

HEARING HEARD IN PUBLIC

SCOTT, Lindsay Suzanne

Registration No: 136625

PROFESSIONAL CONDUCT COMMITTEE

JANUARY 2020

Outcome: Erased with Immediate Suspension

Lindsay Suzanne SCOTT, a dental nurse, Verified competency in Dental Nursing, was summoned to appear before the Professional Conduct Committee on 20 January 2020 for an inquiry into the following charge:

Charge

“That being a registered dental care professional:

1. You failed to cooperate with an investigation conducted by the General Dental Council from 24 July 2017 to 9 February 2018, including by:
 - a. Not providing the General Dental Council with any, or any sufficient, evidence of your indemnity.
2. For some or all of the period 1 July 2017 to 24 August 2017, you provided dental services when you did not hold adequate indemnity insurance.
3. On 24 July 2017, you stated in an email to the General Dental Council that “I paid my renewal of my indemnity a few weeks ago, with the same company that I used previously I have no [sic] received my certificates”.
4. Your conduct in relation to allegation 2 and/or 3 above was:
 - a. Misleading;
 - b. Dishonest, in that you knew you did not have indemnity cover in place.
5. On 20 July 2018, you attended work while unfit to do so due to alcohol consumption.
6. On or around 25 August 2017 you responded “no” to the following question on renewal of your indemnity insurance:
 - a. Have you had any claims, complaints, or incidents including GDC or any other investigation or inquiry which could give rise to a claim involving negligence, error or omission, or are you aware of any circumstances which may bring such claim or a suit being made against you?
7. Your conduct in relation to allegation 6(a) was:
 - a. Misleading
 - b. Lacking integrity
 - c. Dishonest in that you knew you were subject to a GDC investigation at the time.

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

As Ms Scott did not attend and was not represented at the hearing, the Chairman made the following statement regarding proof of service. He addressed this to the Counsel for the GDC.

“Preliminary applications – determined on 20 January 2020 and handed down on 21 January 2020

Service of Notification of Hearing

This is a Professional Conduct Committee (PCC) hearing of Ms Scott’s case. Ms Scott (the Registrant) is neither present nor represented at the hearing. Mr Sykes appears on behalf of the General Dental Council (GDC).

In the absence of Ms Scott, the Committee first considered whether the Notification of Hearing had been served on her in accordance with Rules 13, 54(a) and 65 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules). In so doing, it has taken into account the submissions made by Mr Sykes as well as the information before it. The Committee has accepted the advice of the Legal Adviser.

The Committee has received a bundle of documents which contains a copy of the Notification of Hearing dated 18 December 2019, addressed to Ms Scott at her registered address. The Committee is satisfied that the Notification of Hearing contains the date, time and venue of the hearing, as well as the charges against Ms Scott and that it was sent to her registered address by recorded delivery more than 28 days before the date of the hearing, in accordance with the Rules. The Royal Mail Track and Trace receipt confirms that the item was delivered to Ms Scott and was signed for in the name of ‘Scott’ on 19 December 2019.

Further, the Committee notes that the GDC emailed a copy of the Notification of Hearing to Ms Scott on the morning of 18 December 2019, to which Ms Scott replied later on that same day.

Having regard to all the documents before it, the Committee is satisfied that the Notification of Hearing had been served on Ms Scott in accordance with the Rules.

Proceeding in the absence of the Registrant

The Committee went on to consider whether to proceed in the absence of Ms Scott in accordance with Rule 54(b). Mr Sykes referred to Ms Scott’s recent emails to the GDC in which she requested the GDC not to contact her and also indicated that she would not be attending this hearing. He submitted that Ms Scott has voluntarily absented herself from these proceedings and invited the Committee to proceed.

The Committee has considered the submissions advanced by Mr Sykes. It has accepted the advice of the Legal Adviser. It is aware that its discretion to proceed in the absence of Ms Scott must be exercised with the utmost care and caution. The Committee is mindful of the need to be fair to both parties, as well as the public interest in the expeditious disposal of this case.

The Committee has seen a copy of Ms Scott’s email to the GDC dated 18 December 2019 in which she states: “Please stop all contact with me”. It has also seen a copy of an email

dated 2 January 2020 from the GDC's lawyer to Ms Scott regarding her attendance at today's hearing. The email states that if she cannot attend the hearing in person the GDC can make arrangements for her to participate either via skype or telephone. It goes on to state that the GDC recommended that Ms Scott attend the hearing as this was her opportunity to put forward her account of what happened. By email dated 2 January 2020 Ms Scott advised the GDC that she would not be attending the hearing. In these circumstances the Committee has concluded that Ms Scott has chosen to disengage from these proceedings and has voluntarily absented herself from this hearing. She has not requested an adjournment of this hearing and there is nothing before the Committee to suggest that she would attend at a later date, given her stated position that she did not wish the GDC to contact her. The Committee has received no reasons as to why it should not proceed with the hearing. It has also borne in mind the public interest in dealing with the matters alleged expeditiously. Having regard to all these factors, the Committee has decided that it is fair and appropriate to proceed in accordance with Rule 54(b), notwithstanding the absence of Ms Scott.

Rule 25 Application

Thereafter, Mr Sykes made an application under Rule 25 for additional allegations against Ms Scott to be heard at the same time as the original allegations by this PCC at this hearing. Rule 25(2) states: -

" Where –

- (a) An allegation against a respondent has been referred to a Practice Committee;*
- (b) That the allegation has not yet been heard; and*
- (c) A new allegation against the respondent which is of a similar kind or is founded on the same alleged facts is received by the Council,*

The Practice Committee may consider the new allegation at the same time as the original allegation, notwithstanding that the new allegation has not been included in the notification of hearing."

The GDC's letter dated 18 December 2019 indicates that the additional concerns relate to information received by the GDC in connection with Ms Scott's responses to a question on the renewal of her indemnity insurance. These allegations were not considered by the GDC's Case Examiners (CEs) at the time when it referred the original allegations on 30 April 2019. The additional allegations (allegations 6 and 7), as set out in the GDC's letter to Ms Scott dated 18 December 2019, are as follows:

- 6. On or around 25 August 2017 you responded "no" to the following question on renewal of your indemnity insurance:
 - a. Have you had any claims, complaints, or incidents including GDC or any other investigation or inquiry which could give rise to a claim involving negligence, error or omission, or are you aware of any circumstances which may bring such claim or a suit being made against you?
- 7. Your conduct in relation to allegation 6(a) was:
 - a. Misleading
 - b. Lacking integrity

c. Dishonest in that you knew you were subject to a GDC investigation at the time.

Mr Sykes submitted that these additional allegations are founded on the same facts as that of the original allegations referred to the Committee and fall within the provisions of Rule 25(2). In addition, Mr Sykes submitted that the Rule 25(3) has been complied with in that by letter and email dated 18 December 2019 the GDC informed Ms Scott of these additional allegations. Further documents specifically relied upon by the GDC in respect of these allegations were enclosed with the letter. The letter also advised Ms Scott that should the additional allegations be joined, they would be considered at the hearing listed to take place between 20 to 24 January 2020. Finally, the letter asked Ms Scott to indicate to the GDC whether she objected to the GDC's application. The Committee understands that to date, no response has been received from Ms Scott.

The Committee has considered carefully the submissions made by the GDC. It notes the background to the application and the evidence which the GDC intends to rely on in support of the additional allegations. It has accepted the Legal Adviser's advice regarding the approach it should adopt in considering the application.

In the Committee's judgement, the new allegations proposed by the GDC are similar in nature to that of the existing allegations: they relate to Ms Scott's alleged failure to hold adequate indemnity insurance and her response to a question in the renewal application for her indemnity insurance. Further, they allege that her conduct is dishonest, which is also alleged against her in the original charges. Accordingly, the Committee is satisfied that these new allegations fall within Rule 25(2). In addition, the Committee is satisfied that the GDC has complied with Rule 25(3), noting that Ms Scott has had more than 28 days' notice of the GDC's application under Rule 25. The Committee further considers that it is in the public interest as well as Ms Scott's own interests to hear all of these matters together. It considers that no unfairness would be caused to Ms Scott by the new allegations being considered at the same hearing as the original allegations and that to do otherwise by hearing the new charges at a separate hearing would only cause more anxiety and stress to Ms Scott. Accordingly, it accedes to the GDC's application.

Hearsay application

Mr Sykes then made an application under Rule 57 for this Committee to admit correspondence between the British Association of Dental Nurses (BADN) and the GDC, correspondence between Trafalgar Risk Management (TRM) and the GDC and correspondence between the Registrant and the GDC as hearsay evidence. These matters are referred to in the witness statements of the GDC's Paralegal dated 12 September 2019, 4 October 2019, 1 November 2019 and 18 December 2019. Rule 57(1) permits a Practice Committee to receive oral, documentary or other evidence that is admissible in civil proceedings. Rule 57(2) permits a Practice Committee to treat other evidence as admissible if, after consultation with the Legal Adviser, they consider that it would be helpful to the Practice Committee, and if it is in the interests of justice, for that evidence to be heard. Mr Sykes submitted that the evidence is relevant to these proceedings and the parties have produced contemporaneous documents at the material times in the context of their professional obligations. In these circumstances there can be no unfairness to Ms Scott in admitting these documents.

The Committee has considered the submissions made by Mr Sykes. It has accepted the advice of the Legal Adviser. In accordance with that advice, the Committee notes that the evidence that forms the subject matter of this application is admissible in civil proceedings,

as set out in Section 1 of the Civil Evidence Act 1995, and Rule 57(2). It further considers that the evidence is relevant to the allegations against Ms Scott as they concern information relating to her indemnity insurance, her membership with organisations and her insurance policy. In considering the issue of fairness, the Committee has borne in mind that by email dated 2 January 2020, the GDC provided Ms Scott with a copy of the GDC's draft bundle and asked her to let the GDC know by 9 January 2020 if she had comments regarding this material. Ms Scott has not responded to that letter, even though it was open to her to do so. Taking all these factors into account, the Committee is satisfied that it is fair to admit the hearsay evidence, referred to in the witness statements of the GDC's Paralegal, under Rule 57(2). Accordingly, it has acceded to Mr Sykes' application. The Committee will bear in mind the provisions of Section 4 of the Civil Evidence Act 1995 when assessing the weight to be attached to this evidence.

Application by the GDC to admit the evidence of three GDC witness by Skype and for one GDC witness to give evidence via telephone.

Mr Sykes made an application under Rule 57 for Witnesses A, C and D to give evidence via Skype and for Witness B to give her evidence via telephone. He explained the reason why each of the witnesses was not able to attend the hearing in person. He also pointed out that the witnesses in this case were from Northern Ireland and that for practical reasons, it would be appropriate for them to give evidence remotely. Mr Sykes confirmed that the GDC notified Ms Scott that it was intending to apply for the witnesses to provide their evidence via Skype by email dated 2 January 2020. She was asked to confirm with the GDC whether she was content for their evidence to be given that way. To date, Ms Scott has not responded to the GDC's email.

The Committee has considered the submissions made by Mr Sykes. It has accepted the advice of the Legal Adviser. It notes the absence of any response from Ms Scott in respect of this application. The Committee is satisfied that it will be able to assess the demeanour of Witnesses A, C and D via Skype and ask them questions of clarification and therefore, there will be no diminution in the quality of their evidence. In the case of Witness B, although it will not be able to assess her demeanour, given that she will be giving evidence over the telephone, it will, nevertheless, be able to ask her questions. It is therefore satisfied that there will be no diminution in the quality of the evidence given by Witness B. In these circumstances, the Committee considers that there will be no unfairness to Ms Scott for Witnesses A, B, C and D give evidence remotely. For these reasons, the Committee grants the GDC's application.

Application by the GDC to admit further documentary evidence referred to by Witness A in her witness statement

During the course of proceedings on the first day of the hearing (20 January 2020) Mr Sykes indicated that it had come to light that page two of the contemporaneous note, referred to by Witness A, which should have been included, was missing. He invited the Committee to receive this document, which, he said, had already been referred to by Witness A in her statement. Mr Sykes confirmed the GDC notified Ms Scott of this omission, together with a copy of the relevant document, by email sent around 13.23 on 20 January 2020.

The Committee has considered the application made by the GDC. It has accepted the advice of the Legal Adviser. The Committee considers that it would be unfair to Ms Scott to admit the missing document, given that was only emailed to her on the afternoon of the first day of the hearing. In any event, the Committee notes that the gist of the second page of the

contemporaneous note is broadly covered in Witness A's written statement. Accordingly, the Committee refuses the GDC's application on this matter."

On 21 January 2020 the Chairman made the following statement regarding the finding of facts:

"The GDC's case

Between 1 November 2016 and 15 October 2018 Ms Scott was employed at the Smart Dental Care Practice as a dental nurse. The GDC's case against Ms Scott relates to her alleged failure to co-operate with the GDC's investigation against her, including not providing it with any, or any sufficient, evidence of her indemnity. The GDC puts its case that on 24 July 2017 and on or around 25 August 2017 Ms Scott provided information to a third party which was said to be misleading and dishonest. The GDC also alleges that for some or all of the period 1 July 2017 to 24 August 2017 Ms Scott provided dental services when she did not hold adequate indemnity insurance in place and that her conduct in this regard was misleading and dishonest.

On a separate matter, the GDC alleges that on 20 July 2018, Ms Scott attended work while unfit to do so due to alcohol consumption.

The GDC's case is that by reason of the matters alleged, Ms Scott's fitness to practise is impaired by reason of misconduct.

The evidence considered

In the absence of any formal admissions to the charges by Ms Scott, the Committee has considered each of them separately. In doing so, the Committee has taken into account all the evidence presented to it, including the GDC's hearing bundle and its addendum bundle. The bundles included the following:

- Witness statements 1, 2, 3 and 4 from the GDC's Paralegal (the Paralegal), signed and dated 12 September 2019, 4 October 2019, 1 November 2019 and 18 December 2019, with accompanying exhibits
- Witness A's statement, signed and dated 4 September 2019, as well as her accompanying exhibits
- Witness B's statement, signed and dated 17 September 2019, as well as her accompanying exhibits
- Witness C's statement, signed and dated 13 December 2019, as well as her accompanying exhibits
- Witness D's statement, signed and dated 15 December 2019, as well as his accompanying exhibits

The addendum bundle comprises a second witness statement from Witness D, signed and dated 17 January 2020, with accompanying exhibits.

The GDC's Paralegal sets out the correspondence obtained by the GDC during its investigation into Ms Scott's fitness to practise, particularly in relation to requests for her to provide the GDC with a copy of her indemnity certificate. It was open to the Committee to receive oral evidence from the Paralegal. However, the Committee indicated that it had no questions for her and therefore she was not called to give evidence.

Witnesses A, B, C and D each gave oral evidence before the Committee. They each confirmed the content of their witness statements as being true and accurate. The Committee found their evidence to be reliable and credible.

The Committee has taken into account all the evidence presented to it. It has accepted the advice of the Legal Adviser. In accordance with that advice it has considered each charge separately. The Committee is aware that the burden of proof is on the GDC and that it must decide on the facts according to the civil standard of proof, namely on the balance of probabilities. Ms Scott need not prove anything and the Committee does not draw any inference from her absence at this hearing. It received advice from the Legal Adviser of the test it must apply on dishonesty, as set out in the Supreme Court judgment in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67. The Committee's findings are as follows

1.	<i>You failed to cooperate with an investigation conducted by the General Dental Council from 24 July 2017 to 9 February 2018, including by:</i>
1.a	<p><i>Not providing the General Dental Council with any, or any sufficient, evidence of your indemnity</i></p> <p>Found proved</p> <p>The Committee has had regard to the evidence of the GDC Paralegal in which she exhibits copies of correspondence between Ms Scott and employees of the GDC from 24 July 2017 to 9 February 2018 in connection with the GDC's investigation. This includes correspondence dated 24 July 2017 in which the GDC emailed Ms Scott to ask her for a copy of her indemnity certificate. By email dated 24 July 2017 from Ms Scott to the GDC she explained that she had paid for her indemnity but had not yet received it from the insurance provider. The GDC sent another email dated 21 August 2017, requesting a copy of her indemnity certificate. By email dated 31 August 2017 Ms Scott said that her indemnity certificate was at her mother's house, where she was anticipating visiting that day. She explained that she could post the document to the GDC with an SAE to send back to herself. On 11 September 2017 the GDC sent another email to Ms Scott, chasing her for a copy of her indemnity certificate. She was asked to provide the information no later than 18 September 2017. By email dated 12 September 2017 Ms Scott stated that her British Association of Dental Nurses (BADN) membership certificate would be with the GDC "asap". In response to that email, the GDC advised Ms Scott by email dated 13 September 2017, sent at 8.49, that it required a copy of her insurance (indemnity) certificate rather than a copy of her qualification. In her email dated 13 September 2017, sent at 13.35 Ms Scott maintained that her BADN membership was her personal indemnity, which she offered to post to the GDC. On 17 November 2017, at 4.24, the GDC sent another email to Ms Scott, asking her to provide a copy of her indemnity certificate by no later</p>

	<p>than 22 November 2017. She was advised that a failure to provide this information could result in a further allegation being raised against her. By email dated 17 November 2017 at 19.17, Ms Scott stated that she had been unwell for the past five weeks but provided no explanation as to why she had not sent the certificate. On 9 February 2018 the GDC received an undated letter from Ms Scott in which she provided proof of her BADN membership, despite having been advised by the GDC that this did constitute indemnity insurance. The Committee has had regard to standard 9.4.1 of the GDC's "Standards for the Dental Team" which states: "If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter. You should also seek advice from your indemnity provider or professional association." The Committee is satisfied that Ms Scott had a duty to co-operate with the GDC's investigation by virtue of standard 9.4.1. It is also satisfied, on the evidence before it, that she failed to provide the GDC with any evidence of her indemnity within the times specified in the various letters, despite offering assurances that she would do so. It notes that the GDC sent Ms Scott a number of letters throughout the time in question, requesting the information. She failed to provide it. The Committee is satisfied that Ms Scott failed to co-operate with the GDC's investigation and accordingly finds this charge proved.</p>
<p>2.</p>	<p><i>For some or all of the period 1 July 2017 to 24 August 2017, you provided dental services when you did not hold adequate indemnity insurance</i></p> <p>Found proved</p> <p>The Committee first considered whether the GDC has proven that Ms Scott's indemnity had expired during this period. In an email dated 23 May 2018 from an employee of the BADN to the GDC, she confirmed that Ms Scott's previous policy ran to 30 June 2017 and that Ms Scott renewed it on 23 June 2017 but only as NOPI (meaning no professional indemnity). She further stated that on 25 August 2017 Ms Scott paid a further top up fee and was issued with indemnity insurance. The Schedule of Insurance, dated 25 August 2017, refers to the period of insurance as being from 26 July 2017 at 12.01 am to 31 July 2018 at 11.59pm. The policy also indicates that Ms Scott paid for the insurance on 25 August 2017. In the light of those documents, the Committee has concluded that Ms Scott was without indemnity from 1 July 2017 (following the expiry of the previous policy on 30 June 2017) to 25 July 2017 at midnight, before the new insurance took effect on 26 July 2017 at 12.01 am.</p> <p>The Committee then went on to consider whether Ms Scott was working during the period from 1 July 2017 to 25 July 2017. The Committee was assisted by the evidence of Witness D. He exhibited copies of Ms Scott's payslips for June, July and August 2017, which showed the total sum earned by her during that month, as well as</p>

	<p>the number of hours she worked. These show that Ms Scott was working during the period from 1 July 2017 to 25 July 2017.</p> <p>The Committee has seen a copy of the contract between Ms Scott's employer and her regarding her terms and condition of employment. It states that she is employed as a dental nurse/receptionist. It is aware that as a dental nurse, she would be required to hold indemnity insurance in carrying out her duties but would not be required to have indemnity insurance in her capacity as a receptionist. The Committee has no evidence as to whether Ms Scott was working as a dental nurse or as a receptionist in July 2017. However, given that Ms Scott had had indemnity insurance in June 2017 and renewed it in August 2017, the Committee has drawn the inference that it is more likely than not that she was providing dental services in July 2017. There is no evidence to the contrary before the Committee. Accordingly, the Committee is satisfied that this charge proved insofar as it relates to the period from 1 July 2017 to 25 July 2017.</p>
3.	<p><i>On 24 July 2017, you stated in an email to the General Dental Council that "I paid my renewal of my indemnity a few weeks ago, with the same company that I used previously I have no [sic] received my certificates".</i></p> <p>Found proved</p> <p>The Committee has seen a copy of the email dated 24 July 2017 which states the information set out in charge 3.</p>
4.	<p><i>Your conduct in relation to allegation 2 and/or 3 above was:</i></p>
4. a	<p><i>Misleading</i></p> <p>Found proved</p> <p>The Committee finds that Ms Scott was providing dental services for some of the period 1 July 2017 to 24 August 2017 when she did not hold indemnity insurance. This was misleading to her employers and any patients to whom she provided dental services. Patients would have been under the reasonable belief that as a registered dental nurse she would have adequate indemnity insurance when providing dental services. She did not have such cover and therefore her patients were misled. Her contract of employment stipulates under Section 15 that she must hold professional indemnity cover. By failing to renew her indemnity cover and failing to inform her employer that she did not have appropriate cover, she misled them. Accordingly, it finds this charge proved in respect of both allegations.</p>
4. b	<p><i>Dishonest, in that you knew you did not have indemnity cover in place</i></p> <p>Found proved</p> <p>At the time when Ms Scott sent her email to the GDC on 24 July 2017, she was aware that she had only renewed as NOPI on 23</p>

	<p>June 2017. The Committee has drawn the inference that she must have known at that time that she did not have indemnity cover in place because she subsequently paid for the full insurance on 25 August 2017, almost a month after she had sent the email to the GDC. She continued working during the period from 1 July 2017 to 25 July 2017 in the knowledge that she did not have indemnity cover in place. The Committee is therefore satisfied that Ms Scott's conduct as set out at charges 2 and 3 would be judged to be dishonest, applying the standards of ordinary decent people.</p>
<p>5.</p>	<p><i>On 20 July 2018 you attended work while unfit to do so due to alcohol consumption.</i></p> <p>Found not proved</p> <p>In support of its case, the GDC relies on the evidence of Witness B, Witness A and Witness C, who each had interactions with Ms Scott on the day in question. Witness B describes taking an order to the stockroom on the morning of 20 July 2018. She realised that the stockroom door was locked and called out words to the effect of "Why is the door locked?". She heard a voice which she recognised as Ms Scott's who told her that she was getting changed into a new tunic. Witness B returned to reception and described Ms Scott coming to sit beside her a short while later. Witness B's evidence was that there was a strong smell of alcohol from Ms Scott's breath but said that there was nothing untoward in her demeanour.</p> <p>Witness A describes smelling vodka from the plastic cup which was found in the stockroom where Ms Scott had been changing her tunic that morning. She gave evidence that a meeting took place with Ms Scott that day in which she recollected asking her if she had consumed alcohol that day. Her recollection was that Ms Scott said she had not, but that she had consumed alcohol the previous night. She also recollected asking Ms Scott if she had alcohol on the premises to which she replied that she had an empty bottle of gin in her handbag which her mother had given her to dispose of at the bottle bank. She explained that Ms Scott had repeatedly denied that she had drunk alcohol at work and said she felt fine. Witness A describes Ms Scott as being coherent and not slurring her speech. On Witness A's account, she believed that the Registrant had consumed alcohol on the premises and so sent her home from work.</p> <p>Witness C provided evidence about the meeting that took place on 20 July 2018 with Witness A and Ms Scott. Witness C was asked to attend the meeting by Witness A. She recollected Witness A asking Ms Scott to collect her bag from the stockroom and that on return, Ms Scott produced a bottle of Vodka from her bag. She has consistently said that she did not recall smelling alcohol on Ms Scott.</p> <p>There is evidence before the Committee which indicates that Ms Scott had brought a bottle of alcohol into the practice premises on the morning of 20 July 2018. On the evidence before it, the</p>

	<p>Committee could not draw the inference that the fact that Ms Scott may have smelt of alcohol on the morning of 20 July 2018 meant that she was unfit to work due to alcohol consumption. There is insufficient evidence to support the contention that she had in fact consumed alcohol at work and indeed two of witnesses confirmed that Ms Scott appeared to be behaving in a normal manner, without any signs that she was under the influence of alcohol. Witness C stated in her oral evidence that Ms Scott “seemed normal” and that she seemed “no different from any other day.” Accordingly, the Committee is not satisfied that the GDC has proved this charge to the requisite standard.</p>
6.	<p><i>On or around 25 August 2017 you responded “no” to the following question on renewal of your indemnity insurance:</i></p>
6.a	<p><i>Have you had any claims, complaints, or incidents including GDC or any other investigation or inquiry which could give rise to a claim involving negligence, error or omission, or are you aware of any circumstances which may bring such claim or a suit being made against you?</i></p> <p>Found proved</p> <p>The Committee has seen a copy of the insurance policy and attached document headed “information you provided” at page 80 of the bundle which states that Ms Scott replied “no” to the question set out in the charge.</p>
7.	<p><i>Your conduct in relation to allegation 6(a) was</i></p>
7a.	<p><i>Misleading</i></p> <p>Found proved</p> <p>By the time Ms Scott completed the renewal of her indemnity insurance on 25 August 2017, she was already aware that the GDC was investigating her fitness to practise. Indeed, Ms Scott sent a handwritten letter to the GDC dated 26 April 2017 (received by the GDC on 8 May 2017) in connection with proceedings against her. Further, the GDC sent her correspondence dated 21 August 2017 which advised her that it was preparing her case for the Case Examiners. This was four days before she renewed her insurance. It finds that Ms Scott’s response “No” on the renewal form was misleading to the insurance company in that it gave the impression that she was not subject to a GDC investigation at that time, when this was not the case.</p>
7.b	<p><i>Lacking integrity</i></p> <p>Found proved</p> <p>As a registered dental nurse, Ms Scott is in a privileged position by virtue of her professional status. Patients, employers, colleagues and the public should be able to rely on a dental nurse’s professional integrity. She was under a professional duty to adhere to the GDC’s</p>

	standards. It finds that her failure to answer accurately a clear question posed in relation to the renewal of her indemnity insurance amounts to a failure to adhere to the ethical standards of her own profession and amounts to a lack of integrity. Accordingly, the Committee finds this charge proved.
7.c	<p><i>Dishonest in that you knew you were subject to a GDC investigation at the time.</i></p> <p>Found proved</p> <p>The Committee is satisfied that Ms Scott knew that she was subject to a GDC investigation when she renewed her insurance on 25 August 2017. It is further satisfied that she knowingly provided incorrect information which was used as the basis of her indemnity insurance being issued. She provided this incorrect information some four days after the GDC had notified her that her case was being prepared for the GDC's Case Examiners. The Committee is satisfied that her conduct in this regard would be judged to be dishonest, applying the standards of ordinary decent people.</p>

We move to Stage Two.”

On 22 January 2020 the Chairman announced the determination as follows:

“Having announced its findings on the facts, the Committee has had regard to the submissions made by Mr Sykes, on behalf of the General Dental Council (GDC). He addressed the Committee in relation to Ms Scott's fitness to practise history, misconduct, impairment and sanction. The Committee has also had regard to the GDC's stage two bundle which contains the PCC's determinations of the hearings of Ms Scott's case. It has accepted the advice of the Legal Adviser.

Mr Sykes referred to Ms Scott's fitness to practise history before the PCC in September 2018. The PCC found that on 7 January 2014 Ms Scott received a caution from the Police Service Northern Ireland for the offence of theft. Following restoration to the GDC's register on 20 February 2014 Ms Scott failed to immediately inform the GDC of her caution for theft. The PCC found that her conduct in this regard was misleading. The PCC also found that for some or all of the period of 30 September 2013 and 20 February 2014 she practised as a dental nurse without GDC registration. The PCC concluded that it was more likely than not that Ms Scott was aware that she was not allowed to practise without being registered and that her conduct in this regard was dishonest. The PCC further found that for some or all of the period of 20 February 2014 and 30 June 2016 Ms Scott failed to have indemnity insurance. Ms Scott accepted that she provided dental services while she failed to hold adequate indemnity insurance.

The PCC determined that the facts found proved fell significantly below the standards expected of a registered dental professional and amounted to misconduct. It considered that Ms Scott's insight into the failings in the case were limited to her admission at the start of the hearing. It had no evidence of insight into her dishonesty. The PCC was concerned that there remained a risk of repetition of the behaviour identified. It determined that Ms Scott's

fitness to practise was impaired by reason of her misconduct and her caution. The PCC directed that Ms Scott's registration be suspended for a period of nine months, with a review of the order to take place before the expiry of the order. It indicated that a Committee reviewing the order might be assisted by a written personal reflective piece from Ms Scott on the importance of honesty in the profession, being indemnified and not working whilst unregistered.

The PCC reviewed the order on 25 June 2019. Ms Scott was not present or represented. The PCC noted the absence of any response from Ms Scott in relation to that hearing, despite being asked to notify the GDC whether she would be attending the hearing. The PCC decided to proceed in her absence. At that hearing the PCC noted that Ms Scott had not responded or engaged with the GDC since the PCC hearing in September 2018. There was no evidence that Ms Scott had addressed any of the PCC's concerns and therefore the PCC concluded that the risk of repetition remained. It determined that Ms Scott's fitness to practise remained impaired and directed that the current order of suspension be extended for a period of nine months.

Turning to matters before this Committee, Mr Sykes submitted that the findings against Ms Scott are serious and amount to misconduct. The GDC's position is that Ms Scott's fitness to practise is currently impaired by reason of that misconduct. This was, he said, a case where Ms Scott's conduct amounted to a serious departure from the GDC's professional standards and where she has shown a disregard of the role of her regulator. Mr Sykes submitted that the appropriate sanction in this case is that of erasure. He referred to a number of aggravating features in this case, including the provision of dental services over a period of time when Ms Scott did not hold adequate indemnity insurance, her dishonest conduct as well as her fitness to practise history, which involved misconduct of a similar nature.

The Committee notes that in advance of this hearing the GDC invited Ms Scott on more than one occasion to provide written representations to this Committee. She has not done so. In Ms Scott's email to the GDC dated 18 December 2019 she asked the GDC to stop contacting her.

Misconduct

The Committee has first considered whether the facts found proved amount to misconduct. In so doing, it has had regard to all the evidence before it. Throughout its considerations the Committee has kept in mind the relevant case law regarding the meaning of 'misconduct' within the context of regulatory proceedings. It has also had regard to the GDC's "Standards for the Dental Team" (September 2013).

This Committee has found that Ms Scott failed to co-operate with the GDC's investigation against her from 24 July 2017 to 9 February 2018. During that time, the GDC asked her on a number of occasions to provide evidence of her indemnity. She offered a range of excuses as to why she was not able to provide the information but in any event, she failed to provide the GDC with the required information.

In an email to the GDC dated 24 July 2017 Ms Scott stated that she had paid for the renewal of her indemnity a few weeks earlier, with the same company that she had used previously. Ms Scott knew that she did not have indemnity cover in place. The PCC found that her conduct in this regard was misleading and dishonest.

The Committee found that for some of the period between 1 July 2017 and 24 August 2017 Ms Scott provided dental services, in the knowledge that she did not hold adequate

indemnity insurance in place. It found that her conduct in this regard was misleading and dishonest in that she knew that she did not have indemnity cover in place.

Finally, on 25 August 2017 Ms Scott responded “no” to the following question on the renewal form for her indemnity insurance “Have you had any claims, complaints, or incidents including GDC or any other investigation or inquiry which could give rise to a claim involving negligence, error or omission, or are you aware of any circumstances which may bring such claim or a suit being made against you?” The PCC found that Ms Scott’s conduct in this regard was misleading, lacking integrity and dishonest in that she knew that she was subject to a GDC investigation at the time.

Having regard to its findings, the Committee is satisfied that Ms Scott breached the following standards of the GDC’s “Standards for the Dental Team” (September 2013):

- 1.3 You must be honest and act with integrity.
- 9.1 You must ensure that your conduct, both at work and in your personal life, justifies patients’ trust in you and the public’s trust in the dental profession.
- 9.4.1 If you receive a letter from the GDC in connection with concerns about your fitness to practise, you must respond fully within the time specified in the letter. You should also seek advice from your indemnity provider or professional association.

The GDC requires all dental professionals to have indemnity arrangements in place so that patients can claim any compensation they may be entitled to. It is the registrant’s (not the employer’s) responsibility to ensure that such cover is appropriate and maintained. Ms Scott provided dental services for a period of time in the knowledge that she did not hold adequate indemnity insurance. This was a serious breach of the applicable professional standards.

Furthermore, patients, employers, colleagues and the public should be able to rely on a dental professional’s integrity. Ms Scott’s dishonesty, which involved providing misleading information to her regulator and to her insurance company, is highly damaging to the reputation of the profession.

The Committee is satisfied that the findings against Ms Scott are serious and amount to misconduct.

Current impairment

The Committee next considered whether Ms Scott’s fitness to practise is currently impaired by reason of her misconduct. In so doing, the Committee has borne in mind the absence of any information from Ms Scott or any explanation as to what took place or acceptance of wrongdoing. She has chosen not to engage in these proceedings. In the absence of any recognition of wrongdoing or steps taken to address the concerns in this case, the Committee considers that there is a real risk of repetition.

A failure to have indemnity insurance while continuing to provide dental services places patients at risk, should they make a claim against the registrant. It is clear from the PCC’s findings against Ms Scott in 2018 that she provided dental services when she did not have indemnity insurance in place for some or all of the period between February 2014 and 30 June 2016. Given the previous findings against Ms Scott and the absence of any evidence of insight or steps she has taken to address the concerns in this case, the Committee has concluded that Ms Scott poses a risk to patients and public trust in the profession.

The misconduct identified in this case, is, in the Committee's view, serious. Such conduct undermines public confidence in the profession. It takes a serious view of Ms Scott's dishonest conduct and her providing dental services for a period of time when she did not hold adequate indemnity insurance. She provided misleading information on two separate occasions, both in connection with her indemnity insurance. In these circumstances, particularly where Ms Scott has chosen to disengage with her regulator, the Committee considers that public confidence would be undermined if a finding of impairment were not made.

Having regard to all of these matters, the Committee has determined that Ms Scott's fitness to practise is currently impaired by reason of her misconduct.

Sanction

The Committee next considered what sanction, if any, to impose on Ms Scott's registration. It recognises that the purpose of a sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest. The Committee has taken into account the GDC's "Guidance for the Practice Committees, including Indicative Sanctions Guidance" (October 2016, updated May 2019). It has applied the principle of proportionality, balancing the public interest with Ms Scott's own interests. The Committee has no information as to Ms Scott's current situation, save for the fact that she is currently subject to an order of suspension, by virtue of the PCC's direction of June 2019.

The Committee has had regard to the aggravating and mitigating factors in this case. The aggravating factors identified by the Committee include:

- Two separate findings of dishonesty in this case
- Her breach of professional trust
- No evidence of any insight or remorse
- The risk of harm to patients in providing dental services when she did not hold adequate indemnity insurance
- Her fitness to practise history which includes previous findings of a similar nature
- Deep seated attitudinal problems in relation to her professional practice.

In mitigation, the Committee has noted:

- There is reference to some health concerns she was experiencing.

The Committee has considered the range of sanctions available to it, starting with the least restrictive. It has determined that to conclude the case with no further action or with a reprimand would not be sufficient in the light of the gravity of the misconduct found proved and the risk of repetition identified.

The Committee then considered whether a period of conditional registration would be sufficient. In the Committee's judgement, conditions would not be sufficient to mark the seriousness with which it views Ms Scott's departure from acceptable standards of behaviour. Further, the Committee concluded that conditions would not be workable, given her lack of engagement with the GDC as well as the underlying attitudinal issues in this case. It is clear from Ms Scott's fitness to practise history that she has repeated this behaviour which brought her fitness to practise into question.

The Committee has given careful consideration as to whether it is sufficient to direct that Ms Scott's registration be suspended or whether this is a case where an order of erasure is necessary. Ms Scott's conduct in knowingly providing dental services without holding adequate indemnity insurance is unacceptable and is highly damaging to public confidence in dental professionals. She failed to co-operate with the GDC into its investigation regarding her fitness to practise and she provided them with information which was found to be misleading and dishonest.

These matters are compounded by findings of a similar nature against her reached by the PCC in September 2018 as well as her lack of engagement in relation to those proceedings, despite being given an opportunity to do so. In the Committee's judgement, she has demonstrated a wilful disregard of the GDC's rules and regulations and has failed to demonstrate any awareness of her professional responsibilities. She has chosen not to participate in these proceedings and has asked the GDC not to contact her.

Taking all these factors into account, the Committee has concluded that suspension would not be appropriate or sufficient for maintaining public confidence in the profession and upholding professional standards. The Committee is satisfied that the findings against Ms Scott are so serious that it is fundamentally incompatible with her remaining on the Dental Care Professionals' Register.

Accordingly, the Committee has determined that the appropriate and proportionate sanction in this case is that of erasure. The Committee has taken into account the impact of such a direction on Ms Scott's own interests. However, in the light of the serious nature of the misconduct found, the Committee considers that the public interest outweighs Ms Scott's own interests in this matter. It therefore directs that Ms Scott's name be erased from the Dental Care Professionals' Register.

The Committee now invites submissions as to whether Ms Scott's registration should be suspended immediately, pending the taking effect of its substantive direction of erasure."

"Decision on immediate order

Having directed that Ms Scott's name be erased from the Dental Care Professionals' Register, the Committee has considered whether to make an order for immediate suspension of Ms Scott's registration in accordance with Section 36U(1) of the Dentists Act 1984 (as amended). Mr Sykes, on behalf of the GDC, has submitted that such an order is necessary for the protection of the public and is otherwise in the public interest, given the serious nature of the Committee's findings.

The Committee has reached serious findings against Ms Scott such that it is necessary to direct that her name be erased from the Dental Care Professionals' Register. In the Committee's view, Ms Scott poses a risk to patients and public trust in the profession and that it would be inconsistent to allow her the opportunity to continue to practise during the intervening appeal period. The Committee has also taken into account paragraphs 7.35 to 7.8 of the GDC's "Guidance for the Practice Committees, including Indicative Sanctions Guidance."

In accordance with Section 36U(1) of the Dentists Act 1984 (as amended) the Committee has determined that it is necessary for the protection of the public and is otherwise in the public interest to direct that Ms Scott's registration be suspended forthwith.

Unless Ms Scott exercises her right of appeal, the substantive direction of erasure will take effect 28 days from when notice is deemed to have been served on her. Should Ms Scott exercise her right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal proceedings.

That concludes the case for today.”