could apply for an adjournment of the hearing, if he so wished. He was also advised that, should the hearing proceed in his absence, any sanction imposed by the Committee on his registration, *"may be more serious"* than if he had attended. In a further email to the GDC on that same day, Mr Folta stated that he understood the advice he had been given, but confirmed that he would not be attending the hearing. He stated, *"I am aware of the consequences."*

Taking the above email exchanges into account, the Committee decided that Mr Folta had voluntarily absented himself from these proceedings. It noted that he had not requested an adjournment of the hearing, despite being informed that he could do so. The Committee received no information to suggest that an adjournment would secure Mr Folta's attendance on a future occasion. It therefore decided that determining to adjourn the hearing would serve no useful purpose. The Committee also considered the age and nature of the

allegations against Mr Folta and concluded that it was in the public interest and in the interest of Mr Folta for a timely resolution.

In all the circumstances, the Committee has determined that it is fair and reasonable to proceed with the hearing notwithstanding the absence of Mr Folta or any representative on his behalf.

The Committee determined to grant the GDC's application to amend the charge in relation to heads of charge: 1(i), 2(b)(i), 2(c)(iii), 7(g), 1(j) and 2(h):

Prior to formally opening the case for the General Dental Council (GDC), Mr Corrie made an application to amend the charge against Mr Folta, pursuant to Rule 18 of the *GDC (Fitness to Practise) Rules Order of Council 2006*.

Mr Corrie informed the Committee that the proposed amendments included a number of withdrawals, as well as some minor changes. He told the Committee that his application to amend the charge was as a result of further discussion with the GDC's expert witness, Mr Ronnie Levine. Mr Corrie acknowledged the lateness of the proposals and that Mr Folta had not been informed of the GDC's intentions in this regard. Mr Corrie submitted, however, that the proposed amendments were minor in nature and did not alter the substance of the case against Mr Folta.

In particular, Mr Corrie applied to withdraw the following heads of charge: 1(i), 2(b)(i), 2(c)(iii) and 7(g). He submitted that the allegations at 1(i) and 2(c)(iii) were duplicitous in that the same criticisms appeared at heads 2(c)(i) and 2(d) respectively. In relation to 2(b)(i), Mr Corrie told the Committee that Mr Levine was not critical of the omission alleged in this charge. With regard to head of charge 7(g), Mr Corrie explained that it had come to light that Mr Folta was not the treating dentist on or around the date of this particular allegation, hence the request for it to be withdrawn.

In addition to the proposed withdrawals, Mr Corrie applied to amend head of charge 1(j) by inserting the word 'bitewing', so that the allegation would read:

*Between 1 July 2011 and 9 June 2014 you did not take any **bitewing** radiographs of Patient M;*

Mr Corrie also requested that in head of charge 2(h), the reference to 'UR5' be changed to 'UL5', so that allegation would read:

Between 6 October and 27 October 2014 you failed to carry out an adequate assessment before placing a crown at Patient N's **UL5**;

Mr Corrie submitted that these two changes would better reflect the evidence and opinion of Mr Levine.

Following advice from the Legal Adviser, the Committee acceded to Mr Corrie's Rule 18 application in its entirety. In doing so, the Committee took into account that the majority of the changes were withdrawals and therefore did not adversely affect Mr Folta. Whilst it noted that the amendment to head of charge 1(j) narrowed the scope of that allegation, it was satisfied that the amended allegation did not differ substantially from what was originally charged. In relation to head of charge 2(h), the Committee noted that the patient's records referred to 'UL5'. It was content that the reference to 'UR5' in the charge was a typographical error.

Therefore, having had regard to the merits of the case and the fairness of the proceedings, the Committee was satisfied that all the proposed amendments could be made without causing injustice to either party.

The charge is amended accordingly.

The Committee determined to grant the GDC's Rule 57 application to admit hearsay evidence. The Committee also granted an application to hear a witness by Skype:

Following the amendment of the charge, Mr Corrie, on behalf of the General Dental Council (GDC), made a further application under Rule 57 of the *GDC (Fitness to Practise) Rules Order of Council 2006* ('the Rules'). Mr Corrie applied to adduce, as hearsay evidence, the witness statements of two of the patients in this case, Patient M and Patient O. Whilst Mr Corrie acknowledged that the evidence of these patients related largely to the background and context of the relevant allegations, he submitted that it was in the interests of justice that their statements were admitted. Mr Corrie stated that it was also in fairness to Mr Folta, as Patient O's witness statement included some information which could be considered favourable to the registrant. Mr Corrie told the Committee that both Patient M and Patient O were properly warned of the dates of this hearing, but neither could be in attendance either in person or by a live link because of their work commitments. Mr Corrie drew the Committee's attention to the email correspondence received from Patient M and Patient O, dated 12 September 2019 and 29 August 2019 respectively.

Mr Corrie also applied for a third patient, Patient L, to give her evidence by Skype. In doing so, he provided the Committee with a copy of an email from Patient L, dated 2 September 2019, in which she explained that she was elderly and lived in the North West of England. Patient L stated that she did not have the confidence to travel on her own to the London hearing venue. It was Mr Corrie's submission that Patient L's evidence was highly relevant to a number of the allegations against Mr Folta, hence the GDC's application to adduce her evidence via a live link.

Mr Corrie told the Committee that no formal notice had been sent to Mr Folta regarding the Rule 57 application, but that he had been asked in an email, dated 2 September 2019, whether he disputed any of the witness statements. Mr Folta was also asked if he consented to Patient L giving her evidence over a video link or by telephone. Further emails on the matter of the witnesses were sent to Mr Folta on 4, 9, 12 September 2019 and on 16 September 2019, shortly before the commencement of this hearing.

During the course of the hearing on 16 September 2019, an email was received from Mr Folta with his response. In his email Mr Folta stated that he did not object to any of the witness statements. Mr Folta did not address the question of whether he consented for Patient L to give her evidence remotely.

The Committee's Decisions

The Committee first considered whether to admit the witness statements of Patients M and O. In reaching its decision, the Committee took into account the email of 16 September 2019 from Mr Folta, as well as the submissions made by Mr Corrie. This included Mr Corrie's submissions regarding the case of Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 Admin. This authority was confirmed by the Legal Adviser in his advice, which the Committee accepted. The Committee considered the following factors from the *Thorneycroft* case:

1. Whether the witness statements were the sole and decisive evidence in support of the charges;
2. The nature and extent of the challenge to the contents of the statements;
3. Whether there was any suggestion that the witnesses had reasons to fabricate their allegations;
4. The seriousness of the charge, taking into account the impact which adverse findings might have on Mr Folta's career;
5. Whether there was a good reason for the non-attendance of the witnesses;
6. Whether the GDC had taken reasonable steps to secure the attendance of the witness;
7. The fact that Mr Folta did not have prior notice that the witness statements were to be read.

Whilst the Committee noted that Mr Folta had been informed by email of the GDC's intention to make an application under Rule 57, it noted that no formal notification was sent to the registrant. In light of this, the Committee accepted the advice of the Legal Adviser that it should focus on its broader power under Rule 57(2) of the Rules, which states:

"A Practice Committee may also, at their discretion, treat other evidence as admissible if, after consultation with the legal adviser, they consider that it would be helpful to the Practice Committee, and in the interests of justice, for that evidence to be heard."

The Committee noted that the witness statements of Patients M and O were not the sole and decisive evidence in support of the relevant charges. There is an expert report before it that also deals with the allegations relating to both patients. However, the Committee had regard to the fact that Mr Folta did not have any objection to their statements. Further, there was no information before the Committee to suggest either witness had any reason to fabricate their evidence. The Committee was satisfied from the email correspondence it had seen, that the GDC had taken reasonable steps to secure the attendance of Patient M and Patient O. It was further satisfied that both witnesses had good reasons for not being able to participate in the hearing in person. Taking all of the above into account, including its discretion under Rule 57(2), the Committee concluded that it would be helpful to receive the background information contained in the witness statements of the two patients. Accordingly, it accedes to the GDC's application in this regard. The statements of Patients M and O will be admitted as hearsay evidence.

The Committee next considered whether to agree to hear from Patient L by Skype. It accepted that her reason for not being able to attend the hearing venue in person was a reasonable one. The Committee agreed that her evidence related to a number of the allegations against Mr Folta and was therefore directly relevant. Whilst it noted that Mr Folta did not comment on the issue of Skype in his most recent email of 16 September 2019, the Committee considered that it would be beneficial to it, and to both parties, to hear from Patient L and, if necessary, ask her questions. The Committee has therefore determined to accede to the GDC's application in relation to the use of Skype. Patient L will be called by Skype at the relevant time in the proceedings.

The Committee determined to grant the GDC's application to amend the charge in relation heads of charge 1(d), 4 and 5(a)(i). The Committee rejected the application in relation to head of charge 2(b):

Prior to formally closing the case for the General Dental Council (GDC), Mr Corrie made a further application to amend the charge against Mr Folta, pursuant to Rule 18 of the *GDC (Fitness to Practise) Rules Order of Council 2006*.

Mr Corrie applied to withdraw heads of charge 1(d) and 4, and to amend heads of charge 2(b) and 5(a)(i).

Heads of charge 1(d) and 4 relate to treatment Mr Folta provided to Patient C, specifically the patient's LL6. In applying to withdraw the allegations, Mr Corrie drew the Committee's attention to the oral evidence of the GDC's expert witness, Mr Ronnie Levine, who appeared before the Committee yesterday. Mr Corrie referred the Committee to Mr Levine's evidence regarding whether Mr Folta took a periapical radiograph of Patient C's LL6; this is the subject of head of charge 1(d). Mr Levine conceded that he could not say one way or the other whether a periapical radiograph was taken. Further, as Mr Corrie highlighted, it is stated in the patient's records that radiographs were taken. In light of all the evidence, Mr Corrie accepted that there was no prospect of finding head of charge 1(d) proved. He made the same submission in respect of the associated head of charge 4, as that allegation is also based on no periapical radiograph having been taken.

Head of charge 2(b) relates to the treatment of Patient B. Mr Corrie submitted that Mr Levine's criticism, made in his oral evidence, was that Mr Folta failed adequately to treat caries in the patient's LR4, as opposed to failing to detect it, which is what the current allegation suggests. This being the case, Mr Corrie applied to delete the sub-head, 2(b)(ii), which mentions a failure to detect, and re-word the stem at 2(b) to state:

On or around 22 January 2014 you provided inadequate treatment to Patient B's LR4.

Mr Corrie contended that such an amendment would not change the nature of the allegation against Mr Folta. Mr Corrie stated that it would better particularise what is a valid criticism.

The final amendment proposed by Mr Corrie in relation to head of charge 5(a)(i), which refers to Patient M, was to change the date in that allegation from *9 February 2011* to *1 July 2011*. Mr Corrie stated that the purpose of this amendment was to reflect Mr Levine's criticism as clarified by him in his oral evidence.

Following advice from the Legal Adviser, the Committee acceded to Mr Corrie's Rule 18 application in relation to heads of charge 1(d), 4 and 5(a)(i).

The Committee agreed that there was no prospect of finding 1(d) and 4 proved on the evidence and it was satisfied that no prejudice would be caused by withdrawing these allegations. In relation to 5(a)(i), whilst the Committee noted that Mr Levine modified his opinion in oral evidence, it accepted that he was referring to the same series of events in one course of treatment for Patient M. In his oral evidence, Mr Levine stated that he did not consider that the prescription of antibiotics on 9 February 2011 to have been inappropriate, but that on the other three occasions when Mr Folta had prescribed antibiotics, Mr Levine considered all these to have been inappropriate. The Committee was therefore satisfied that the nature of the allegation remained the same, despite the amendment to the date to one of the other occasions, when alleged inappropriate prescribing took place.

However, with regard to head of charge 2(b), the Committee considered that the amendment proposed by the GDC significantly widened the scope of the allegation against Mr Folta. Further, in the Committee's view, the suggested revision failed to properly particularise what is being alleged by the GDC. The Committee understood from Mr Corrie's submissions that, following the oral evidence of Mr Levine, the GDC's position is that Mr Folta failed

adequately to treat caries in the patient's LL4. In the Committee's view, the opinion that provided the basis for such an allegation was contained within Mr Levine's written report and his oral evidence did not contradict his original opinion. Consequently, having had regard to the fairness and justice of the proceedings, the Committee determined not to allow the application in respect of head of charge 2(b). In reaching this decision, the Committee had regard to its overall duty to ensure that matters are properly charged. However, in this case, having had regard to the number of individual allegations, the Committee did not consider that this was an issue.

Accordingly, the charge will be further amended in relation to heads of charge 1(d), 4 and 5(a)(i) only.

Mr FOLTA was not present and was not represented. On 19 September 2019 the Chairman announced the findings of fact to the Counsel for the GDC:

"This is a Professional Conduct Committee hearing of Mr Folta's case. Mr Folta is neither present nor represented. Mr Matthew Corrie represents the General Dental Council (GDC).

Mr Folta, a registered dentist, worked for Oasis Dental Care in Lancashire from October 2010 to January 2015. The charge against him arises from a complaint made by his employer, which was received by the GDC in August 2016. The allegations are that there were failings in the standard of care Mr Folta provided to a number of patients, who for the purpose of these proceedings are referred to as Patients, A, B, C, F, H, I, J, K, L, M, N and O. There are also allegations relating to the standard of Mr Folta's record keeping.

Evidence

By way of factual evidence, the Committee received a bundle of documents from the GDC, which included copies of Mr Folta's records for the patients concerned in this case, as well as copies of radiographs taken by him. The bundle also included the witness statement of Patient L, who gave oral evidence at the hearing via Skype. Further witness statements were received from Patient M and Patient O. These two witnesses could not appear at the hearing to give evidence, either in person or remotely. Upon considering a number of factors, including that their absences were for good reasons, the Committee granted the GDC's application to admit the witness statements of Patient M and Patient O as hearsay evidence.

Also in relation to the factual matters, Mr Corrie provided the Committee with the written responses submitted by Mr Folta's solicitors on his behalf to the GDC's Case Examiners, dated 23 November 2018. This was in accordance with Mr Folta's wish, as stated in his email of 16 September 2019, that his responses be placed before this Committee.

In terms of expert evidence, the Committee received a report, dated 15 April 2019, from Mr Ronnie Levine, the expert witness called by the GDC. Mr Levine also gave oral evidence to the Committee.

The Committee's assessment of the witness evidence

Before reaching any findings on the facts, the Committee considered the evidence it received from the witnesses in this case. This included the evidence of Mr Folta's responses to the GDC's Case Examiners during the investigation stage.

The Committee first considered the evidence of the expert witness, Mr Levine. It considered his report to be clear and informative. It also found his oral evidence helpful and agreed that he was a measured witness, who was fair in giving his opinion. In this regard, the Committee

noted Mr Levine's willingness to make appropriate concessions having reviewed certain parts of the evidence.

The Committee found that the evidence of Patient L was limited in nature. However, it considered that in answering the questions put to her by Mr Corrie, she helped in so far as she could. The Committee also found that Patient L's oral evidence was consistent with her written statement.

The Committee next considered the hearsay evidence it received from Patients M and O. Taking into account the legal advice it received, the Committee considered that there was nothing to suggest that the Committee should not give appropriate weight to the written evidence of these two witnesses. However, the Committee did note that their witness statements related largely to the context and narrative of their treatment with Mr Folta. The Committee therefore found that the evidence of Patient M and Patient O was of limited use in reaching any findings on the facts.

Also received by the Committee was some documentation from Mr Folta in the form of a redacted letter dated 23 November 2018, from his solicitors containing his responses to the GDC Case Examiners. The Committee considered that Mr Folta's responses did not specifically address all the allegations before it. However, the letter did contain relevant background information which the Committee found useful.

The Committee's Findings of Fact

The Committee considered all the evidence presented to it, both oral and documentary. It took account of the closing submissions made by Mr Corrie on behalf of the GDC. The Committee accepted the advice of the Legal Adviser. It considered each head of charge separately, bearing in mind that the burden of proof rests with the GDC and that the standard of proof is the civil standard, that is, whether the alleged facts are proved on the balance of probabilities.

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

1.	*You failed to take radiographs when it was indicated to do so:*
1a.	*On or around 19 September 2012 you did not take bitewing radiographs of Patient A;* **Found proved.** In considering whether Mr Folta had a duty to take bitewing radiographs on or around 19 September 2012, the Committee took into account the expert evidence of Mr Levine. His evidence was that routine bitewing radiographs should have been taken in respect of Patient A at least every two years. Mr Levine explained that this was in compliance with The Faculty of General Dental Practice (UK) Guidelines ('the FGDP Guidelines'). He highlighted that the patient's records indicated that, prior to September 2012, Patient A last had bitewing radiographs taken in February 2010. It was Mr Levine's evidence, taking into account the FGDP Guidelines and the information that Patient A had undergone extensive treatment and had a number of large restorations in posterior teeth, that Mr Folta should have taken a radiograph no later than February 2012. The Committee accepted the evidence of Mr Levine. It was satisfied that, in the circumstances, there was a duty on Mr Folta to take bitewing radiographs of

	Patient A at the next appointment following February 2012, which according to the patient's records was 19 September 2012. The Committee found no evidence of a bitewing radiograph having been taken on 19 September 2012. Instead, it saw a note made by Mr Folta against that date, in which he indicated that bitewing radiographs were due for Patient A in six months' time. The evidence was that Mr Folta did not, in fact, take bitewing radiographs until November 2013, which was over three years after the last bitewing radiographs of the patient. The Committee therefore found that Mr Folta had failed in his duty to take bitewing radiographs when it was indicated to do so.
1b.	*On or around 6 November 2013 you did not take bitewing radiographs of Patient B;* **Found not proved.** The Committee had regard to Mr Folta's records for Patient B. It noted that on the date in question, 6 November 2013, Patient B had attended as a new patient and underwent a new patient examination. The Committee saw from the records that prior to this examination, Patient B had not seen a dentist for six years and a considerable amount of information was detailed by Mr Folta in the records. Whilst the Committee noted that Mr Folta did not take bitewing radiographs on that day, 6 November 2013, it was satisfied from the records that he had it in his mind to do so, as he recorded that bitewing radiographs were due. Two months later Mr Folta did take bitewing radiographs of Patient B and charted caries. Whilst the Committee took into account the opinion of Mr Levine that bitewing radiographs should have been taken of the patient at the first visit, the Committee did not consider it a failing that Mr Folta took them two months later. The allegation states, *"On or around 6 November 2013…"* and the Committee was satisfied that Mr Folta acted in reasonable time and it was during the same course of treatment that he took the bitewing radiographs in January 2014. The Committee concluded that the fact that Mr Folta did not take bitewing radiographs on 6 November 2013 did not amount to a failure.
1c.	*On or around 16 December 2013 you did not take a periapical radiograph of Patient B's LL8;* **Found proved.** In finding this head of charge proved, the Committee accepted the evidence of Mr Levine that Mr Folta had a duty to take a periapical radiograph in the circumstances of the extraction of Patient B's LL8. Mr Levine told the Committed that because of the position of the LL8 in relation to the Inferior Alveolar Nerve (IAN), there is potential for nerve damage during an extraction. He stated that this risk is best assessed by taking and reviewing a periapical radiograph prior to any extraction in this region of the mouth. The Committee had regard to Mr Folta's records for Patient B. It found no evidence to indicate that he took a periapical radiograph of Patient B's LL8 on or

	around 16 December 2013. The Committee noted from Mr Folta's records generally, that he did specify when radiographs had been taken. In the absence of any record in relation to a periapical radiograph, the Committee concluded that Mr Folta did not take one. It also found no evidence of any previous periapical radiographs for the patient, which could have assisted Mr Folta with the anatomical information that he needed.
1d.	WITHDRAWN.
1e.	*Between 7 June 2011 and 9 December 2014 you did not take bitewing radiographs of Patient F* **Found not proved.** Although the Committee found that bitewing radiographs were not taken during the period in question, it was satisfied that Mr Folta adequately explained in Patient F's records his reasons for not doing so. Mr Folta noted that the patient's interproximal spaces were visible and therefore, in his view, bitewing radiographs were not applicable. In making its finding on this head of charge, the Committee had regard to the evidence of Mr Levine and his reference to the FGDP Guidelines. He stated that, and the Committee was satisfied that, the FGDP Guidelines are primarily for guidance only and it was open to dental practitioners to exercise their own judgement. In this case, Mr Folta has recorded his reason for not being able to justify the taking of bitewing radiographs and thereby exposing the patient to unnecessary radiation. In Patient F's circumstances, the Committee found that Mr Folta's decision not to take bitewing radiographs was not unreasonable and therefore did not amount to a failure.
1f.	*On or around 16 July 2014 you did not take a periapical radiograph of Patient H's UR8;* **Found proved.** The Committee accepted the evidence of Mr Levine that a reasonably competent dentist would have taken a periapical radiograph to help determine the cause of the apparent infection in Patient H's UR8. The Committee had regard to Mr Folta's records for Patient H and found nothing to indicate that he had taken a periapical radiograph. Nor was there any information to suggest he had a reason for not taking a such a radiograph in the circumstances. Whilst the records indicate that Mr Folta had made a diagnosis, they do not explain how he came to his conclusion. The Committee was therefore satisfied there was a failure on Mr Folta's part.
1g.	*Between 18 April 2011 and 28 February 2013 you did not take bitewing radiographs of Patient I;*

	Found proved. The Committee had regard to Mr Folta's records for Patient I. It found no evidence that bitewing radiographs of the patient had been taken during the period in question. The Committee noted from the templates within the records that on every relevant occasion, Mr Folta recorded 'n/a' or 'nil' with regard to the taking of radiographs. It found no information to suggest he had any justification for not taking them. In the circumstances, the Committee accepted the evidence of Mr Levine that bitewing radiographs should have been taken during this period in accordance with the FGDP Guidelines. This head of charge is therefore proved.
1h.	*Between 23 February 2011 and 15 November 2012 you did not take bitewing radiographs of Patient J;* **Found proved.** The Committee had regard to Mr Folta's records for Patient J. It found no evidence that bitewing radiographs of the patient had been taken during the period in question. Further, it found no information to suggest Mr Folta had any justification for not taking them. In the circumstances, the Committee accepted the evidence of Mr Levine that bitewing radiographs should have been taken during this period in accordance with the FGDP Guidelines. This head of charge is therefore proved.
1i.	WITHDRAWN.
1j.	*Between 1 July 2011 and 9 June 2014 you did not take any bitewing radiographs of Patient M* ***(as amended)****;* **Found not proved.** The Committee noted from Mr Folta's records for Patient M that he indicated that this patient had a spaced dentition. Therefore, in his opinion, bitewing radiographs were not required. The Committee took into account the expert evidence on the FGDP Guidelines and it decided that it was open to Mr Folta to exercise his own judgement in the circumstances. In this case, Mr Folta has recorded his reason for not being able to justify the taking of bitewing radiographs and thereby exposing the patient to unnecessary radiation. In Patient M's circumstances, the Committee found that Mr Folta's decision not to take bitewing radiographs was not unreasonable and therefore did not amount to a failure.
1k.	*On or around 8 October 2010 you did not take bitewing radiographs of Patient O.* **Found proved.** The Committee noted from Mr Folta's records for Patient O that on 8 October 2010, he recorded in relation to bitewings that none were required. The Committee accepted the evidence of Mr Levine that Mr Folta should have taken bitewing radiographs of this patient at this first appointment, as there was no

	evidence in the records that bitewing radiographs had been taken within the previous two years as recommended by the FGDP Guidelines. There was no record of any reason for not taking bitewing radiographs. The Committee therefore considered that this amounted to a failure.
2.	*You failed to provide an adequate standard of care, in that:*
2a.	*On or around 13 January 2014 you failed to diagnose caries which were present in one or more of Patient B's teeth at:*
2a(i).	*LR2;* **Found not proved.**
2a(ii).	*LR4;* **Found not proved.**
2a(iii).	*LL3;* **Found not proved.**
2a(iv).	*LL4;* **Found not proved.**
2a(v).	*LL5;* **Found not proved.**
2a(vi)	*LL6;* **Found not proved.**
2a(vii).	*LL7.* **Found not proved.** The Committee considered heads of charge 2(a)(i) to(vii) separately but made the same finding in relation to each allegation. In reaching its decisions, the Committee had regard to the chronology of the treatment of the teeth in question. It saw from Patient B's records that Mr Folta examined the patient on 13 January 2014, which included the taking of bitewing radiographs. He then provided fillings to the LL5 and the LL3. This course of action indicated to the Committee that Mr Folta must have diagnosed caries in those teeth. The Committee further saw from the records that on 22 January 2014, as part of the same course of treatment, Mr Folta provided a filling to the patient's LR4. This again suggested to the Committee that he had diagnosed caries. Taking this evidence into account, the Committee found that Mr Folta had diagnosed and treated LR4, LL3 and LL5. Therefore, heads of charge 2(a)(ii), 2(a)(iii) and 2(a)(v) are found not proved on this basis. The Committee noted that the diagnosis of caries in the remaining four teeth, LR2, LL4, LL6 and LL7, was made by another dentist in July 2014. The Committee noted that the bitewing radiographs taken on 13 January 2014 would not have assisted in diagnosing caries in any of these areas, as they were either

	anterior teeth or buccal cavities in posterior teeth. The Committee heard oral evidence from Mr Levine that such buccal cavities are not visible on bitewing radiographs. Furthermore, despite these diagnoses by the second dentist, the Committee found no evidence within the patient's records of any treatment suggested by this dentist. The inference was, on the basis of the evidence, that Patient B was not a regular attender at the practice. The Committee noted that after seeing the other dentist in July 2014, the patient was not seen again by Mr Folta until November of that year, at which time no caries was noted in the teeth in question. Taking all the evidence into account, the Committee was not satisfied that the GDC has proved on balance that there was caries present in the LR2, LL4, LL6 and LL7 on or around 13 January 2014. Therefore, heads of charge 2(a)(i), 2(a)(iv), 2(a)(vi) and 2(a)(vii) are found not proved on this basis.
2b.	*On or around 22 January 2014 you provided inadequate treatment to Patient B's LR4 in that you:*
2b(i).	WITHDRAWN.
2b(ii).	*failed to detect caries in LR4.* **Found not proved.** As outlined in the Committee reasons above, it was satisfied on the evidence that on 22 January 2014 Mr Folta did detect and treat caries at Patient B's LR4.
2c.	*Between 28 December 2011 and 6 February 2012 you carried out root canal treatment of Patient K's UR6 to a poor standard in that you:*
2c(i).	*failed to take radiographs of Patient K on 28 December 2011 before treatment commenced;* **Found proved.** The Committee accepted the evidence of Mr Levine that Mr Folta should have taken a radiograph pre-operatively, before commencing root canal treatment on Patient K's UR6. The Committee noted that this was standard practice to obtain important anatomical information. The Committee had regard to Mr Folta's records for the patient and found no mention of a pre-operative radiograph having been taken. It was therefore satisfied that Mr Folta had failed to take such a radiograph.
2c(ii).	*failed to fill all three roots; and/or* **Found proved.** In reaching its decision, the Committee had regard to the evidence of Mr Levine and to the copy of the relevant radiograph taken by Mr Folta post-operatively. The Committee found that the radiograph clearly shows that only one of the roots had been filled. This head of charge is proved.

2c(iii).	WITHDRAWN.
2d.	*At the completion of the root canal treatment of Patient K's UR6 on or around 6 February 2012 you did not:*
2d(i).	*Offer to repeat the root canal treatment;* **Found proved.**
2d(ii).	*Advise on extraction of the tooth;* **Found proved.**
2d(iii).	*Refer to a specialist endodontist;* **Found proved.**
2d(iv).	*Inform the patient of the poor prognosis of the UR6.* **Found proved.** The Committee considered heads of charge 2(d)(i) to(iv) separately but made the same finding in relation to each allegation. The Committee was satisfied on the evidence that Mr Folta must have known at the time of Patient K's root canal treatment that he had not filled all the canals. In the circumstances, the Committee agreed with the expert evidence received that Mr Folta should have recognised that there was a problem and offered the relevant solutions set out at 2(d)(i) to(iv) above. The Committee found no evidence within Mr Folta's records for the patient to indicate that he had taken any of these steps. Accordingly, it found heads of charge 2(d)(i) to(iv) proved.
2e.	*Between 2 November 2011 and 18 March 2015 you failed to diagnose and/or treat, adequately or at all, Patient L's periodontal disease* ***(as amended by the Committee - correction of a typographical error)****;* **Found proved.** The Committee noted from the records and from Patient L's oral evidence that she was a regular attender at the practice. It saw from Mr Folta's records that at an appointment during the period in question a Basic Periodontal Examination score of 3 was recorded in one sextant. There was also note of a discussion, at that same appointment, about a mobile tooth. The Committee accepted the evidence of Mr Levine that this information indicated that Mr Folta should have undertaken more investigation. The Committee found no information in the records to indicate that anything was done by Mr Folta in relation to these concerns. Taking into account Mr Levine's opinion, the Committee would have expected to see reference to a referral to the hygienist or six-point pocket charting. In the absence of any such information, the Committee was satisfied that Mr Folta failed to diagnose and treat the patient's periodontal disease.

2f.	*Between 5 July and 19 July 2012 you failed to carry out an adequate assessment before placing a crown at Patient N's UR7;* **Found proved.** In reaching its decision, the Committee had regard to the evidence of the history of this tooth. This included the information in Patient N's records that a deep filling had been placed close to the nerve in June 2011. A week after the placement of the filling the patient had complained to Mr Folta of pain in the tooth and was prescribed antibiotics. Bearing this history in mind, the Committee accepted the evidence of Mr Levine that there should have been a fuller assessment of the tooth by Mr Folta before a crown was placed on it. Mr Levine's evidence was that Mr Folta should have carried out vitality testing and should have investigated whether the tooth needed root canal treatment before the placement of the crown. The Committee had regard to Mr Folta's records for Patient N during the period in question and found no evidence that he had carried out an adequate assessment as described by Mr Levine. Whilst the Committee noted that Mr Folta did take a periapical radiograph, it accepted the opinion of Mr Levine that this was of limited diagnostic value in the circumstances.
2g.	*Between 12 June 2013 and 17 September 2013 you carried out root canal treatment of Patient N's UL5 to a poor standard;* **Found not proved.** In finding this head of charge not proved, the Committee concluded that it was not possible to determine from the copy of the relevant radiograph before it, that the canals had been inadequately filled, as was suggested by Mr Levine in his oral evidence. The Committee also had regard to Mr Levine's report in relation to this issue and it decided that there was not enough evidence to support this allegation. Accordingly, the Committee was not satisfied that the GDC has discharged its burden of proof.
2h.	*Between 6 October and 27 October 2014 you failed to carry out an adequate assessment before placing a crown a Patient N's UL5* ***(as amended);*** **Found proved.** The Committee was referred to the radiographic evidence of the UL5, which showed that there was very little of the anatomical crown of the tooth left. In the circumstances, Mr Levine stated that Mr Folta should have carried out an adequate assessment before placing the crown; an assessment which should have included a consideration of alternative treatments. In accepting Mr Levine's opinion, the Committee took into account the evidence from the patient's records that the crown subsequently failed repeatedly. It agreed that Mr Folta must have

	undertaken some kind of assessment, as he took radiographs. However, it was of the view that his assessment could not have been adequate, as there is no evidence within the patient's records to indicate that Mr Folta gave consideration to alternative treatments to aid the retention of any crown he placed.
2i.	*On or around 20 December 2012 you failed to diagnose periodontal bone loss in relation to Patient J.* **Found proved.** The Committee noted from the patient's records that Mr Folta indicated that he had taken bitewing radiographs on 20 December 2012 to check for caries and assess the bone levels. In reporting on the findings from the radiograph on 24 December 2012, Mr Folta recorded *"no further pathology".* However, having heard from the expert witness Mr Levine, the Committee was satisfied that Mr Folta's report was incorrect in that he failed to diagnose bone loss. Mr Levine referred the Committee to a copy of the radiograph in question and indicated that there is horizontal bone loss visible. The Committee, having seen the radiograph, accepted the evidence of Mr Levine. It considered that Mr Folta should have noted the bone loss in December 2012, but failed to do so.
3.	*You failed to obtain informed consent in relation to the extraction of Patient B's LL8 which took place on or around 16 December 2013* **Found proved.** Having already found that Mr Folta failed to take a periapical radiograph of Patient B's LL8, the Committee also determined that he could not have obtained informed consent in relation to the extraction of that tooth. In reaching its conclusion, the Committee accepted the evidence of Mr Levine that, in the absence of a periapical radiograph, Mr Folta could not have identified and warned the patient about the risks in relation to the IAN. It also accepted Mr Levine's opinion that, without any such discussion of the risks involved in the extraction of the LL8, informed consent could not have been obtained. The Committee was satisfied on the evidence that Mr Folta had a duty to obtain Patient B's fully informed consent for the treatment and by not doing so, he failed in that obligation.
4.	WITHDRAWN.
5.	*You prescribed antibiotics without adequate justification:*
5a.	*You prescribed amoxicillin to Patient M:*
5a(i).	*On or around 1 July 2011* ***(as amended)****;* **Found proved.** The Committee accepted the evidence of Mr Levine that the prescription of amoxicillin by Mr Folta on 1 July 2011 was inappropriate and not justified. In accepting Mr Levine's evidence, the Committee noted that Mr Folta had prescribed two courses of the same antibiotic to Patient M before 1 July 2011, which had not worked. There was, in the Committee's view, no justification for a

	third course.
5a(ii).	*On or around 3 November 2011.* **Found proved.** Having found that the third course of antibiotics prescribed to Patient M in July 2011 was not justified, the Committee reached the same conclusion in relation to this fourth course in November 2011. By this time, the infection had become a chronic issue and the Committee accepted the opinion of Mr Levine that Mr Folta needed to have dealt with the underlying dental cause differently.
5b.	*On or around 15 June 2011 you prescribed amoxicillin to Patient N.* **Found proved.** Following its consideration of Mr Folta's records for Patient N on 15 June 2011, the Committee found this head of charge proved. It noted that the patient had a filling placed and was warned that it was a deep filling. The Committee found no information in the record to suggest that a prescription of antibiotics was justified.
6.	*You failed to maintain an adequate standard of record keeping in relation to radiographs:*
6a.	*On or around 6 February 2012 you did not adequately or at all report on the periapical radiograph taken of Patient K;* **Found proved.** The Committee had regard to Mr Folta's records for Patient K. It found that he did make a limited report on the periapical radiograph taken of the patient. However, the Committee determined that the report was not adequate in that Mr Folta did not record that only one root canal had been filled.
6b.	*On or around 1 July 2013 you did not adequately or at all report on the periapical radiograph taken of Patient N;* **Found proved.** The Committee had regard to Mr Folta's records for Patient N and whilst it saw that a pre-operative periapical radiograph was taken on 1 July 2012, there was no record of a report on the radiograph.
6c.	*On or around 7 August 2013 you did not adequately or at all report on the periapical radiograph taken of Patient N;* **Found proved.** The Committee had regard to Mr Folta's records for Patient N and saw that a periapical radiograph was taken on 7 August 2013. Whilst it noted that there was

	a record of a justification for taking the radiograph, Mr Folta did not report on or grade the radiograph. Therefore, taking into account the expert evidence, the Committee found that the information included in the records was not adequate.
6d.	*On or around 3 September 2012 you did not adequately or at all report on the bitewing radiographs taken of Patient O.* **Found proved.** The Committee had regard to Mr Folta's records for Patient O and saw that bitewing radiographs were taken on 3 September 2012. Whilst it noted that there was a record of a justification for taking the radiographs, Mr Folta did not report on or grade them. Therefore, taking into account the expert evidence, the Committee found that the information included in the records was not adequate.
7.	*You failed to maintain an adequate standard of record keeping in that:*
7a.	*Between 13 January 2014 and 17 November 2014 you did not make any, or any adequate, record that Patient B had been advised of the poor prognosis of LL6 and/or LL7;* **Found not proved in relation to the LL6 and LL7.** The Committee had regard to Mr Folta's records for Patient B and found that it was clearly noted on 17 November 2014 that the LL7 had a poor prognosis. In relation to the LL6, the Committee noted that, during the relevant period, Patient B was being seen by another dentist in respect of this tooth. The records detail advice given by that dentist, as well as a treatment plan, which the patient signed. As Mr Folta was not the diagnosing dentist, the Committee found that there was no duty on him to advise of the poor prognosis of LL6. The Committee had regard to the evidence that Patient B subsequently returned to see Mr Folta, but by that time there is nothing indicated in the records to suggest any further issues with this tooth.
7b.	*Between 6 November 2013 and 17 November 2014 you did not make any, or any adequate, record of preventative advice and/or treatment in relation to caries provided to Patient B;* **Found proved.** The Committee had regard to Mr Folta's records for Patient B. Whilst it found a clear record of treatment in relation to caries, it found no adequate record relating to advice on the prevention of caries. Accordingly, the Committee found this head of charge proved.
7c.	Between 6 November 2013 and 17 November 2014 you did not make any record in relation to Patient B of:
7c(i).	Smoking;

	Found not proved. The Committee found that there is a note in Patient B's records relating to a new patient exam undertaken by Mr Folta on 6 November 2013. The note clearly states that the patient smokes "*20 a day".* In the Committee's view, this is a reference to smoking.
7c(ii).	Alcohol consumption; **Found proved.** The Committee had regard to Mr Folta's records for Patient B and found nothing to indicate that he had asked the patient about her alcohol consumption.
7c(iii).	Screening for oral cancer. **Found not proved.** Having had regard to the records, the Committee found that there was reference to the patient's intra oral and extra oral tissues having been examined by Mr Folta with no abnormalities detected. Therefore, given that there is such a record, and this head of charge indicates that the inadequacy in record keeping arises from there not being *any* record, the Committee found the allegation not proved.
7d.	Between 15 October 2010 and 5 June 2015 you did not make any record in relation to Patient C of:
7d(i).	Smoking; **Found proved.** The Committee had regard to Mr Folta's records for Patient C and found nothing to indicate that he had asked the patient about smoking.
7d(ii).	Alcohol consumption; **Found proved.** The Committee had regard to Mr Folta's records for Patient C and found nothing to indicate that he had asked the patient about alcohol consumption. The Committee noted from elsewhere in the records that this patient did not in fact consume alcohol. Whilst it considered that this information may have been set out separately in the patient's medical history, the Committee was mindful that it did not have any such document before it. Therefore, the Committee considered that it would be speculation if it were to conclude that the information was contained in the medical history.
7d(iii).	Screening for oral cancer

	Found not proved. The Committee saw from the records for Patient C that at each examination appointment, Mr Folta recorded checking the patient's intra oral and extra oral tissues with no abnormalities detected. Therefore, given that there are such records, and this head of charge indicates that the inadequacy in record keeping arises from there not being *any* record, the Committee found the allegation not proved.
7e.	*Between 7 June 2011 and 9 December 2014 you did not make any record in relation to Patient F of:*
7e(i).	*Smoking;* **Found proved.** The Committee had regard to Mr Folta's records for Patient F and found nothing to indicate that he had asked the patient about smoking.
7e(ii).	*Alcohol consumption;* **Found proved.** The Committee had regard to Mr Folta's records for Patient F and found nothing to indicate that he had asked the patient about alcohol consumption. In relation to this head of charge and head of charge 7(e)(i) above, the Committee noted from elsewhere in the records that this patient did not smoke or consume alcohol. Whilst it considered that this information may have been set out separately in the patient's medical history, the Committee was mindful that it did not have any such document before it. Therefore, the Committee considered that it would be speculation if it were to conclude that the information was contained in the medical history.
7e(iii).	*Screening for oral cancer.* **Found not proved.** The Committee saw from the records for Patient F that at each examination appointment, Mr Folta recorded checking the patient's intra oral and extra oral tissues with no abnormalities detected. Therefore, given that there are such records, and this head of charge indicates that the inadequacy in record keeping arises from there not being *any* record, the Committee found the allegation not proved.
7f.	*On or around 27 May 2014 you did not make any record that Patient L:*
7f(i).	*Had been advised of the periodontal condition;* **Found proved.**

	The Committee had regard to Patient L's witness statement, in which she stated that she did not remember any discussion with Mr Folta about her periodontal condition. She also stated that she had had no idea why her tooth was taken out. In her oral evidence, Patient L explained that she had been shocked when her subsequent treating dentists advised her that she had gum disease and bone loss. The Committee also considered Mr Folta's records for Patient L and found no reference to him having had a discussion with the patient about her periodontal disease. Taking all the evidence into account, the Committee was satisfied that there was no discussion.
7f(ii).	*Had been advised of treatment options.* **Found proved.** Patient L's evidence was that she had no recollection of being given advice about treatment options and the Committee found no information in the patient's records. It was therefore satisfied on the balance of probabilities that this allegation is proved.
7g.	WITHDRAWN:
7g(i).	WITHDRAWN;
7g(ii).	WITHDRAWN.

We move to Stage Two, which will commence on Monday, 23 September 2019.

The Committee considered that, with regard to its Stage Two consideration of misconduct and deficient professional performance and, if it reaches these stages, its consideration of impairment and sanction, it would both be in Mr Folta's interest and in the public interest, if he were able to attend the hearing either in person or by remote link. The Committee noted from the contents of the letter from Mr Folta's solicitors to the GDC Case Examiners, dated 23 November 2018, that it would appear that Mr Folta has undertaken Continuing Professional Development (CPD) courses to address at least some of the issues raised in this case. It would assist the Committee if Mr Folta could provide documentary evidence of his CPD together with details of his current employment, if any, and any testimonials which he might wish to place before the Committee."

On 24 September 2019 the Chairman announced the determination as follows:

"Mr Folta is neither present nor represented at this hearing. Mr Matthew Corrie appears on behalf of the General Dental Council (GDC).

The Committee's tasks at this stage of the hearing have been to consider whether the facts found proved amount to misconduct and/or deficient professional performance and, if so, whether Mr Folta's fitness to practise is impaired by reason of misconduct and/or deficient professional performance. The Committee noted that if it found current impairment on one or both statutory grounds, 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 at this stage. The evidence received at this stage included a copy of an email from Mr Folta, dated 22 September 2019 and a copy of the GDC Case Examiners decision letter sent to Mr Folta, dated 23 February 2018, in which he was issued with formal written advice regarding matters separate to this current case.

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

It was the submission of Mr Corrie that it was a matter for the Committee as to whether the allegations found proved in this case amounted to misconduct or deficient professional performance. He told the Committee that an allegation could not be both misconduct and deficient professional performance, but that certain allegations could be found to amount to misconduct while others determined to be deficient professional performance. On behalf of the GDC, Mr Corrie proposed that the Committee first considered which allegations it considered amounted to misconduct before going on to consider the issue of deficient professional performance.

Summary of the facts found proved.

The facts found proved relate to the standard of care Mr Folta provided to a number of patients between October 2010 and January 2015, whilst he worked as a dentist at Oasis Dental Care in Lancashire. In particular, the Committee found that Mr Folta:

- failed to take radiographs when it was indicated to do so in the cases of Patients A, B, H, I, J and O;
- failed to obtain informed consent in relation to the extraction of Patient B's LL8;
- carried out root canal treatment to a poor standard in the case of Patient K, which included failing to take radiographs before the treatment commenced and failing to fill all three roots;
- further failed, in the case of Patient K, to take any relevant steps to address the poor root canal treatment he had provided;
- failed to diagnose and treat Patient L's periodontal disease;
- failed on two separate occasions to carry out adequate assessments before placing a crown in the case of Patient N;
- failed to diagnose periodontal bone loss in relation to Patient J;
- prescribed antibiotics on three occasions without adequate justification; twice to Patient M and once to Patient N;
- failed on four occasions to maintain an adequate standard of record keeping in relation to radiographs;
- failed to maintain an adequate standard of record keeping in respect of four of the patients.

Decision on misconduct

In relation to its consideration of misconduct, the Committee took into account the relevant authorities to which it was referred, including Roylance v General Medical Council (GMC) (no. 2) [2000] 1 A.C. 311 and Remedy UK v GMC [2010] EWHC 1245. The Committee noted that a finding of misconduct in the regulatory context requires a serious falling short of the professional standards expected of a registered dental professional.

The Committee noted that the proven matters in this case cover the period October 2010 to January 2015, over which time there have been two separate GDC standards publications; *Standards for Dental Professionals (May 2005)*, which applied from May 2005 until late September 2013 and *'Standards for the Dental Team'*, effective from late September 2013. The Committee considered the following paragraphs from *Standards for Dental Professionals (May 2005)*:

1. Put patients' interests first and act to protect them.

1.4 Make and keep accurate and complete patient records, including a medical history, at the time you treat them. Make sure that patients have easy access to their records.

2.2 Recognise and promote patients' responsibility for making decisions about their bodies, their priorities and their care, making sure you do not take any steps without patients' consent (permission). Follow our guidance 'Principles of patient consent'.

2.4 Listen to patients and give them the information they need, in a way they can use, so that they can make decisions. This will include:

- communicating effectively with patients;
- explaining options (including risks and benefits); and
- giving full information on proposed treatment and possible costs.

5.3 Find out about current best practice in the fields in which you work. Provide a good standard of care based on available up-to-date evidence and reliable guidance.

The Committee also had regard to the following paragraphs from *'Standards for the Dental Team (September 2013)'*:

1.4.2 You must provide patients with treatment that is in their best interests, providing appropriate oral health advice and following clinical guidelines relevant to their situation. You may need to balance their oral health needs with their desired outcomes.

2.3 You must give patients the information they need, in a way they can understand, so that they can make informed decisions.

3.1 Obtain valid consent before starting treatment, explaining all the relevant options and the possible costs.

4.1 Make and keep contemporaneous, complete and accurate patient records.

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

Having had regard to the submissions made by Mr Corrie on behalf of the GDC, the Committee first deliberated on which of the proven allegations it considered amounted to misconduct, taking into account the evidence, relevant case law and standards.

The Committee was of the view that the matters found proved in relation to the extraction of Patient B's LL8 represented failings in fundamental aspects of dentistry. It was in this patient's case that Mr Folta's failed to take a periapical radiograph prior to the extraction of that tooth. The Committee accepted the evidence of the GDC's expert witness, Mr Ronnie Levine, that Mr Folta had a duty to take such a radiograph because of the proximity of the LL8 to the Inferior Alveolar Nerve, which meant that there was potential for nerve damage during any extraction. Further, the Committee found that Mr Folta could not have obtained informed consent in relation to the extraction of Patient B's LL8 as, in the absence of a periapical radiograph, he could not have identified and warned the patient about any risks in relation to the IAN. The Committee agreed with the opinion of Mr Levine that Mr Folta's conduct in these respects fell far below the standards of a reasonably competent dentist. It was satisfied that the matters taken separately and together amounted to misconduct.

The Committee next considered the standard of treatment Mr Folta provided to Patient K. It noted that the treatment involved a number of elements, but that they all related to one course of treatment. In particular, the Committee took into account its finding that Mr Folta must have known from the radiograph he took, that he had carried out the patient's root canal treatment poorly. Despite this, he failed to give the patient any warnings or provide any options as to what could be done next. It was the evidence of Mr Levine, which the Committee accepted, that Mr Folta's conduct in these respects fell far below the expected standards. In reaching its decision in respect of Patient K's care, the Committee also took into account Mr Folta's additional record keeping failing in not reporting adequately on the post-operative radiograph he took, which clearly showed unfilled roots. Taking all the matters cumulatively, the Committee was in no doubt that they amounted to misconduct.

The Committee also found that there was misconduct on Mr Folta's part in relation to his treatment of Patient L. It found that Mr Folta had failed to diagnose this patient's periodontal disease. In making its finding, the Committee took into account that Patient L had seen Mr Folta at a number of appointments, over a significant period of time. Mr Folta even made notes on occasions regarding some of the patient's teeth being mobile. The Committee considered that, as a result of Mr Folta's oversight, Patient L suffered actual harm. The Committee accepted her evidence that it was not until she saw a subsequent treating dentist that she became aware of the extent of her periodontal disease. It was therefore satisfied that this amounted to misconduct.

The Committee further considered the matter of Mr Folta prescribing antibiotics without justification; twice in the case of Patient M and once in the case of Patient N. Whilst it noted that Mr Levine regarded these instances as only falling below the standards, the Committee was of the view that they were serious breaches. The Committee considered that prescribing antibiotics without justification, repeatedly in Patient M's case, was far outside the relevant regulations. It decided, when taking into account the risks associated with the inappropriate prescription of antibiotics, that Mr Folta's actions were not in the best interests of the patients concerned. Therefore, the Committee determined that his conduct in this regard did amount to misconduct.

Accordingly, in respect of the matters set out above, the Committee is satisfied that Mr Folta's conduct did fall significantly short of the professional standards. It is on these particular facts found proved that the Committee finds that misconduct has been made out.

Decision on Deficient Professional Performance

The Committee considered the remaining facts found proved, which were, in summary, five instances where Mr Folta failed to take radiographs, his failure on two occasions to carry out an adequate assessment before the placing of a crown, one failure to diagnose bone loss and a number of instances of poor record keeping. For the avoidance of doubt, the Committee had already decided that these matters taken individually or cumulatively, did not reach the threshold for the finding of misconduct. In reaching its conclusion in this regard, the Committee took into account the evidence of Mr Levine and noted that he also regarded these matters as only falling below the standards, as opposed to far below.

The Committee therefore considered whether any of the remaining matters could be said to amount to deficient professional performance.

In reaching its decision, the Committee had regard to the relevant authority of Calhaem v GMC [2007]EWHC 2606, in which it is stated that deficient professional performance *"connotes a standard of professional performance which is unacceptably low and which (save in exceptional circumstances) has been demonstrated by reference to a fair sample of the doctor's work."* In these proceedings the Committee has had to consider whether there has been reference to a fair sample of Mr Folta's work as a dentist.

The Committee decided that, in relation to the patient cases that remained, it could not be certain that it had a fair sample of Mr Folta's work before it. It considered this was a small number of patients, seen by Mr Folta over a relatively long period of time. Further, the Committee received no evidence of how the sample of patients in this case was selected, such as whether it was selected randomly or whether it was selected from a larger sample by Mr Folta's previous employer. Consequently, the Committee decided that it did not have any information on which it could judge deficient professional performance. In its view, there are no exceptional circumstances in this case which would permit it to depart from its conclusion. The Committee was satisfied that the provision of treatment provided by Mr Folta in these remaining instances was unsatisfactory and accordingly found proved. However, without any evidence as to the source of the sample, it was unable to reach any decision on deficient professional performance.

Decision on impairment: misconduct only

In light of its decision that it could not determine that there has been deficient professional performance in this case, the Committee's consideration of current impairment was based on the statutory ground of misconduct only.

The Committee considered whether Mr Folta's fitness to practise is currently impaired by reason of his 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 was satisfied that the particular areas that constituted Mr Folta's misconduct could be remedied. The matters were all clinical in nature, which the Committee considered could be appropriately addressed by reflection and the performance of relevant Continuing Professional Development (CPD).

The Committee had regard to the GDC Case Examiners decision letter sent to Mr Folta, dated 23 February 2018, in which he was issued with formal advice regarding separate

matters. These matters included concerns regarding the standard of care Mr Folta provided to a single patient in October 2016. Mr Folta was given advice regarding the diagnostic assessment of patients, assessment of radiographs and was advised that clinical records should be sufficiently detailed in accordance with *"current specified practice standards…"* In the written submissions, dated 23 November 2018, provided to the GDC Case Examiners in response to the allegations in this current case, it was stated on behalf of Mr Folta, that he was fully committed to remediating the issues raised in this case and had been undertaking relevant remediation. This included, following the letter of advice issued by GDC Case Examiners on 23 February 2018, carrying out an audit of his work.

Notwithstanding this information provided to the GDC Case Examiners in November 2018, there is no evidence before this Committee of any remediation undertaken by Mr Folta. This is despite the Committee having given him further opportunity to provide such information, as explained at the end of its findings on the facts. Mr Folta responded in an email, dated 22 September 2019, stating that the evidence of his CPD was not currently in his possession. He also confirmed that he would not be participating in the hearing either in person or by a remote link.

The Committee also noted the absence of any evidence of his remorse for the failings that have been identified. In fact, the Committee noted that in a recent email, dated 10 September 2019, regarding his non-attendance at this hearing, Mr Folta failed to properly acknowledge any wrongdoing. Mr Folta stated that in the period 2010 to 2015, not a single patient made an official complaint about him. He further stated that during the material time, he had seen approximately 30,000 patients. However, "*Someone found 11 possibly suboptimal…Just to put it in perspective."* This demonstrated to the Committee that Mr Folta has failed to appreciate the gravity of his failings and the impact those failings had or could have had on the patients concerned.

As Mr Folta has not engaged with the hearing process or provided to the Committee any of the material referred to in his correspondence with the GDC, the Committee has been unable to make any informed assessment regarding his current fitness to practise. In the circumstances, the Committee has had to conclude that the failings identified in its decision on misconduct, must remain of concern. The Committee therefore decided that there would be an ongoing risk to the safety of patients in that Mr Folta could repeat his misconduct. Consequently, the Committee determined that in order to protect the public, a finding of current impairment is required.

The Committee also had regard to the wider public interest. It took into account its duty to uphold standards, to safeguard the reputation of the dental profession and the public's confidence in it. The Committee took into account that Mr Folta engaged in poor dentistry which, in some cases, caused actual harm. It considered his actions in this regard brought the dental profession into disrepute. Further, the Committee considered that it was incumbent on Mr Folta to engage in these proceedings, but he has chosen not to do so. In his absence there has been no evidence of any insight or remediation. The Committee was satisfied that public confidence in the dental profession would be undermined if a finding of impairment were not made in the circumstances of this case.

Accordingly, the Committee has determined that Mr Folta's fitness to practise is impaired by reason of his misconduct.

Decision on sanction

The Committee considered what sanction, if any, to impose on Mr Folta's registration. It noted 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.

It was the submission of Mr Corrie on behalf of the GDC that the Committee should suspend Mr Folta's registration. Mr Corrie stated that the length of the suspension was a matter for the Committee, but he reminded it of its power to suspend Mr Folta's registration for a maximum of 12 months.

In reaching its decision, the Committee took into account the '*Guidance for the Practice Committees including Indicative Sanctions Guidance (effective from October 2016; revised May 2019)*' (the Guidance). The Committee applied the principle of proportionality, balancing the public interest with Mr Folta's own interests.

In its consideration of the appropriate sanction, the Committee took into account the following aggravating factors, which it identified in this case:

- that there was actual harm to patients;
- that the misconduct found occurred over a long period of time; and
- the lack of any evidence of any insight from Mr Folta.

In mitigation, the Committee considered that there has been no evidence of any recent repetition.

Taking the above factors into account, the Committee considered the available sanctions in ascending order.

Having found that there is an ongoing risk to patients, the Committee decided that there is a need for a sanction on Mr Folta's registration. It decided that taking no action would be inappropriate, as such a course would not protect the public nor would it satisfy the public interest.

The Committee reached the same conclusion in respect of a reprimand. A reprimand would not impose any requirements on Mr Folta's practice and, as such, would not address the ongoing concerns, as identified in the Committee's decision on impairment.

The Committee next considered whether to impose conditions on Mr Folta's registration. In the absence of any evidence of insight or remediation, the Committee concluded that conditions would not be workable. It received no evidence to suggest that Mr Folta would comply with any conditions imposed. For these reasons, the Committee determined that conditional registration would not be a sufficient safeguard for the public and the wider public interest.

The Committee went on to consider whether to suspend Mr Folta's registration. In doing so, it had regard to paragraph 7.28 of the Guidance which deals with the sanction of suspension. The Committee was satisfied, taking into account the relevant factors listed in this paragraph, that the suspension of Mr Folta's registration would be appropriate and proportionate. In particular, the Committee noted the lack of any evidence regarding Mr Folta's insight and remediation, and the identified risk of repetition. The Committee was satisfied that a period of suspension would be sufficient to mark the seriousness of the misconduct found. It was also satisfied that patients' interests would be sufficiently protected by a suspension and that the public's confidence in the dental profession would be maintained.

In deciding to suspend Mr Folta's registration, the Committee took into account that the sanction of erasure was open to it. It concluded, however, that the sanction of erasure would be disproportionate. It has determined that Mr Folta's failings, all of which were clinical, are capable of being remedied, although the Committee has no evidence that he has remedied them. Further, it received no evidence of any deep-seated personal or professional attitudinal problems that would render Mr Folta incompatible with continued registration.

In all the circumstances, the Committee has determined to suspend Mr Folta's registration for a period of two months. It decided that a two-month period is sufficient, given the nature of this case. It took into account the submissions of the GDC that this is a case where conditions would have been appropriate, if there had been relevant evidence to support such an outcome. The Committee considered that this short suspension would afford Mr Folta a further opportunity to secure the evidence that he says he has, and to demonstrate his insight into all the matters raised in this case. In the meantime, the Committee was satisfied that the suspension would afford the necessary protection to the public and also uphold the wider public interest.

A Committee will review Mr Folta's case at a resumed hearing to be held shortly before the end of the period of suspension. That Committee will consider what action to take in relation to his registration. Mr Folta will be informed of the date and time of that resumed hearing, with which he will be invited to fully engage.

The Committee reviewing Mr Folta's case may find it helpful to receive the following:

- evidence of his remediation and CPD;
- evidence of his reflections addressing the facts found proved;
- testimonials from recent employers and any other registrant professionals; and
- any other evidence he considers the Committee may find useful.

Unless Mr Folta exercises his right of appeal, his registration will be suspended 28 days from the date when notice is deemed to have been served upon him.

The Committee now invites submissions from Mr Corrie on behalf of the GDC, as to whether an immediate order should be imposed on Mr Folta's registration, pending the taking effect of its substantive determination.

In deciding whether to impose an immediate order on Mr Folta's registration, the Committee took into account the submission of Mr Corrie that such an order should be imposed. The Committee accepted the advice of the Legal Adviser.

The Committee has determined that it is necessary for the protection of the public and is otherwise in the public interest to impose an order for the immediate suspension of Mr Folta's registration. The Committee has identified an ongoing risk to the safety of patients should Mr Folta continue to practice without any restriction. It considered that it would be inconsistent with its substantive decision on current impairment, if an order were not imposed in these circumstances. An immediate order is necessary to ensure the public is protected. The Committee also considered an immediate order to be in the wider public interest. It has made serious findings in Mr Folta's case and there has been no evidence to indicate that he has addressed any of the concerns raised. The Committee has therefore

decided that the imposition of an immediate order would serve to maintain public confidence in the dental profession and the regulatory process.

The effect of the foregoing determination and this order is that Mr Folta's registration will be suspended from the date on which notice is deemed to have been served upon him. Unless he exercises his right of appeal, the substantive direction for suspension, as already announced, will take effect 28 days from the date of deemed service and will continue for a period of two months.

Should Mr Folta exercise his right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

That concludes this determination."

At a review hearing on 27 November 2019 the Chairman announced the determination as follows:

"This is a resumed hearing pursuant to Section 27C of the Dentists Act 1984 (as amended) ('the Act') to review the order of suspension for 2 months which was imposed on Mr Folta's registration by the Professional Conduct Committee (PCC) on 24 September 2019.

This is the first review hearing of the case. Mr Folta is neither present nor represented in the hearing. Mr Patience represents the General Dental Council (GDC).

Decision on Service of Notification of the Hearing

The Committee had before it a copy of the Notice of Hearing letter, dated 25 October 2019, which was sent to Mr Folta's registered address by way of special delivery post and by secure email. The Committee was satisfied that the letter contained proper notification of today's hearing, including its time, date and location, as well as notification that the Committee has the power to proceed with the hearing in Mr Folta's absence. The Committee noted from the Royal Mail Track and Trace receipt that the letter was delivered on 26 October 2019 at 9:21am and signed for in the printed name "FOLTA". The Committee was satisfied that the notice of this hearing has been served on Mr Folta in compliance with the rules.

Decision on Proceeding in the absence of Registrant

The Committee then went on to consider whether to exercise its discretion under Rule 54 to proceed with the hearing in Mr Folta's absence. The Committee heard the submissions made by Mr Patience on behalf of the GDC and took account of the advice of the Legal Adviser. The Committee was mindful that this is a discretion that must be exercised with the utmost care and caution. It took account of the legal principles set out in the case of GMC v Adeogba.

The Committee noted the email correspondence between Mr Folta and the GDC. It noted the email dated 10 November 2019 from Mr Folta to the GDC in which he stated in response to this review hearing "I will not be attending the upcoming hearing and also I will be not [sic] represented…" The Committee noted that Mr Folta was also advised that he could participate in this hearing via Skype or telephone. However, Mr Folta did not respond to this offer. The Committee was satisfied from the evidence before that Mr Folta is aware of today's hearing and has voluntarily absented himself. It considered whether to adjourn the hearing but concluded that an adjournment may not result in Mr Folta's attendance at a future date given the evidence and the history of non-attendance at the previous substantive

hearing. Having weighed the interests of Mr Folta with those of the GDC and the public interest in an expeditious disposal of this hearing the Committee determined to proceed with the hearing in the absence of Mr Folta.

Background

This case was first considered at an initial PCC hearing in September 2019. The allegations against Mr Folta involved failings in the standard of care he provided to 11 patients and the standard of his record keeping. The allegation against Mr Folta included impaired fitness to practise by reason of misconduct and/or deficient professional performance.

The PCC found that Mr Folta:

- failed to take radiographs when it was indicated to do so in the cases of Patients A, B, H, I, J and O;
- failed to obtain informed consent in relation to the extraction of Patient B's LL8;
- carried out root canal treatment to a poor standard in the case of Patient K, which included failing to take radiographs before the treatment commenced and failing to fill all three roots;
- further failed, in the case of Patient K, to take any relevant steps to address the poor root canal treatment he had provided;
- failed to diagnose and treat Patient L's periodontal disease;
- failed on two separate occasions to carry out adequate assessments before placing a crown in the case of Patient N;
- failed to diagnose periodontal bone loss in relation to Patient J;
- prescribed antibiotics on three occasions without adequate justification; twice to Patient M and once to Patient N;
- failed on four occasions to maintain an adequate standard of record keeping in relation to radiographs;
- failed to maintain an adequate standard of record keeping in respect of four of the patients.

The PCC found that Mr Folta's standard of care to Patients B, K and M amounted to misconduct. In relation to the remaining matters found proved, the PCC concluded that they did not amount to deficient professional performance.

The PCC in September 2019 concluded that in the absence of any evidence of remediation from Mr Folta, it could not make an informed assessment of his current fitness to practise and as such the failings identified remained of concern. The PCC also identified a lack of remorse and appreciation of the gravity of his failings as well as the possible impact of those failings on his patients. The PCC concluded that a finding of impairment was required to protect the public and the public interest. It determined that Mr Folta's fitness to practise was impaired by reason of his misconduct. It directed that Mr Folta's registration be suspended for a period of 2 months with a review prior to its expiry. The PCC in September 2019 advised Mr Folta that:

"The Committee reviewing Mr Folta's case may find it helpful to receive the following:

- evidence of his remediation and CPD;

- evidence of his reflections addressing the facts found proved;
- testimonials from recent employers and any other registrant professionals; and
- any other evidence he considers the Committee may find useful."

Today's Review

Current Impairment

In considering whether Mr Folta's fitness to practise is currently impaired, the Committee bore in mind that this is a matter for its own independent judgement. It also had regard to its duty to protect the public, declare and uphold proper standards of conduct and competence and maintain public confidence in the profession. The Committee was referred to cases, including Cohen v GMC and Abraheam v GMC.

On behalf of the GDC Mr Patience submitted that Mr Folta's fitness to practise remains impaired. He submitted that Mr Folta has provided insufficient evidence to demonstrate that he has remedied the failings identified by the previous Committee or that he has developed insight into those failings. He submitted further that public confidence in the profession would be undermined if a finding of impairment was not made. Mr Patience submitted that a further suspension order is appropriate given the limited engagement and the lack of remediation. He invited the Committee to consider a period of 12 months. A further period of 2 months would not be appropriate as there was nothing in the evidence to suggest that he would engage to a greater extent than he has if extended for another 2 months. He submitted that should the position change Mr Folta could seek an early review however in the current circumstances, a short suspension period would be inappropriate.

The Committee first considered whether Mr Folta has remedied the failings found proved by the PCC in September 2019. He was advised within the determination of the previous hearing to consider presenting evidence of remediation, CPD, reflections, testimonials and any other evidence that would help him. Mr Folta has only provided three references from colleagues with whom he worked. The Committee noted that none of the references make mention of an awareness of these proceedings. It noted however that the referees speak highly of Mr Folta's clinical performance. There is no other evidence from Mr Folta in relation to any remediation he has undertaken. The Committee noted that there is a persuasive burden on the registrant to demonstrate that they have fully remedied their failings. It concluded that a finding of current impairment was required in order to protect the public. Furthermore, it was of the view that public confidence in the profession would be undermined if a finding of impairment was not made in this case. The Committee therefore determined that Mr Folta's fitness to practise remains currently impaired by reason of his misconduct.

Sanction

The Committee next considered what sanction to impose on Mr Folta's registration under Section 27C of the Dentists Act, 1984 as amended. It reminded itself that the purpose of any sanction is not to be punitive although it may have that effect. The Committee bore in mind the principle of proportionality.

The Committee first considered whether to terminate the current suspension order or replace it with a conditions of practice order. In light of Mr Folta's limited engagement and the lack of evidence of remediation of the failings found proved, the Committee is not assured that conditions would be complied with at this stage. For these reasons, the Committee concluded that conditions are currently not workable or appropriate.

The Committee has therefore determined to extend the suspension order. In considering the duration of the suspension, the Committee noted that although the previous period of suspension was for two months and Mr Folta was given clear indications of the sorts of information to provide, he has only provided limited information by way of references from colleagues. The Committee concluded that a longer period of suspension would provide Mr Folta time to carry out adequate remedial steps and engage fully with the fitness to practise process.

The Committee has therefore determined to extend the suspension of Mr Folta's registration for a period of 12 months pursuant to section 27C (1)(b) of the Dentists Act 1984, as amended.

The Committee has also determined that the matter should be reviewed prior to expiry of the suspension order. It is of the view that a reviewing Committee may be assisted by receiving the following:

- evidence of his remediation and CPD;
- evidence of his reflections addressing the facts found proved;
- testimonials from recent employers and any other registrant professionals; and
- any other evidence he considers the Committee may find useful.

That concludes this determination."