HEARING PARTLY HEARD IN PRIVATE

KIELY, William Gerard

Registration No: 54442

PROFESSIONAL CONDUCT COMMITTEE

DECEMBER 2018 – DECEMBER 2019*

Outcome: Suspension extended for 12 months (with a review)

***See page 36 for the latest determination**

William Gerard KIELY, a dentist, BDS NU Irel 1980, was summoned to appear before the Professional Conduct Committee on Monday 3 December 2018 for an inquiry into the following charge:

Charge (as amended on 3 and 6 December 2018)

"That, being a registered dentist:

1. You were in general dental practice at 'My Dentist' at:
   (a) 9 Stanhope Road, Deal, Kent, between 7 April 2015 and 30 June 2016;
   (b) 1 Cantelupe Road, Bexhill-on-Sea, East Sussex, between 4 July 2016 and 30 January 2017.
2. You provided care and treatment to the patients identified in Schedule A[1].

Patient 4

3. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 4 between April 2015 and February 2016 in that:
   (a) following BPE scores of 3 on 16 April 2015 you did not:
      (i) carry out pocket depth charting;
      (ii) carry out root surface debridement;
      (iii) undertake any radiographic investigation;
      (iv) [withdrawn];
   (b) you did not accurately record Patient 4's BPE scores;
   (c) you did not diagnose and/or treat Patient 4's periodontal condition;
   (d) on 16 July 2015 you did not provide or record the provision of advice regarding the risks and benefits of alternative options for restoring the space at LL1;
   (e) prior to Patient 4 being provided with a Maryland Bridge on 31 July 2015 you did not undertake any radiographic investigation;

[1] Please note that the schedule is a private document and cannot be disclosed

(f) it was inappropriate to provide Patient 4 with a Maryland Bridge on 31 July 2015 given:

(i) the presence of untreated generalised periodontal disease;

(ii) it involved the use of periodontally compromised teeth as abutment teeth;

(iii) insufficient time had elapsed to allow for the healing of soft tissues following the loss of LL1;

(g) you prescribed Metronidazole for Patient 4 without an adequate clinical justification, or without an adequate record of the clinical justification, on:

(i) 18 August 2015;

(ii) 1 September 2015.

Patient 5

4. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 5 between June 2015 and January 2016 in that:

(a) you did not accurately and/or adequately record Patient 5's symptoms with regard to the UL6;

(b) you did not adequately discuss treatment options with Patient 5 with regard to the UL6;

(c) you did not accurately and/or adequately report on a periapical radiograph of the UL quadrant dated 7 January 2016 in that you did not report on:

(i) the deficiencies of the root filling at UL6;

(ii) the associated periapical area;

(d) you did not take any bitewing radiographs;

(e) you did not diagnose and/or appropriately treat infection at UL6 between 29 December 2015 and 7 January 2016;

(f) you prescribed Amoxicillin for Patient 5 without making an adequate record of the clinical justification on 29 December 2015.

Patient 6

5. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 6 between June 2015 and April 2016 in that:

(a) you did not take any bitewing radiographs;

(b) prior to the provision of a crown at LL6 on 25 August 2015 you did not undertake any radiographic investigation;

(c) prior to the provision of an amalgam restoration at LR6 on 22 April 2016 you did not completely remove caries at LR6 or record your reasons for leaving caries;

(d) you prescribed Amoxicillin for Patient 6 without an adequate clinical justification, or without an adequate record of the clinical justification, on 19 August 2015.

Patient 9

6. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 9 between August 2015 and May 2016 in that:

   (a) you did not carry out or record an examination after 12 August 2015;

   (b) you did not accurately record Patient 9's BPE scores on 12 August 2015;

   (c) you did not advise or adequately record the provision of advice regarding treatment options including risks and benefits:

      (i) following the fracture of LR7;

      (ii) following the fracture of LL5;

   (d) prior to the provision of a crown at LL5 on 5 May 2016 you did not undertake any radiographic investigation;

   (e) you did not take bitewing radiographs;

   (f) prior to the provision of an amalgam restoration at LR6 on 11 February 2016 you did not completely remove caries at LR6 or record your reasons for leaving caries.

7. You caused or permitted a Band 3 claim to be made in your name in respect of a course of treatment involving a filling at LL6 and a crown at LL5 with a commencement date of 17 March 2016.

8. The Band 3 claim as set out above was inappropriate in that another course of treatment in the same band had been claimed within the last 2 months and the treatment ought therefore to have been a continuation of the previous course and further UDAs ought not to have been claimed.

9. Your conduct in respect of the Band 3 claim as set out above was misleading.

Patient 10

10. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 10 between April 2015 and January 2016 in that:

   (a) you did not record an examination;

   (b) you did not carry out a BPE;

   (c) you took a Grade 3 periapical radiographic of the UR quadrant on 13 November 2015 and did not:

      (i) report on findings;

      (ii) re-take the radiograph;

   (d) you did not undertake any radiographic assessment on completion of a root filling at UR6 on 15 January 2016;

   (e) [withdrawn];

   (f) you prescribed Metronidazole for Patient 10 without an adequate clinical justification, or without an adequate record of the clinical justification on 13 November 2015.

Patient 11

11. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 11 between April 2015 and January 2016 in that:

    (a) you did not undertake periapical radiographic investigation of the UL6 when Patient 11 presented with symptoms on 22 April 2015 or subsequently;

    (b) you undertook bitewing radiographs on 12 January 2016 and did not report and/or treat caries at:

        (i) LR7;

        (ii) UR6;

        (iii) UR7;

        (iv) UL7;

        (v) LL5;

        (vi) LL8;

(c) you prescribed Amoxicillin for Patient 11 without an adequate clinical justification, or without an adequate record of the clinical justification, on 22 April 2015.

Patient 12

12. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 12 between August 2015 and March 2016 in that:

    (a) you did not adequately record examinations carried out on:

        (i) 18 November 2015;

        (ii) 23 December 2015;

    (b) you did not accurately and/or adequately report on a periapical radiograph:

        (i) [withdrawn];

        (ii) dated 30 March 2016;

    (c) you did not carry out an appropriate and/or adequate assessment of the UR6 on 23 December 2015 to determine the cause of infection;

    (d) the root canal treatment provided to UR6 was substandard;

    (e) you did not inform Patient 12 of the status of the root filling provided at UR6;

    (f) you issued a prescription for Amoxicillin on 25 February 2016 without examining Patient 12.

Patient 13

13. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 13 between April 2015 and October 2015 in that:

    (a) you did not record the provision of advice regarding treatment options including risks and benefits in respect of LL6 on 8 October 2015;

    (b) you did not accurately record Patient 13's BPE scores on:

        (i) 8 October 2015;

(ii) [withdrawn];

(c) you did not take any bitewing radiographs;

(d) you did not take a periapical of the LR quadrant on or about 23 July 2015 when Patient 13 presented with symptoms and swelling.

Patient 14

14. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 14 between May 2015 and June 2016 in that:

(a) you did not accurately record Patient 14's BPE scores on:

(i) 13 May 2015;

(ii) 20 November 2015;

(iii) 8 June 2016;

(b) you did not diagnose and/or adequately treat Patient 14's periodontal condition;

(c) you did not adequately record the provision of advice regarding treatment options including the risks and benefits of leaving grossly carious teeth untreated;

(d) you prescribed a further course of Amoxicillin for Patient 14 without an adequate clinical justification, or without an adequate record of the clinical justification, on 27 April 2016.

Patient 15

15. You failed to provide an adequate standard of care and record keeping in respect of Patient 15 between April 2015 and June 2016 in that:

(a) you did not carry out or record an examination between 17 April 2015 and 8 May 2015 prior to the provision of a root filling at UR1;

(b) you did not report on a periapical dated 8 May 2015 and/or treat:

(i) caries at UL1;

(ii) a pin perforation at UR1;

(iii) caries at UR1;

(iv) caries at UR2;

(c) you prescribed Amoxicillin for Patient 15 without an adequate clinical justification, or without an adequate record of such, on:

(i) 17 April 2015;

(ii) 20 May 2016.

Patient 21

16. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 21 between July and August 2016 in that:

(a) you did not undertake adequate radiographic investigation of retained roots at:

(i) UL6;

(ii) UR6;

(iii) UR7;

(b) [withdrawn];

(c) you failed to accurately and/or adequately report on a right bitewing radiograph dated 25 August 2016 and/or treat caries at:

(i) UL6;

(ii) UR6;

(iii) UR7.

Patient 23

17. You failed to provide an adequate standard of care and/or record keeping in respect of Patient 23 between July 2016 and September 2016 in that:

(a) you did not adequately record the provision of advice regarding treatment options including risks and benefits in respect of the fractured LR6/7;

(b) you did not accurately and/or adequately report on a right bitewing radiograph dated:

(i) 5 July 2016;

(ii) [withdrawn];

(c) you did not record Patient 23's symptoms on 24 August 2016 and/or your rationale for root filling LR6/7;

(d) you did not keep any, or any adequate clinical record, in respect of an appointment on 7 October 2016.

18. You caused or permitted a Band 2 claim to be made in your name in respect of a course of treatment involving a root filling at LR6/7 with a commencement date of 19 September 2016.

19. The Band 2 claim as set out above was inappropriate in that:

(i) the root filling at LR6/7 commenced on 24 August 2016;

(ii) another course of treatment in the same band had been claimed within the last 2 months and the treatment ought therefore to have been a continuation of the previous course and further UDAs ought not to have been claimed;

20. Your conduct in respect of the Band 2 claim as set out above was misleading.

And that by reason of the facts alleged, your fitness to practise is impaired by reason of your misconduct."

Mr Kiely was not present and was not represented. On 12 December 2018 the Chairman announced the findings of fact to the Counsel for the GDC:

"Mr Kiely is not present at this hearing of the Professional Conduct Committee (PCC) and is not represented in his absence. Ms Lydia Barnfather of Counsel, instructed by Capsticks solicitors, appears for the General Dental Council (GDC).

Service of notice

On behalf of the GDC Ms Barnfather submitted that service of notice of this hearing has been properly effected in accordance with Rules 13 and 65 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). On 5 November 2018 a notice of hearing was sent to the address that Mr Kiely has registered with the GDC, setting out the date, time and location of this hearing. The notice was sent using the Royal Mail's Special Delivery postal service. The Royal Mail's Track and Trace service records that an attempt was made to deliver the notice on 7 November 2018 but that the addressee had not been available to take delivery of the notice. A copy of the notice was also sent to Mr Kiely by first class post and email.

The Committee accepted the advice of the Legal Adviser. The Committee was satisfied that service has been properly effected in accordance with the Rules.

Proceeding in absence

The Committee then went on to consider whether to exercise its discretion to proceed in the absence of Mr Kiely in accordance with Rule 54 of the Rules. Ms Barnfather invited the Committee to do so on the basis that the GDC has made all reasonable efforts to notify Mr Kiely of this hearing and that he is undoubtedly aware of the fact of this hearing, that he appears to have decided not to participate in these proceedings, and that it is in the public interest to proceed.

The Committee accepted the advice provided by the Legal Adviser. The Committee was mindful that its discretion to conduct a hearing in the absence of a registrant should be exercised with the utmost care and caution. After careful consideration the Committee was satisfied that it would be fair and appropriate to proceed in Mr Kiely's absence. The Committee considers that all reasonable efforts have been made to inform Mr Kiely of this hearing. It appears that Mr Kiely has decided not to attend, and that he has disengaged from these proceedings. The Committee considers that in the circumstances an adjournment would be unlikely to secure Mr Kiely's attendance. The Committee is also mindful of the public interest in proceeding with this hearing and in determining a range of serious allegations. It has also taken note of the inconvenience that would be caused to the witnesses if the Committee were to postpone the hearing.

The Committee therefore determined to proceed in the absence of Mr Kiely.

Preliminary matters

At the start of the hearing, and later at the conclusion of the Council's case, Ms Barnfather applied to amend and withdraw a number of the heads of charge in accordance with Rule 18 of the Rules.

The Committee, having received advice from the Legal Adviser, considered that the proposed amendments could be made without injustice to Mr Kiely. The schedule of charge was duly amended.

Background to the case and summary of allegations

The allegations giving rise to these proceedings relate to the standard of care, treatment and record-keeping that Mr Kiely provided to 12 patients whilst in practice at two branches of MyDentist in the overall period of April 2015 to January 2017. Mr Kiely worked at the branch of MyDentist in Deal, Kent, in the period of 7 April 2015 to 30 June 2016, and at another branch of MyDentist in Bexhill-on-Sea in East Sussex in the period of 4 July 2016 to 30

January 2017. Ten of the 12 patients were treated by Mr Kiely at the practice in Deal. Those patients are referred to for the purposes of these proceedings as Patients 4, 5, 6, 9, 10, 11, 12, 13, 14 and 15. The remaining two patients, namely Patients 21 and 23, were seen by Mr Kiely at the practice in Bexhill-on-Sea.

The specific allegations that have been raised about Mr Kiely may be summarised as follows. It is alleged that Mr Kiely failed to undertake adequate radiographic investigations across a number of individual patient cases, which, it is contended, resulted in failures to treat caries or the provision of inappropriate treatments, such as unsuitable restorations, restorations of unrestorable teeth, poor root canal treatments (RCTs) and poor quality restorations. The GDC also alleges that Mr Kiely failed to properly evaluate 10 radiographs across seven patients. Mr Kiely also faces allegations in respect of his diagnosis and treatment of periodontal disease concerning four patients, as well as the accuracy of records that he made of the results of basic periodontal disease (BPE). The GDC has also raised charges in respect of Mr Kiely's prescribing of antibiotics for eight patients, and alleges that on two occasions for Patient 9 and Patient 23 Mr Kiely submitted claims for treatment that were misleading. Mr Kiely also faces a number of allegations in respect of his record-keeping across the 12 patients in question.

The formal charges that Mr Kiely faces in respect of Patients 4, 5, 6, 9, 10, 11, 12, 13, 14 and 15 were raised after an initial referral that was made by a fellow associate dentist at MyDentist in Deal, who is referred to for the purposes of these proceedings as Witness A. Witness A had also raised her concerns about Mr Kiely's care and treatment of those patients with Mr Kiely's subsequent practice in Bexhill-on-Sea. The care and treatment that Mr Kiely provided to the two patients at that latter practice, namely Patients 21 and 23, were also referred to the GDC. The GDC's investigation of these matters also included a record card audit being undertaken by NHS England by a dental clinical adviser, who is referred to for the purposes of these proceedings as Witness C. The GDC further commissioned an expert report from Mr Alan Canty.

Evidence

The Committee heard oral evidence from Witness A; Patient 5; Patient 12; the practice manager of MyDentist in Deal, namely Witness B; Patient 9; an NHS England dental clinical adviser, namely Witness C; the former practice manager of My Dentist in Bexhill-on-Sea, who is referred to the for purposes of these proceedings as Witness D; Patient 15; and the GDC's expert witness, namely Mr Canty.

The Committee has been provided with documentary material in relation to the heads of charge that Mr Kiely faces, including the witness statements and documentary exhibits of the witnesses and patients referred to above; the clinical records of the 12 patients in this case; the expert report of Mr Canty; and previous responses to the allegations provided by Mr Kiely and those who formerly acted on his behalf.

Committee's findings of fact

The Committee has taken into account all the evidence presented to it, both written and oral, and has considered the submissions made by Ms Barnfather on behalf of the GDC.

The Committee was assisted by the evidence of Mr Canty. The Committee found that he provided measured, thoughtful and authoritative oral evidence in addition to his clear and well-structured written report. Mr Canty was credible and fair when giving evidence, making

concessions as appropriate and drawing on a wealth of experience and knowledge in so doing.

The Committee was also assisted by the evidence provided by Witness A. She provided clear, objective and thorough evidence of the concerns that she had, and was able to recall the patients in question and relay the matters that gave rise to her concerns. Her evidence was supplemented and supported by documentary evidence. Her evidence was credible and reliable.

The Committee also found Witness B to be a credible and helpful witness. She gave straightforward, clear and concise evidence to the Committee and had a good recollection of the events giving rise to these proceedings. The Committee noted that Witness B was careful to ensure that she was fair to Mr Kiely.

The Committee was further assisted by the oral evidence of Witness C. He provided persuasive and consistent evidence of his involvement in the matters in question, and provided evidence in an objective manner.

Witness D's oral evidence to the Committee was of further assistance. She provided a clear and reliable account of the working practices and arrangements at the MyDentist practice in Bexhill-on-Sea by way of relevant background evidence. The Committee was particularly assisted by the evidence that she was able to provide of the claiming process that was followed in respect of one of the two Bexhill-on-Sea patients, namely Patient 23.

The Committee also heard oral evidence from four patients in this case. Patient 5 was fair and credible in the giving of her evidence. Patient 5 was able to recall clearly, vividly and consistently Mr Kiely's care and treatment of her. Patient 5 was also careful to state when she was not able to specifically recall a matter, and in this way Patient 5 identified the limits of her recollection. Patient 12's evidence was of further assistance to the Committee. Patient 12 appeared dispassionate and thorough in the giving of her evidence, and she too was careful to make it clear if she was not able to remember a particular matter. Her recollection was nonetheless good, particularly in relation to the symptoms that she was experiencing at the time of the events in question. Patient 9 also gave oral evidence to the Committee. Patient 9 was fair and objective in the giving of her evidence. The Committee was assisted by the patient's recollection of the events in question, although it noted that Patient 9 was not always able to recall the specific details of those matters. The Committee was assisted by Patient 9's care in stating when she was not able to recall the events in question. The final patient who gave oral evidence to the Committee was Patient 15. He provided detailed and clear evidence of the appointments that he had with Mr Kiely, drawing on a good recollection of the treatment that he received from Mr Kiely and others.

The Committee has accepted the advice of the Legal Adviser. The Committee is mindful that the burden of proof lies with the GDC, and has considered the heads of charge against the civil standard of proof, that is to say, on the balance of probabilities. The Committee has considered each head of charge separately, although in respect of some of the heads of charge its findings will be given together.

I will now announce the Committee's findings:

1. (a)	Proved
	The Committee finds the facts alleged at head of charge 1 (a) proved. The Committee has been provided with documentary evidence, including witness statements and a number of patient records, which demonstrate

	that Mr Kiely worked in general dental practice at MyDentist in Deal in the period in question.
1. (b)	Proved
	The Committee finds the facts alleged at head of charge 1 (b) proved. The Committee has again been provided with documentary evidence, including witness statements and two patient records, which demonstrate that Mr Kiely worked in general dental practice at MyDentist in Bexhill-on-Sea in the period in question.
2.	Proved
	The Committee finds the facts alleged at head of charge 2 proved. The Committee has had regard to the patient records relating to the 12 patients who are identified at Schedule A. These patient records demonstrate that Mr Kiely provided care and treatment to those patients.
Patient 4	
3. (a) (i)	Proved
	The Committee finds the facts alleged at head of charge 3 (a) (i) proved. The Committee notes that Mr Kiely recorded two BPE scores of '3' in respect of his examination of Patient 4 on the date in question, namely 16 April 2015. The Committee notes that there is no record of any pocket depth charting having been undertaken by Mr Kiely following his recording of these scores. The Committee infers from the absence of a record of pocket depth charting that no such charting was undertaken, as it is more likely than not that had such charting been done it would have been recorded. The Committee accepts the expert evidence of Mr Canty that scores of '3' should be followed by pocket depth charting in accordance with the guidance issued by the British Society of Periodontology's *Basic Periodontal Examination* (2011) ('BSP guidance'). The Committee finds that Mr Kiely failed in this duty, and that this amounts to a failure to provide an adequate standard of care. Accordingly the Committee finds the facts alleged at head of charge 3 (a) (i) proved.
3. (a) (ii)	Proved
	The Committee finds the facts alleged at head of charge 3 (a) (ii) proved. The Committee notes from Patient 4's clinical records that Mr Kiely recorded that he provided a scale and polish and the removal of calculus at the appointment on 16 April 2015. The Committee accepts the expert evidence of Mr Canty that a scale and polish is different from a root surface debridement. The Committee notes from Patient 4's records that there is no entry to suggest that Mr Kiely carried out a root surface debridement in the period in question following the recorded BPE scores of '3'. The Committee infers from the absence of any record of a root surface debridement that no such treatment was provided. The Committee again accepts the expert evidence of Mr Canty, who cites the BSP guidance concerning root surface debridement in stating that BPE scores of '3' should have been followed by root surface debridement. The Committee

	finds that Mr Kiely failed in his duty to Patient 4, and that this in turn amounts to a failure to provide an adequate standard of care. The Committee therefore finds the facts alleged at head of charge 3 (a) (ii) proved.
3. (a) (iii)	Proved
	The Committee finds the facts alleged at head of charge 3 (a) (iii) proved. The Committee notes from Patient 4's clinical records that Mr Kiely recorded that radiographs were 'not applicable' at the appointment that took place on 16 April 2015. The Committee has not been provided with any radiographs taken in the period in question, and there is no entry made by Mr Kiely to suggest that he had in fact taken any radiographs. The Committee accepts the expert evidence of Mr Canty that radiographs were required following the BPE scores of '3' in accordance with the BSP guidance for the purposes of assessing alveolar bone levels, and that Mr Kiely failed in this duty. The Committee considers that this amounts to an inadequate standard of care, and accordingly it finds the facts alleged at head of charge 3 (a) (iii) proved.
3. (a) (iv)	Withdrawn
3. (b)	Proved
	The Committee finds the facts alleged at head of charge 3 (b) proved. The Committee notes that in January 2015 the patient's previous dentist recorded BPE scores of 2, 1, 2, 2, 1, 2, resulting in a scaling and removal of calculus deposits. The next recorded BPE scores were made by Mr Kiely at the appointment that took place on 16 April 2015. These scores were, namely, 3, 1, 2, 2, 3, 2. At that appointment on 16 April 2015 Mr Kiely also recorded that Patient 4 had periodontal disease, bone loss and gum recession. The Committee notes that in his evidence Mr Canty does not seek to challenge the scores of 3, 1, 2, 2, 3, 2 recorded on 16 April 2015. At a subsequent appointment on 31 July 2015 Mr Kiely also noted tooth mobility. However, on 6 November 2015 Mr Kiely recorded BPE scores of '1' in each of the sextants. On 23 February 2016 Mr Kiely recorded scores of 2, 2, 1, 2, 2, 1. The Committee accepts the expert evidence that these two sets of scores are not consistent with the scores that Mr Kiely had recorded on 16 April 2015. Those two sets of scores are also inconsistent with Mr Kiely's note of 16 April 2015 which referred to the presence of periodontal disease, bone loss and gum recession. The inaccuracy of these two sets of scores made on 6 November 2015 and 23 February 2016 is also demonstrated by the examination of Witness A, who on examining the patient on 4 October 2016 identified grade '3' mobility and the presence of severe periodontitis, with four teeth irreversibly detached from the bone. A radiograph of 6 April 2016 also demonstrated generalised bone loss. The Committee notes from the previous response to the allegations provided by Mr Kiely's former legal representatives dated 8 January 2018 that he accepted that his recorded BPE scores of 6 November 2015 were incorrect, particularly as the patient's teeth were mobile.

	The Committee finds that Mr Kiely was under a duty to make accurate records of the patient's BPE scores, and that as he did not do so he failed to maintain an adequate standard of record-keeping. The Committee therefore finds the facts alleged at head of charge 3 (b) proved.
3. (c)	Not proved
	The Committee finds the facts alleged at head of charge 3 (c) not proved. The Committee notes from Patient 4's clinical records that on 16 April 2015 Mr Kiely recorded the presence of periodontal disease, and that this amounts to a diagnosis of the patient's periodontal condition. Mr Kiely removed calculus on 16 April 2015 and advised the patient to use tepee brushes. On 23 July 2015 Mr Kiely recorded that he advised the patient to use Corsodyl mouthwash. He subsequently advised the patient on 31 July 2015 to use Sensodyne toothpaste and mouthwash. On 18 August 2015 Mr Kiely recorded that he advised the patient to continue to use Corsodyl mouthwash. The Committee finds that, although this treatment was rudimentary and inadequate on its own, it nonetheless constitutes treatment of the patient's periodontal condition. The Committee is mindful that the GDC alleges that no treatment, rather than inadequate treatment, was provided. The Committee finds that, as a diagnosis of the periodontal condition was made, and as treatment, however limited, was provided, the facts alleged at head of charge 3 (c) are not proved.
3. (d)	Proved
	The Committee finds the facts alleged at head of charge 3 (d) proved. The Committee notes that Mr Kiely recorded that he discussed treatment options with Patient 4 at the appointment on 16 April 2015, namely a partial denture on the NHS, a Maryland bridge on the NHS, or implants to be provided on a private basis. There is nothing however to suggest that Mr Kiely discussed the risks and benefits of these options. The Committee infers from the absence of any record of a discussion of the risks and benefits of alternative options that no such discussion occurred. The Committee finds that Mr Kiely failed to provide an adequate standard of care to Patient 4 in this regard, and that accordingly the facts alleged at head of charge 3 (d) are proved.
3. (e)	Proved
	The Committee finds the facts alleged at head of charge 3 (e) proved. The Committee notes that Mr Kiely provided a Maryland bridge to Patient 4 on 31 July 2015. The Committee has not been provided with any radiographs taken before the provision of such treatment, and there is also nothing in the patient's clinical records to otherwise suggest that radiographs were taken. The Committee finds that Mr Kiely did not undertake radiographic investigation, and that as he did not do so he failed to provide an adequate standard of care to Patient 4. The Committee finds the facts alleged at head of charge 3 (e) proved on this basis.
3. (f) (i)	Proved

	The Committee finds the facts alleged at head of charge 3 (f) (i) proved. The Committee notes that at the appointment on 31 July 2015 Mr Kiely noted the mobility of UL4, with oral health instruction given at that appointment and at the previous appointment earlier that month. Mr Kiely's clinical notes refer to the presence of bone loss, gum recession and periodontal disease as referred to above. The Committee has found that there was generalised periodontal disease which Mr Kiely had diagnosed. Although the Committee found at head of charge 3 (c) above that Mr Kiely had provided some treatment in relation to the periodontal condition, the Committee notes that the periodontal condition had not been resolved at the time at which the bridge was fitted on 31 July 2015 and that the condition was extant. The Committee accepts the expert evidence of Mr Canty that it was not appropriate to provide a bridge given the persistence of periodontal disease. Mr Kiely failed in his duty to provide an adequate standard of care to Patient 4 in this regard, and accordingly the Committee finds the facts alleged at head of charge 3 (f) (i) proved.
3. (f) (ii)	Proved
	The Committee finds the facts alleged at head of charge 3 (f) (ii) proved. The Committee notes that LR1 and LL2 were to be used as abutment teeth for a Maryland bridge that was fitted on 31 July 2015. On 16 April 2015 Mr Kiely had documented that LR1 was grade '1' mobile, and was therefore periodontally compromised. Mr Kiely had diagnosed periodontal disease. Witness A subsequently saw the patient on 4 October 2016 and considered that the patient had severe periodontitis, meaning that the patient would lose all of her teeth. The Committee considers that the periodontal condition of LL2 is not likely to have deteriorated to such an extent in the period of 31 July 2015, when the bridge was fitted, to 4 October 2016, when Witness A made her diagnosis. The loss of the tooth that was adjacent to the LL2, namely LL1, on or around 16 July 2015, is highly suggestive of there being periodontal disease at the LL2. The use, therefore, of both LR1 and LL2 as abutment teeth meant that the provision of the Maryland bridge was inappropriate. The Committee finds that Mr Kiely failed to provide an adequate standard of care to Patient 4 in this regard, and that accordingly the facts alleged at head of charge 3 (f) (ii) proved.
3. (f) (iii)	Proved
	The Committee finds the facts alleged at head of charge 3 (f) (iii) proved. On 16 July 2015 Patient 4 complained of LL1 having fallen out completely. The patient returned for the fitting of the Maryland bridge a fortnight later on 31 July 2015. The Committee accepts the expert evidence of Mr Canty that six months should separate the loss of a tooth and the fitting of a bridge. The fortnight that passed from the loss of LL1 and the bridge fitting was therefore insufficient, and the Committee finds that this amounts to a failure on the part of Mr Kiely in his care of Patient 4. The Committee therefore finds the facts alleged at head of charge 3 (f) (iii) proved.
3. (g) (i)	Proved

	The Committee finds the facts alleged at head of charge 3 (g) (i) proved. The Committee notes from the evidence presented to it that on 18 August 2015 Mr Kiely prescribed an antibiotic, more particularly, metronidazole, to Patient 4. The patient is recorded as having attended with localised swelling and soreness of the gum at UL1. Mr Kiely also recorded a 'slight periodontal infection' at the same site. There is no record of systemic infection, and the Committee infers that no such systemic infection was present. Such systemic infection might provide an indication for the prescription of antibiotics, and the Committee accepts the expert evidence of Mr Canty, who cited the *Antimicrobial Prescribing for General Dental Practitioners (2012)* guidance issued by the Faculty of General Dental Practitioners (UK) ('FGDP prescribing guidance'). Mr Canty stated that there was no adequate clinical justification for the prescription, and the Committee accepts this expert evidence. Mr Canty also states that antibiotics may be prescribed if, aside from systemic infection, there is evidence of the engagement of lymph nodes or malaise, and the Committee again infers from the absence of any such recorded features that those features were not present. The Committee finds that this amounts to an inadequate standard of care. The Committee therefore finds the facts alleged at head of charge 3 (g) (i) proved.
3. (g) (ii)	Proved
	The Committee finds the facts alleged at head of charge 3 (g) (ii) proved. The Committee again accepts the evidence of Mr Canty that antibiotics should only be prescribed if there is evidence of malaise, lymph node engagement or systemic infection. The Committee notes that Mr Kiely recorded that the infection at the patient's gum around UL1, rather than being systemic, was not spreading. The Committee infers from the absence of any recorded entry of any of these three indications that those indications were not present. The Committee again finds that this amounts to an inadequate standard of care. The Committee therefore finds the facts alleged at head of charge 3 (g) (ii) proved.
Patient 5	
4. (a)	Proved
	The Committee finds the facts alleged at head of charge 4 (a) proved. In her evidence to the Committee Patient 5 stated that she reported her symptoms of tenderness and sensitivity of the UL6 to Mr Kiely beginning on 11 June 2015, and at each appointment thereafter, namely appointments on 23 October 2015 and 29 December 2015. The first entry that Mr Kiely made in the patient's records in relation to tenderness at UL6 however was not until the appointment on 29 December 2015. Patient 5 also stated that she had had difficulties eating on the left-hand side of her mouth for around one year. She also gave evidence about a discolouration to the tooth which she raised with Mr Kiely. The Committee accepts the evidence of Patient 5 that she informed Mr Kiely of the symptoms that she was experiencing in the period in question, and the Committee finds that Mr Kiely did not record these symptoms in the patients notes. The

	Committee further finds that Mr Kiely failed to provide an adequate standard of record-keeping in this regard, and accordingly it finds the facts alleged at head of charge 4 (a) proved.
4. (b)	Proved
	The Committee finds the facts alleged at head of charge 4 (b) proved in respect of the appointments on 11 June 2015 and 23 October 2015 only. As set out above on 11 June 2015 Patient 5 attended with tenderness and sensitivity at the UL6, which continued to be present at the appointment on 23 October 2015. There is no record of any discussion of treatment options at either appointment, and the Committee infers that those discussions did not take place. The Committee finds that this amounts to an inadequate standard of care. However, the Committee also notes that later appointments, namely on 29 December 2015 and 7 January 2016, took place in relation to a lost inlay at the UL6. The Committee does not find that the GDC has proved to the standard required that there was not an adequate discussion of treatment options at either of those two subsequent appointments. Mr Kiely recorded the treatment options of extraction, recementing the inlay and a crown, and the Committee interprets this to mean that he would discuss these options at the next appointment. Mr Canty is not critical of this entry on the basis that it indicates shared decision making. At the next appointment on 7 January 2016 Mr Kiely recorded that the patient wanted to try the option of a filling, but that an extraction may be necessary if unsuccessful. In her evidence to the Committee Patient 5 stated that she, rather than Mr Kiely, raised the prospect of an extraction. In any event, Patient 5 accepted that she discussed treatment options with Mr Kiely, and the Committee finds that the GDC has not adduced sufficient evidence to demonstrate that such discussions, however initiated, were inadequate. The Committee therefore finds the facts alleged at head of charge 4 (b) proved in respect of the appointments on 11 June 2015 and 23 October 2015.
4. (c) (i)	Proved
4. (c) (ii)	Proved
	The Committee finds the facts alleged at heads of charge 4 (c) (i) and 4 (c) (ii) proved. In his entry in the clinical notes for Patient 5 Mr Kiely recorded that his inspection of the periapical radiograph that he had taken showed no sign of infection or decay. The Committee accepts the expert evidence of Mr Canty that this was an inadequate report, in that Mr Kiely did not report on the deficiencies of the root filling at UL6 or on the associated periapical area. The Committee finds that this amounts to an inadequate standard of record-keeping. Accordingly it finds the facts alleged at heads of charge 4 (c) (i) and 4 (c) (ii) proved.
4. (d)	Proved
	The Committee finds the facts alleged at head of charge 4 (d) proved. The Committee has not been provided with any bitewing radiographs taken in

	the period of June 2015 to January 2016, and there is also nothing in the patient's clinical records to otherwise suggest that such radiographs were taken. Mr Canty's evidence is that, in accordance with the Faculty of General Dental Practitioners' *Selection Criteria for Dental Radiography* (2013) ('FGDP radiography guidance'), bitewing radiographs should be taken approximately every two years for patients who are at a low risk of caries. The evidence presented to the Committee is that the last bitewing radiographs were taken on or around 11 March 2013. The Committee finds that Mr Kiely did not take bitewing radiographs as required, and that as he did not do so he failed to provide an adequate standard of care to Patient 5. The Committee finds the facts alleged at head of charge 4 (d) proved on this basis.
4. (e)	Proved
	The Committee finds the facts alleged at head of charge 4 (e) proved. As noted above on 7 January 2016 Mr Kiely took a periapical radiograph of Patient 5's upper left quadrant. His report on that radiograph was that the radiograph 'shows no sign of infection or decay'. The Committee considers that the radiograph does in fact reveal the presence of infection. The Committee finds that Mr Kiely did not diagnose this infection, and therefore did not treat the infection. The Committee finds that this amounts to a failure in his care of Patient 5, and accordingly the facts alleged at head of charge 4 (e) are proved.
4. (f)	Proved
	The Committee notes that on 23 December 2015 Mr Kiely prescribed antibiotics, more particularly amoxicillin, for Patient 5. Mr Canty is not critical of the prescription itself, but is critical of the absence of a recorded clinical justification for the prescription. The Committee notes from Mr Kiely's written entry that he found the patient's UL6 to be tender to percussion (TTP). The Committee considers that this is a record of symptoms and clinical findings rather than a record of the clinical justification. The Committee considers that, although a clinical justification may be inferred from this record, the Committee accepts the evidence of Mr Canty that Mr Kiely failed to make an adequate record of the clinical justification. The Committee considers that this in turn amounts to an inadequate standard of record-keeping, and that therefore the facts alleged at head of charge 4 (f) are proved.
Patient 6	
5. (a)	Proved
	The Committee finds the facts alleged at head of charge 5 (a) proved. The Committee has not been provided with any bitewing radiographs taken in the period of June 2015 to April 2016, and there is also nothing in the patient's clinical records to otherwise suggest that such radiographs were taken. Mr Canty's evidence is that, in accordance with the FGDP radiography guidance, bitewing radiographs should be taken approximately every two years for patients who are at a low risk of caries The evidence

	presented to the Committee is that the last bitewing radiographs were taken in June 2011. The next set of bitewing radiographs was taken in August 2016 by a subsequent treating dentist. Mr Kiely recorded at the appointment on 16 June 2015 that bitewing radiographs would be taken at the next appointment, but there is no evidence to suggest that this happened. In his earlier response to the allegations Mr Kiely accepted that he did not take bitewing radiographs in the period in question. The Committee finds that Mr Kiely did not take bitewing radiographs as required, and that as he did not do so he failed to provide an adequate standard of care to Patient 6. The Committee finds the facts alleged at head of charge 5 (a) proved on this basis.
5. (b)	Proved
	The Committee finds the facts alleged at head of charge 5 (b) proved. The Committee notes that the crown was prepared on 7 August 2015 and was fitted at the appointment on 25 August 2015. The Committee again notes from the patient's clinical records that no radiographs were taken before the crown was fitted. In the earlier response to the allegations Mr Kiely accepted that he did not take such radiographs. The Committee finds that Mr Kiely did not take radiographs as required, and that as he did not do so he failed to provide an adequate standard of care to Patient 6. The Committee finds the facts alleged at head of charge 5 (b) proved on this basis.
5. (c)	Proved
	The Committee finds the facts alleged at head of charge 5 (c) proved. Mr Canty's expert evidence is that caries at the patient's LR6 was treated on 16 April 2016 and an amalgam restoration was provided. The Committee notes that Mr Canty appeared to have made an error in his report, in that he referred to the treatment date as 16 April 2016 rather than the correct date of 22 April 2016 as recorded in the patient's notes. Caries was noted by a subsequent treating dentist on 30 June 2016. Mr Canty attributes this to a failure on the part of Mr Kiely to completely remove caries. Mr Canty accepts that there may have been reasons for leaving the caries, but that any such reasons should have been documented. Having reviewed the radiograph of the LR6 the Committee considers that Mr Kiely did not completely remove the caries, and the Committee finds the facts alleged at this head of charge proved on this basis.
5. (d)	Proved
	The Committee finds the facts alleged at head of charge 5 (d) proved. The Committee again accepts the evidence of Mr Canty that antibiotics should only be prescribed if there is evidence of malaise, lymph node engagement or systemic infection. Mr Canty cites the FGDP prescribing guidance referred to above, and is critical of Mr Kiely's prescription and his failure to adopt local measures. The Committee notes that Mr Kiely recorded that a slight gum infection was present. The Committee infers from the absence of any recorded entry of any of these three indications that those indications were not present. It further finds that Mr Kiely prescribed

	antibiotics without an adequate clinical justification. The Committee again finds that this amounts to an inadequate standard of care. The Committee therefore finds the facts alleged at head of charge 5 (d) proved.
Patient 9	
6. (a)	Proved
	The Committee finds the facts alleged at head of charge 6 (a) proved. A patient examination was recorded by Mr Kiely on 12 August 2015. Mr Canty is critical of Mr Kiely's apparent failure to examine the patient at any of the seven subsequent appointments that Patient 9 attended with Mr Kiely in the period to May 2016. The Committee notes that there are no entries in the patient's clinical records to suggest that examinations were carried out, and the Committee infers that such examinations did not take place. The Committee finds that this amounts to a failure to provide an adequate standard of care to Patient 9. It finds the facts alleged at head of charge 6 (a) proved.
6. (b)	Proved
	The Committee finds the facts alleged at head of charge 6 (b) proved. The Committee notes that on 12 August 2015 Mr Kiely recorded BPE scores of 1, 1, 1, 1, 1, 1. The Committee notes that at this same appointment Mr Kiely removed calculus, which demonstrates that the scores of '1' in each sextant was incorrect. The Committee also relies on the expert opinion of Mr Canty, who refers to the BPE scores recorded by a subsequent treating dentist, namely 3, 3, 3, 3, 3, 4, on 25 August 2016. These scores further demonstrate that Mr Kiely's earlier BPE scores were incorrect. The Committee accepts this evidence, particularly given that bitewing radiographs taken on that same day showed moderate bone loss and are consistent with those recorded scores. The Committee finds that this constitutes inadequate record keeping, and it finds the facts alleged at head of charge 6 (b) proved.
6. (c) (i)	Proved
	The Committee finds the facts alleged at head of charge 6 (c) (i) proved. The Committee notes that Patient 9's records record that the patient attended with a fracture at the LR7 on 31 December 2015. The patient then returned for a crown preparation appointment with Mr Kiely on 21 January 2016. The Committee accepts Mr Canty's evidence that as the tooth had previously been root filled it was all the more important to discuss the treatment options that existed, including risks and benefits, with Patient 9. The Committee notes that Mr Kiely made no entry in the patient's clinical notes to suggest that he had discussed such options, and the Committee infers that he did not do so. The Committee finds that this amounts to a failure to provide an adequate standard of care, and accordingly the facts alleged at head of charge 6 (c) (i) proved.
6. (c) (ii)	Proved
	The Committee finds the facts alleged at head of charge 6 (c) (ii) proved.

	The Committee notes that Patient 9's records show that the patient attended with a fracture at the LL5 on 17 March 2016. The patient then returned for a crown preparation appointment with Mr Kiely on 14 April 2016. The Committee accepts Mr Canty's evidence that as the tooth, as well as the LR7 referred to above, had previously been root filled it was all the more important to discuss the treatment options that existed, including risks and benefits, with Patient 9. The Committee notes that Mr Kiely made no entry in the patient's clinical notes to suggest that he had discussed such options, and the Committee infers that he did not do so. The Committee finds that this amounts to a failure to provide an adequate standard of care, and accordingly the facts alleged at head of charge 6 (c) (ii) proved.
6. (d)	Proved
	The Committee finds the facts alleged at head of charge 6(d) proved. The Committee has not been provided with any radiographs taken prior to the provision of a crown at LL5 on 5 May 2016. There is also nothing in the patient's clinical records to otherwise suggest that such radiographs were taken. The Committee accepts Mr Canty's criticism of Mr Kiely's omission of radiographs, and finds that as radiographs were not taken as required Mr Kiely failed to provide an adequate standard of care to Patient 9. The Committee finds the facts alleged at head of charge 6 (d) proved on this basis.
6. (e)	Proved
	The Committee finds the facts alleged at head of charge 6 (e) proved. The Committee has not been provided with any bitewing radiographs taken in the period of August 2015 to May 2016, and there is also nothing in the patient's clinical records to otherwise suggest that such radiographs were taken. Mr Canty's evidence is that, in accordance with the FGDP radiography guidance referred to above, bitewing radiographs should be taken approximately every two years for patients who are at a low risk of caries. The evidence presented to the Committee is that bitewing radiographs had not been taken in the previous five years. The next bitewing radiographs were subsequently taken by Witness A on 25 August 2016. The Committee finds that Mr Kiely did not take bitewing radiographs as required, and that as he did not do so he failed to provide an adequate standard of care to Patient 9. The Committee finds the facts alleged at head of charge 6 (e) proved on this basis.
6. (f)	Proved
	The Committee finds the facts alleged at head of charge 6 (f) proved. Mr Canty's expert evidence is that caries at the patient's LR6 was treated on 11 February 2016 and an amalgam restoration was provided. The periapical radiograph of 28 July 2016 and the bitewing radiographs of 25 August 2016 reveal the presence of caries at LR6. Mr Canty attributes this to a failure on the part of Mr Kiely to completely remove caries. The amalgam restoration was placed in September 2016 by a subsequent treating dentist, and the continued presence of caries was given as the

	reason. Mr Canty accepts that there may have been reasons for leaving the caries, but that any such reasons should have been documented. Having reviewed the radiograph of the LR6 the Committee considers that Mr Kiely did not completely remove the caries, and the Committee finds the facts alleged at head of charge 6 (f) proved on this basis.
7.	Proved
	The Committee finds the facts alleged at head of charge 7 proved. The Committee notes that Mr Kiely completed a treatment plan in respect of a filling at LL6 and a crown at LL5. This is consistent with the FP17 Band '3' claim form signed by the patient. The Committee therefore finds the facts alleged at head of charge 7 proved.
8.	Proved
	The Committee finds the facts alleged at head of charge 8 proved. As set out above Mr Kiely submitted a Band '3' claim in respect of a filling at LL6 and a crown at LL5, to commence on 17 March 2016. Mr Canty is critical of this claim on the basis that another course of treatment had been completed and claimed for within the previous two months, more particularly treatment which began on 31 December 2015, continued on 21 January 2016 and completed on 11 February 2016. Mr Canty concludes that Mr Kiely's further treatment beginning on 17 March 2016 should have fallen within that previous course of treatment rather than being put forward as a new course of treatment. The Committee accepts the expert evidence of Mr Canty as to the inappropriateness of this further claim, and accordingly it finds the facts alleged at head of charge 8 proved.
9.	Proved
	The Committee finds the facts alleged at head of charge 9 proved. Having found that Mr Kiely submitted an inappropriate claim for Band '3' treatment, the Committee finds that the effect of Mr Kiely's claim was misleading. The Committee finds the facts alleged at this head of charge proved on this basis.
Patient 10	
10. (a)	Proved
	The Committee finds the facts alleged at head of charge 10 (a) proved. The Committee notes that Patient 10 attended as many as 12 appointments with Mr Kiely between 17 April 2015 and 15 January 2016. The Committee notes that there is no record of an examination at any of these appointments. Mr Canty's evidence is that during the period in question Mr Kiely provided treatment to the patient including permanent fillings at two teeth and a root filling at one tooth, meaning that it was highly likely that there would have been examinations to record. The Committee finds that this amounts to an inadequate standard of record-keeping, and accordingly it finds the fact alleged at head of charge 10 (a) proved.
10. (b)	Proved

	The Committee finds the facts alleged at head of charge 10 (b) proved. Prior to the period in question BPE scores of '1's and '2's were recorded on 14 October 2014. As stated above Patient 10 attended 12 appointments with Mr Kiely in the period of April 2015 to January 2016. The Committee accepts the expert evidence of Mr Canty that the BSP guidance suggests that BPEs should be undertaken at least annually. The Committee infers from the absence of any recorded BPE scores that such examinations did not take place. The Committee finds that Mr Kiely failed in this duty, and that this amounts to a failure to provide an adequate standard of care. Accordingly the Committee finds the facts alleged at head of charge 10 (b) proved.
10. (c) (i)	Proved
	The Committee finds the facts alleged at head of charge 10 (c) (i) proved. The Committee notes that Mr Kiely took a periapical radiograph of the upper right quadrant on 12 November 2015. His entry in the patient's notes for that date, and the entry relating to the appointment five days later on 17 November 2015, contain no report on the radiograph. The Committee finds that this amounts to an inadequate standard of record-keeping, and accordingly it finds the facts alleged at this head of charge proved.
10. (c) (ii)	Proved
	The Committee finds the facts alleged at head of charge 10 (c) (ii) proved. The Committee notes from the patient's clinical records that the radiograph does not appear to have been retaken. The Committee accepts the expert evidence of Mr Canty that Mr Kiely should have retaken the radiograph due to its poor quality. The Committee finds that this amounts to an inadequate standard of care, and accordingly the facts alleged at head of charge 10 (c) (ii) are proved.
10. (d)	Proved
	The Committee finds the facts alleged at head of charge 10 (d) proved. The Committee notes that the completion of the root filling at the patient's UR6 was undertaken on 15 January 2016. Mr Canty is critical of the omission of a radiograph at this appointment, which Mr Kiely recorded would be undertaken at a later, unspecified time at a review appointment. No review appointment took place. The Committee accepts Mr Canty's expert evidence that a radiograph should have been taken at the same appointment, and as no such radiograph was taken it finds that this amounts to an inadequate standard of care. The Committee therefore finds the facts alleged at head of charge 10 (d) proved.
10. (e)	Withdrawn
10. (f)	Proved
	The Committee finds the facts alleged at head of charge 10 (f) proved. The Committee notes from the evidence presented to it that on 13 November 2015 Mr Kiely prescribed an antibiotic, more particularly, metronidazole, to Patient 10. The Committee notes that there is no recorded justification, for

	instance systemic infection, and the Committee infers from the absence of any such recorded clinical justification that there was no such clinical justification for the prescription. The Committee finds that this amounts to an inadequate standard of care. The Committee therefore finds the facts alleged at head of charge 10 (f) proved.
Patient 11	
11. (a)	Proved
	The Committee finds the facts alleged at head of charge 11 (a) proved. The Committee notes that on 22 April 2015 Patient 11 presented with symptoms relating to the UL6. The patient next attended on 15 June 2015, and the clinical notes record that periapical radiographs were not taken due to the lack of radiographic equipment. The Committee further notes that different radiographs, more particularly bitewing radiographs, were taken on 12 January 2016, and there is no evidence to suggest that periapical radiographs had been taken in the interim period. The Committee accepts the expert evidence of Mr Canty that Mr Kiely was under a duty to take periapical radiographs in respect of Patient 11's presenting complaint on 22 April 2015 or thereafter, and as he did not do so he failed to provide an adequate standard of care. The Committee therefore finds the facts alleged at head of charge 11 (a) proved.
11. (b) (i)	Proved
11. (b) (ii)	Proved
11. (b) (iii)	Proved
11. (b) (iv)	Proved
11. (b) (v)	Proved
11. (b) (vi)	Proved
	The Committee finds the facts alleged at heads of charge 11 (b) (i), 11 (b) (ii), 11 (b) (iii), 11 (b) (iv), 11 (b) (v) and 11 (b) (vi) proved. The Committee accepts the expert evidence of Mr Canty that Mr Kiely did not diagnose, and did not treat, caries at the patient's LR7, UR6, UR7, UL7 and LL8. In respect of the LL5, Mr Kiely provided an amalgam filling at the mesial aspect, whereas the caries was on the distal aspect. This does not in the Committee's view amount to treatment of caries at LL5. The Committee finds the facts alleged at heads of charge 11 (b) (i), 11 (b) (ii), 11 (b) (iii), 11 (b) (iv) and 11 (b) (vi) proved in respect of a failure to report on and treat caries, and the facts alleged at head of charge 11 (b) (v) proved in respect of a failure to treat caries.
11. (c)	Proved
	The Committee finds the facts alleged at head of charge 11 (c) proved. The Committee again accepts the evidence of Mr Canty that antibiotics should only be prescribed if there is evidence of malaise, lymph node engagement or systemic infection. Mr Canty cites the FGDP prescribing guidance referred to above, and is critical of Mr Kiely's prescription and his failure to

	adopt local measures. The Committee infers from the absence of any recorded entry of any clinical justification that no such justification existed. The Committee accepts Mr Canty's criticism of the omission of a radiograph which might have revealed a clinical justification, and because of this lack of proper investigation the prescription was without clinical justification. The Committee therefore finds that Mr Kiely prescribed antibiotics without an adequate clinical justification. The Committee again finds that this amounts to an inadequate standard of care. The Committee therefore finds the facts alleged at head of charge 11 (c) proved.
Patient 12	
12. (a) (i)	Proved
12. (a) (ii)	Proved
	The Committee finds the facts alleged at heads of charge 12 (a) (i) and 12 (a) (ii). The Committee notes from Patient 12's clinical records that the patient attended an appointment on 18 November 2015 in respect of a lost filling at UR6. Mr Kiely made no entry in the patient's clinical notes in respect of an examination, but the Committee notes that Mr Kiely separately made a claim in respect of an examination and associated treatment. The patient reattended for an appointment on 23 December 2015 to review the same problem. There is again no record of any examination having taken place on that day in the clinical notes, although there was again a claim in respect of an examination on that second date. The Committee finds that this amounts to an inadequate standard of record-keeping, and accordingly it finds the facts alleged at heads of charge 12 (a) (i) and 12 (a) (ii) proved.
12. (b) (i)	Withdrawn
12. (b) (ii)	Proved
	The Committee finds the facts alleged at head of charge 12 (b) (ii) proved. The Committee has been provided with a periapical radiograph dated 30 March 2016. Mr Kiely's report on the radiograph is that the radiograph was grade '1' and showed a complete root filling. Mr Canty is critical of this report on the basis that there is a lack of recorded information, for instance about the distal palatal canal and whether it could be identified. The Committee finds that Mr Kiely's report was inadequate in this respect, and accordingly it finds the facts alleged at head of charge 12 (b) (ii) proved.
12. (c)	Proved
	The Committee finds the facts alleged at head of charge 12 (c) proved. On 10 December 2015 Witness A prescribed antibiotics in relation to infection at UR6. At the review appointment on 23 December 2015 Mr Kiely replaced the mesial portion of the fractured filling at that tooth. Mr Kiely recorded that he had not been able to identify any sign of infection. The Committee considers that Mr Kiely failed to adequately assess the patient's UR6, in that he considered that the radiograph taken by Witness A on 10 December 2015 did not reveal any infection or gross decay. The

	Committee accepts Mr Canty's evidence that this was an inadequate assessment of the tooth, and it finds that this amounts to an inadequate standard of care. The facts at head of charge 12 (c) are found proved on this basis.
12. (d)	Proved
	The Committee finds the facts alleged at head of charge 12 (d) proved. In his evidence to the Committee Mr Canty stated that he was critical of the standard of the RCT that Mr Kiely provided to Patient 12, in that Mr Kiely did not provide adequate apical seals on all of the root canals and that he did not fill one of the root canals. The Committee accepts this evidence and considers that this amounts to substandard RCT and, in turn, an inadequate standard of care. The Committee finds the facts alleged at head of charge 12 (d) proved on this basis.
12. (e)	Proved
	The Committee finds the facts alleged at head of charge 12 (e) proved. Mr Kiely recorded that the RCT had been completed on 30 March 2016. There is no record of him having informed the patient of the status of the root filling, namely that one root canal had not been filled. Patient 12's evidence is that Mr Kiely did not inform her of this aspect of the RCT, and that she was therefore surprised when she was subsequently informed of the status of the RCT by a subsequent treating dentist. The Committee finds that this amounts to an inadequate standard of care, and it finds the facts alleged at this head of charge proved on this basis.
12. (f)	Proved
	The Committee finds the facts alleged at head of charge 12 (f) proved. The Committee notes from the patient's clinical records that the prescription was issued by Mr Kiely to Patient 12 without Mr Kiely seeing the patient. Mr Canty is critical of this practice, given that the patient attended the surgery but was not seen by Mr Kiely. A prescription was issued nonetheless. The Committee finds that this amounts to an inadequate standard of care to Patient 12, and therefore the facts alleged at this head of charge are found proved.
Patient 13	
13. (a)	Proved
	The Committee finds the facts alleged at head of charge 13 (a) proved. The Committee notes from Mr Kiely's written records of his appointment with Patient 13 on 8 October 2015 that no discussion of treatment options for the LL6 was recorded. The Committee accepts the expert evidence of Mr Canty that there were other options that were required to be discussed. The Committee finds that this amounts to an inadequate standard of record-keeping, and accordingly the facts alleged at head of charge 13 (a) are proved.
13. (b) (i)	Proved

	The Committee finds the facts alleged at head of charge 13 (b) (i) proved. The Committee notes that a subsequent treating dentist on 7 September 2016 recorded BPE scores of 3, 2, 2, 3, 2, 2. Mr Canty's evidence is that this indicates the presence of deep pocketing. The Committee notes that the accuracy of these scores is demonstrated by bitewing radiographs taken on that same day. These scores suggest that Mr Kiely's recorded BPE scores of '1' in each sextant on 8 October 2015 are incorrect on the basis that the patient would have exhibited signs of periodontal disease which is not reflected by such scores. Such rapid deterioration is unlikely and suggests that Mr Kiely incorrectly recorded the BPE scores. The Committee notes that in his earlier response to the allegations Mr Kiely accepted that the BPE scores are likely to have been recorded incorrectly. The Committee finds that this amounts to an inadequate standard of record-keeping, and accordingly it finds the facts alleged at head of charge 13 (b) (i) proved.
13. (b) (ii)	Withdrawn
13. (c)	Proved
	The Committee finds the facts alleged at head of charge 13 (c) proved. The Committee has not been provided with any bitewing radiographs taken in the period of April 2015 to October 2015, and there is also nothing in the patient's clinical records to otherwise suggest that such radiographs were taken. Mr Canty's evidence is that, in accordance with the FGDP radiography guidance referred to above, bitewing radiographs should be taken approximately every two years for patients who are at a low risk of caries. The evidence presented to the Committee is that bitewing radiographs had not been taken since 2004. The Committee finds that Mr Kiely did not take bitewing radiographs as required, and that as he did not do so he failed to provide an adequate standard of care to Patient 13. The Committee finds the facts alleged at head of charge 13 (c) proved on this basis.
13. (d)	Proved
	The Committee finds the facts alleged at head of charge 13 (d) proved. The Committee notes that there is nothing in the patient's clinical records to suggest that a periapical radiograph was taken on 23 July 2015. The Committee accepts the expert evidence of Mr Canty that Mr Kiely was under a duty to take a periapical radiograph, and that as he did not do so Mr Kiely failed to provide an adequate standard of care to Patient 13. Accordingly the Committee finds the facts alleged at head of charge 13 (d) proved.
Patient 14	
14. (a) (i)	Proved
14. (a) (ii)	Proved
14. (a) (iii)	Proved

	The Committee finds the facts alleged at heads of charge 14 (a) (i), 14 (a) (ii) and 14 (a) (iii) proved. The Committee accepts the expert evidence of Mr Canty, namely that an OPG of January or February 2016 shows three teeth present in the upper left quadrant, namely UL1, UL2 and UL4. However, on 13 May 2015 Mr Kiely recorded BPE scores of '1' in each of the sextants, which is unlikely to have been correct given the insufficient number of teeth identified on the OPG. On 20 November 2015 Mr Kiely recorded scores of 1, 1, x, 1, 1, 1 and on 8 June 2016 scores of 1, 1, x, 1, 2, x. The Committee accepts the expert evidence of Mr Cantry that these scores are not congruent with the marked generalised bone loss revealed on the OPG referred to above. The Committee finds that this amounts to inadequate record-keeping on the part of Mr Kiely, and accordingly the Committee finds the facts alleged at heads of charge 14 (a) (i), 14 (a) (ii) and 14 (a) (iii) proved.
14. (b)	Proved
	The Committee finds the facts alleged at head of charge 14 (b) proved. The Committee notes that Mr Kiely made no entry in the patient's notes to suggest that he diagnosed periodontal disease. On 8 June 2016 Mr Kiely recorded that the patient was of 'medium perio[dontal disease] risk', but there is no evidence that he then provided any treatment in respect of that identified risk and, in particular, the patient's periodontal disease. The Committee considers that, as Mr Kiely did not properly record the patient's BPE scores, he was not in a position to diagnose and properly treat the patient's true periodontal condition. In any event, the patient's clinical records suggest that Mr Kiely did not provide any appropriate treatment, more particularly oral hygiene instruction. The Committee considers that this amounts to an inadequate standard of care, and therefore the Committee finds the facts alleged at head of charge 14 (b) proved.
14. (c)	Not proved
	The Committee finds the facts alleged at head of charge 14 (c) not proved. The Committee notes from the patient's clinical records that on 27 April 2016 Mr Kiely recorded that he warned the patient that the infection could return, and noted the patient's disinclination to proceed to extraction. The Committee also notes that on 20 November 2015 Mr Kiely also recorded the options of extraction and partial denture. The Committee finds that the GDC has not adduced sufficient evidence to demonstrate that Mr Kiely did not adequately record the provision of advice concerning treatment options. Accordingly the Committee finds the facts alleged at head of charge 14 (c) not proved.
14. (d)	Proved
	The Committee finds the facts alleged at head of charge 14 (d) proved. The Committee again accepts the evidence of Mr Canty that antibiotics should only be prescribed if there is evidence of malaise, lymph node engagement or systemic infection. Mr Canty cites the FGDP prescribing guidance referred to above. The Committee notes that on 27 April 2016 the patient attended an appointment with Mr Kiely in relation to a review of the

	upper right quadrant. The patient had previously attended in relation to swelling in that quadrant on 21 April 2016. Mr Canty is not critical of Mr Kiely's prescription of antibiotics on that date, namely 21 April 2016. On returning to Mr Kiely the patient is understood to have informed Mr Kiely that he was due to go on holiday. Mr Kiely prescribed a further course of the same antibiotics on a contingent basis, in that he informed the patient that the patient should take the antibiotics if needed, more particularly if the patient experienced pain or if the swelling were to appear again. The Committee notes that Mr Kiely recorded at the appointment on 27 April 2016 that the pain and swelling had gone. The Committee finds that the further course of antibiotics was prescribed without clinical justification, and that this amounts to an inadequate standard of care. The Committee therefore finds the facts alleged at head of charge 14 (d) proved.
Patient 15	
15. (a)	Proved
	The Committee finds the facts alleged at head of charge 15 (a) proved. The Committee notes that on 8 May 2015 Mr Kiely provided a root filling at Patient 15's UR1. The patient was first seen by Mr Kiely on 17 April 2015. The first recorded examination was on 29 April 2016. Mr Canty is critical of the apparent absence of an examination on 17 April 2015. His evidence is that an examination should have taken place so that a treatment plan for the UR1 could be formulated, discussed and evaluated. Patient 15's oral evidence was that Mr Kiely's standard approach was on an ad hoc basis in relation to a specific complaint. He described Mr Kiely's approach as 'reactive', rather than routine examination appointments. The Committee infers from the absence of any records to suggest that Mr Kiely conducted an examination in the period of 17 April 2015 to 8 May 2015 that no such examinations took place. The Committee considers that this amounts to a failure on the part of Mr Kiely to provide an adequate standard of care to Patient 15, and accordingly the facts alleged at head of charge 15 (a) are proved.
15. (b) (i)	Proved
15. (b) (ii)	Proved
15. (b) (iii)	Proved
15. (b) (iv)	Proved
	The Committee finds the facts alleged at heads of charge 15 (b) (i), 15 (b) (ii), 15 (b) (iii) and 15 (b) (iv) proved. The Committee notes from Patient 15's clinical notes that Mr Kiely made no report on the periapical radiograph that is documented as having been taken on 8 May 2015. The Committee accepts the expert evidence of Mr Canty that this amounts to a failure on the part of Mr Kiely. The Committee also finds that Mr Kiely did not treat caries at UL1, UR1, UR2 and a pin perforation at UR1. The Committee is satisfied that these features were present, and in so doing accepts the expert evidence of Mr Canty. The Committee considers that Mr Kiely's failure to report on the periapical radiograph and provide the

	necessary treatment referred to above amounts to a failure to provide an adequate standard of record-keeping and care respectively. The Committee therefore finds the facts alleged at heads of charge 15 (b) (i), 15 (b) (ii), 15 (b) (iii) and 15 (b) (iv) proved.
15. (c) (i)	Proved
	The Committee finds the facts alleged at head of charge 15 (c) (i) proved. The Committee again accepts the evidence of Mr Canty that antibiotics should only be prescribed if there is evidence of malaise, lymph node engagement or systemic infection. Mr Canty cites the FGDP prescribing guidance referred to above. On 17 April 2015 the patient attended with pain and swelling on and around UR1. UR1 was noted to be slightly tender to percussion (TTP). Mr Kiely advised a root treatment to the tooth, and a course of antibiotics to settle the tooth down before such treatment was provided. There is no record of any local measures having been considered, more particularly drainage. The Committee infers from the absence of a record of the presence of malaise, lymph node engagement or systemic infection that such features were not present. The Committee finds that this amounts to a failure to provide an adequate standard of care, and accordingly it finds the facts alleged at head of charge 15 (c) (i) proved.
15. (c) (ii)	Proved
	The Committee finds the facts alleged at head of charge 15 (c) (ii) proved. The Committee again accepts the evidence of Mr Canty that antibiotics should only be prescribed if there is evidence of malaise, lymph node engagement or systemic infection. Mr Canty cites the FGDP prescribing guidance referred to above. On 20 May 2016 the patient attended with tenderness at the filling at LL6. Mr Kiely noted that there was no swelling or tenderness. There is no record of any local measures having been considered. The Committee infers from the absence of a record of the presence of malaise, lymph node engagement or systemic infection that such features were not present. The Committee finds that this amounts to a failure to provide an adequate standard of care, and accordingly it finds the facts alleged at head of charge 15 (c) (ii) proved.
Patient 21	
16. (a) (i)	Proved
16. (a) (ii)	Proved
16. (a) (iii)	Proved
	The Committee finds the facts alleged at heads of charge 16 (a) (i), 16 (a) (ii) and 16 (a) (iii) proved. The Committee accepts the expert evidence of Mr Canty that there were retained roots at UL6, UR6 and UR7. The retained roots are partially visible on two bitewing radiographs that Mr Kiely took on 25 August 2016. Mr Canty's evidence is that these two bitewing radiographs do not sufficiently show the entire lengths of the retained roots, and that further radiographs, more particularly an OPG or a periapical

	radiograph, should have been taken to reveal any pathology associated with the retained roots. The Committee finds that this amounts to an inadequate standard of care on the part of Mr Kiely towards Patient 21, and that therefore the facts alleged at these heads of charge are proved.
16. (b)	Withdrawn
16. (c) (i)	Proved
16. (c) (ii)	Proved
16. (c) (iii)	Proved
	The Committee finds the facts alleged at heads of charge 16 (c) (i), 16 (c) (ii) and 16 (c) (iii) proved. The Committee considers that Mr Kiely made an inadequate and inaccurate report on the findings concerning Patient 21's UL6, UR6 and UR7. Mr Kiely did not specifically refer to those teeth and instead recorded that no caries was present. The Committee accepts the expert evidence of Mr Canty that in fact caries was present at the patient's UL6, UR6 and UR7, and that therefore Mr Kiely's report to the contrary was inaccurate and inadequate. The Committee finds that this amounts to an inadequate standard of record-keeping on the part of Mr Kiely. Accordingly the Committee finds the facts alleged at heads of charge 16 (c) (i), 16 (c) (ii) and 16 (c) (iii) proved.
Patient 23	
17. (a)	Proved
	The Committee finds the facts alleged at head of charge 17 (a) proved. The Committee notes that in raising this head of charge the Council has not been able to be specific as to whether a fracture was present at the LR6 or LR7. The Committee has borne this difficulty in mind when approaching this head of charge. On 5 July 2016 Mr Kiely recorded that the patient's LR7 was fractured. A temporary filling is recorded as having been placed at the adjacent LR6 on the same day. At a subsequent appointment on 11 July 2016 there is no record of any discussion about treatment options. Caries was recorded as having been removed at LR7 and an amalgam restoration was provided. On 20 July 2016 topical fluoride is recorded as having been applied, in particular at the lower right quarter. A root treatment was commenced on 24 August 2016 at the patient's LR6. The Committee notes that there is no record of the provision of any discussion or advice about treatment options for the LR6 or LR7 at any of the appointments in the period. The evidence provided to the Committee is that both teeth were treated in the same period. The Committee finds that this amounts to an inadequate standard of record-keeping. It therefore finds the facts alleged at head of charge 17 (a) proved.
17. (b) (i)	Proved
	The Committee finds the facts alleged at head of charge 17 (b) (i) proved. The Committee considers that Mr Kiely made an inadequate and inaccurate report on a right bitewing that he took on 5 July 2016, in that he recorded that caries was not present when that was not in fact the case.

	The Committee considers that caries was in fact present at Patient 23's LR6/7. The Committee finds that this amounts to an inadequate standard of record-keeping on the part of Mr Kiely. Accordingly the Committee finds the facts alleged at head of charge 17 (b) (i) proved.
17. (b) (ii)	Withdrawn
17. (c)	Proved
	The Committee finds the facts alleged at head of charge 17 (c) proved. The Committee accepts the expert evidence of Mr Canty that Mr Kiely did not make any entries to record the patient's presenting symptoms on 24 August 2016, or his reasons for providing a root filling at LR6/7. The Committee finds that this amounts to an inadequate standard of record-keeping, and accordingly it finds the facts alleged at head of charge 17 (c) proved.
17. (d)	Proved
	The Committee finds the facts alleged at head of charge 17 (d) proved. The Committee notes that Mr Kiely made no entry in the patient's clinical notes in respect of the patient's attendance on 7 October 2018. The Committee notes that elsewhere in the clinical records there is a brief attendance note which simply records that a radiograph was taken. The Committee considers that Mr Kiely's omission of any clinical records for the appointment of 7 October 2016 amounts to an inadequate standard of record-keeping. The Committee therefore finds the facts alleged at head of charge 17 (d) proved.
18.	Proved
	The Committee finds the facts alleged at head of charge 18 proved. The Committee notes from the patient's clinical records that a Band '2' claim was made in respect of a course of treatment with a commencement date of 19 September 2016 and was submitted in respect of Patient 23. This included the provision of treatment at LR7. The root filling of this tooth is elsewhere referred to on a screenshot of a different claim form, albeit in relation to the same claim, in the patient's clinical records. The Committee therefore finds the facts alleged at head of charge 18 proved.
19. (i)	Proved
	The Committee finds the facts alleged at head of charge 19 (i) proved. The patient's clinical records show that on 24 August 2016 three canals were opened up at LR6. The Committee accepts Mr Canty's view that this is likely to have been a recording error, and that in fact the root treatment was provided at the LR7. There is further evidence for the treatment having started on 24 August 2016 in the form of a practice record form patient declaration dated 24 August 2016. The Committee finds that the Band '2' claim referred to at head of charge 18 above was inappropriate, as it referred to a commencement date of 19 September 2016 whereas the treatment had in fact started on 24 August 2016. The Committee finds the facts alleged at head of charge 19 (i) proved.

19. (ii)	Proved
	The Committee finds the facts alleged at head of charge 19 (ii) proved. The Committee notes that an earlier Band '2' claim had an end date of 20 July 2016. The new treatment under Band '2' as set out above began on 24 August 2016. The Committee finds that the second claim was therefore made within two months of the completion of the first claim, and that the claim was therefore inappropriate. The Committee accordingly finds the facts alleged at head of charge 19 (ii) proved.
20.	Proved
	The Committee finds the facts alleged at head of charge 20 proved. The Committee considers that the submission of an inappropriate claim for treatment which set out the wrong commencement date and which should not have been submitted given its proximity to a recent Band '2' claim was misleading, and accordingly the facts alleged at head of charge 20 proved.

We move to stage two."

On 13 December 2018 the Chairman announced the determination as follows:

"The Committee has considered all the evidence presented to it, both written and oral. The Committee has taken into account the submissions made by Ms Barnfather on behalf of the GDC. The Committee has accepted the advice of the Legal Adviser, and has paid careful regard to the GDC's *Guidance for the Practice Committees including Indicative Sanctions Guidance* (October 2016).

The Committee has been provided with a bundle of documents relevant to its deliberations at stage two. The bundle includes correspondence from Mr Kiely's erstwhile legal representatives, a personal development plan (PDP) and Action Plan dated June 2017 which was written in conjunction with a clinical dental adviser with NHS Health Education Kent, Surrey and Sussex; Mr Kiely's earlier written reflections dated February 2018; and a witness statement with documentary exhibits from the Clinical Support Manager with MyDentist in Kent, who is referred to for the purposes of these proceedings as Witness E.

The Committee also heard oral evidence from Witness E.

Fitness to practise history

In accordance with Rule 20 (1) (a) of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules') Ms Barnfather informed the Committee that Mr Kiely has no fitness to practise history with the GDC.

Misconduct

The Committee first considered whether the facts that it has found proved constitute misconduct. In considering this matter, the Committee has exercised its own independent judgement. The Committee has heard that Ms Barnfather on behalf of the GDC submits that the facts amount to misconduct.

In its deliberations the Committee has had regard to the following paragraphs of the GDC's *Standards for the Dental Team* (September 2013) in place at the time of the incidents giving

rise to the facts that the Committee has found proven. These paragraphs state that as a dentist you must:

1.1 You must listen to your patients.

1.4 Take a holistic and preventative approach to patient care which is appropriate to the individual patient.

1.7 Put patients' interests before your own or those of any colleague, business or organisation.

2.1 Communicate effectively with patients – listen to them, give them time to consider information and take their individual views and communication needs into account.

2.2 Recognise and promote patients' rights to and responsibilities for making decisions about their health priorities and care.

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

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

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

In light of its findings of fact, the Committee has concluded that Mr Kiely's care and treatment of the 12 patients involved in this case fell far short of the standards reasonably expected of a general dental practitioner. The Committee has found serious, repeated and sustained departures from proper professional practice in a wide range of basic and fundamental areas. These shortcomings were repeated within and across a number of different individual patient cases over a significant period of time. The Committee was particularly concerned by Mr Kiely's repeated failure to diagnose and treat periodontal disease, his antibiotic prescribing practices and by the substandard and inappropriate treatment that Mr Kiely provided, with particular regard to its findings concerning Patient 12. Mr Kiely's omissions can only properly be described as patient neglect. Mr Kiely placed patients at an unwarranted risk of harm, with particular regard to his failings in relation to periodontal and radiographic practice, and in the case of his failure to diagnose and treat caries, and by using periodontally compromised teeth for a bridge in the case of Patient 4, he caused actual harm. The Committee considers that Mr Kiely's fellow practitioners would consider such failings to be deplorable.

The Committee therefore finds that the facts that it has found proved amount to misconduct.

Impairment

The Committee then went on to consider whether Mr Kiely's fitness to practise is currently impaired by reason of the misconduct that it has found. In doing so, the Committee has again exercised its independent judgement. The Committee has heard that Ms Barnfather submits that Mr Kiely's fitness to practise is currently impaired. Throughout its deliberations, it has borne in mind that its primary duty is to address the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and in the regulatory process, and the declaring and upholding of proper standards of conduct and behaviour.

The Committee considers that the facts, which it has found amount to misconduct, are capable of being remedied. Mr Kiely's departures, as serious as they are, relate to identifiable, basic and fundamental aspects of the practice of dentistry. These acts and

omissions are able to be addressed and remedied. In reaching this finding the Committee considers that Mr Kiely's misleading conduct in respect of his claiming does not connote a deep seated harmful attitudinal problem which might be more difficult to remedy.

The Committee has not been provided with sufficient evidence to demonstrate that Mr Kiely has taken the steps necessary to acknowledge, identify, address and remedy the acts and omissions that have given rise to the Committee's findings of fact. The evidence that has been presented to the Committee suggests that Mr Kiely's insight and remediation is decidedly limited. The Committee has been provided with a personal development plan (PDP) which was written in consultation with NHS Health Education Kent, Surrey and Sussex in June 2017. The Committee has also been provided with a reflective statement written by Mr Kiely in February 2018 in connection with the Interim Orders Committee's consideration of these same matters, as well as correspondence and documentation provided by MyDentist regarding the efforts that it made to identify similar shortcomings to Mr Kiely and to obtain his co-operation in addressing those perceived deficiencies.

The Committee notes that there is no evidence of any remediation or insight since these dates, and that which has been provided is very limited, and does not demonstrate that Mr Kiely has undertaken sufficient or appropriate remediation of the serious failings that have been identified. The local support that Mr Kiely received does not appear to have been met with any actions on his part to remedy his deficiencies. The documents from MyDentist and NHS Health Education set out plans of action, but there is no evidence of any steps that Mr Kiely took as a result. Mr Kiely's evidence of having undertaken continuing professional development (CPD), for instance, consists of a sole certificate relating to claiming practices and appears to have been undertaken as part of routine internal training. Mr Kiely's earlier responses to the allegations, whilst containing some admissions of omissions, do not address the harm and potential harm that he has caused, and do not suggest that he has taken the time to acknowledge, reflect upon and address the sustained departures from acceptable practice which have precipitated these proceedings. Mr Kiely's remediation is, therefore, in the Committee's view partial, fitful and limited.

The Committee further notes that Mr Kiely has not worked since he left MyDentist in Bexhill-on-Sea in January 2017, and indeed that the information presented to it suggests that he has not practised clinically since 2016. The Committee further notes that Mr Kiely left the UK in July 2017.

In the circumstances the Committee finds that there remains a risk of Mr Kiely repeating the conduct that has precipitated these proceedings, and that any such repetition may cause harm to patients and would otherwise place them at the risk of unwarranted harm. Given the absence of proper remediation of, or insight into, the serious, wide-ranging and repeated departures from proper professional standards, the Committee finds that Mr Kiely continues to pose a risk to patients. His fitness to practise is therefore found to be impaired.

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

Sanction

The Committee then determined what sanction, if any, would be appropriate in light of the findings of facts, misconduct and impairment that it has made. The Committee recognises

that the purpose of a sanction is not to be punitive, although it may have that effect, but is instead imposed in order to protect patients and safeguard the wider public interest referred to above.

In reaching its decision the Committee has again taken into account the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016). The Committee has heard that Ms Barnfather submits on behalf of the Council that the appropriate and proportionate sanction to impose is that of erasure. The Committee has applied the principle of proportionality, balancing the public interest with Mr Kiely's own interests.

The Committee has had regard to the mitigating and aggravating factors in this case. In terms of mitigation, the Committee notes that Mr Kiely has had no previous regulatory findings recorded against him. The Committee also notes that there have been no other reported incidents since the matters giving rise to this case took place. The Committee also notes that a considerable period of time has elapsed. The Committee also notes that there is no evidence of any financial gain. Mr Kiely took some, albeit limited and apparently abortive, steps to address and remedy his shortcomings as noted above. The Committee notes Mr Kiely's difficult personal circumstances at the time of the incidents, and the size and nature of the patient caseload that he inherited, but it placed little weight on these considerations.

There are a number of aggravating factors in this case. Mr Kiely's acts and omissions caused actual harm to patients and otherwise placed a considerable number of patients at unwarranted risk of harm. Such conduct was sustained and repeated across multiple patient cases and over a considerable period of time. Mr Kiely has provided insufficient evidence of insight and remediation, and the Committee notes that steps were taken by both his former employers and NHS Health Education to support him in such endeavours, but to little avail.

The Committee has considered the range of sanctions available to it, starting with the least serious. In the light of the findings made against Mr Kiely, the Committee has determined that it would not be appropriate to conclude this case with no action or with a reprimand. Mr Kiely's serious and sustained departures from acceptable practice are liable to be repeated. Accordingly the Committee finds that no action or a reprimand would not provide the necessary degree of protection for the public and would undermine public trust and confidence in the profession.

The Committee next considered whether a period of conditional registration would be appropriate. The misconduct that the Committee has found relates to specific and identifiable clinical acts and omissions. As set out above these shortcomings are capable of being remedied with sufficient will and commitment on the part of Mr Kiely. However, the Committee is not able to formulate conditions which would be workable, practicable, and capable of being monitored, given Mr Kiely's earlier shortcomings in complying with interim conditions and local requirements, and the lack of information as to his current employment circumstances and future intentions. The Committee also considers that, even if it were able to formulate conditions, a conditional period of registration would not be sufficient to declare and uphold proper professional standards of conduct and behaviour or maintain public trust and confidence in the particular circumstances of this case.

The Committee therefore went on to consider whether to suspend Mr Kiely's registration. Mr Kiely's acts and omissions were repeated across multiple patient cases over a considerable period of time. Mr Kiely has shown only very limited insight into, and remediation of, his misconduct, and continues to pose a significant risk to patients. The Committee therefore

considers that public confidence in the profession, and the safety and interests of patients, would be insufficiently protected by a sanction less than suspension.

The Committee has given careful consideration as to whether the higher and ultimate sanction of erasure is, as submitted by the GDC, appropriate. Mr Kiely's conduct represents serious and sustained departures from acceptable practice, including harm to patients and otherwise placing patients at an unwarranted risk of harm. However, in the final analysis the Committee finds that there is insufficient evidence of a deep-seated harmful personal attitudinal problem which might make erasure the appropriate sanction. Mr Kiely has not demonstrated sufficient evidence of his insight into, and remediation of, his misconduct. The Committee considers however that his conduct is capable of being remedied if he adopts a reflective, purposeful and considered approach to the rehabilitation as required. Although Mr Kiely has not approached the necessary process of remediation with the requisite degrees of candour, care or commitment, the Committee does not consider that the evidence presented to it suggests that there is a harmful deep-seated personality defect which might inhibit such remediation. The Committee therefore considers that a period of suspended registration would adequately meet the public protection considerations alive in this case, and that the ultimate sanction of erasure would be disproportionate. The Committee specifically considers that a period of suspended registration is also sufficient to meet the public interest considerations referred to above, and that a reasonable and informed observer would not, for instance, be shocked or appalled to note that the Committee had determined that suspension is the appropriate and proportionate sanction in the particular circumstances of the case.

The Committee has determined, and hereby directs, that Mr Kiely's registration be suspended for a period of 12 months, with a review hearing to take place prior to the end of that period. It considers that this period of time is necessary to mark the Committee's findings of facts, misconduct and impairment. Any lesser period of time would not be sufficient to meet the public interest and public protection considerations in this case. Any lesser period of time would also not be sufficient for Mr Kiely to develop and demonstrate appropriate insight into, and proper remediation of, his misconduct, if in fact he is minded to do so.

Although the Committee in no way wishes to bind or fetter the Committee which will review this suspension, it considers that the reviewing Committee may be assisted by seeing evidence of Mr Kiely having reflected upon and demonstrated insight into the matters that have led to this Committee's findings of fact, misconduct, impairment and sanction. The reviewing Committee may also be assisted by evidence of steps that Mr Kiely has taken, or plans to take, to remedy the shortcomings that have been identified, including, but not limited, to updated personal development plans (PDPs), and targeted learning in the form of focussed continuing professional development (CPD).

Existing interim order

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

Immediate order of suspension

Having directed that Mr Kiely's registration be suspended, the Committee then invited submissions as to whether it should impose an order for his immediate suspension in accordance with section 30 (1) of the Dentists Act 1984 (as amended).

The Committee has heard the submissions made by Ms Barnfather on behalf of the GDC that an order is necessary for the purposes of protecting the public and is otherwise in the public interest.

In the circumstances, 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 immediate suspension on Mr Kiely's registration. The Committee has decided that, given the risks of harm that it has identified, it would not be appropriate to permit Mr Kiely to practise before the substantive direction of suspension takes effect. The Committee considers that an immediate order for suspension is proportionate, and is consistent with the findings that it has set out in its determination.

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

That concludes this case."

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

"Service of Notice of Hearing

This is a Professional Conduct Committee (PCC) review hearing of Mr Kiely's case, which is being held in accordance with Section 27C of the Dentists Act 1984 (as amended) (the Act). Mr Kiely is neither present nor represented at the hearing. Mr Ahmed appears on behalf of the General Dental Council (GDC). In the absence of Mr Kiely, the Committee first considered whether the Notice of Hearing had been served on him in accordance with Rules 28 and 65 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules'). The Committee has received a bundle of documents which contains a copy of the Notice of Hearing dated 29 October 2019, addressed to Mr Kiely at his registered address. The Committee is satisfied that the Notice of Hearing contains the date, time and venue of the hearing and was sent more than 28 days in advance of today's hearing. The Royal Mail track and trace receipt confirms that the item was delivered to Mr Kiely's registered address by special delivery on 30 October 2019.

In addition, the Committee notes that on 29 October 2019 the GDC sent an email to Mr Kiely, attaching a copy of the Notice of Hearing. The Download receipt confirms that the file was downloaded the same day.

The Committee has accepted the Legal Adviser's advice. Having regard to all the documents before it, the Committee is satisfied that the requirements of service have been met in accordance with the Rules 28 and 65.

Proceeding in the absence of the Registrant

The Committee went on to consider whether to proceed in the absence of Mr Kiely, in accordance with Rule 54. Mr Ahmed referred the Committee to the various documents which demonstrate the efforts made by the GDC to notify Mr Kiely of today's hearing, as well as advise him of the PCC's recommendations. He observed that, during the course of a telephone call on 11 November 2019, Mr Kiely informed the GDC of the personal difficulties

he was experiencing. Mr Kiely has not sought an adjournment of these proceedings and there is nothing to suggest that he would attend on a future occasion, were the Committee minded to adjourn. In short, Mr Ahmed invited the Committee to proceed in the absence of Mr Kiely.

The Committee has considered the submissions made on behalf of the GDC. It has accepted the advice of the Legal Adviser.

The Committee has seen a copy of an email dated 8 November 2019 from the GDC's Assistant Lawyer to Mr Kiely dated 8 November 2019 in which she asks Mr Kiely to confirm whether he wishes to attend today's review hearing and/or whether he will be represented. The email sets out the options for Mr Kiely if he does not wish to attend the hearing, either in person or by telephone or skype, so that arrangements can be made. The Committee has seen a record of a telephone call between the GDC's Assistant Lawyer and Mr Kiely dated 11 November 2019. This was in response to Mr Kiely's voicemail message he left with the GDC on 8 November 2019. The note sets out the difficulties Mr Kiely reports that he is facing. The note also records that the Assistant Lawyer went through the recommendations made by the initial PCC. The GDC Assistant Lawyer followed this conversation up by sending Mr Kiely an email dated 11 November 2019. That email advises Mr Kiely that he could participate at the hearing via telephone or skype if he was unable to attend. Mr Kiely was further advised that he could submit documentation to the GDC. He was asked to notify the GDC if he would be attending the hearing. No response has been received from Mr Kiely. The Committee is satisfied that that Mr Kiely is aware of today's hearing and has chosen not to attend. He did not intimate to the GDC during the course of his telephone call with the GDC on 11 November 2019 that he was seeking an adjournment or that he would attend on a future occasion.

In addition, the Committee considers that there is a clear public interest in reviewing the order today, given that the current order is due to expire in January 2020. Accordingly, the Committee has determined that it is fair to proceed with today's review hearing in the absence of Mr Kiely.

Background

Mr Kiely's case was considered by the PCC at a hearing in December 2018. He was not present or represented. The PCC decided to proceed in his absence. It was satisfied that the GDC had made all reasonable efforts to inform Mr Kiely of these proceedings. It appeared to the PCC that Mr Kiely had decided not to attend the hearing and had effectively disengaged from these proceedings.

The matters under consideration related to the standard of care, treatment and record-keeping that Mr Kiely provided to 12 patients whilst working at two branches of MyDentist in the period from April 2015 to January 2017. The PCC found proved that Mr Kiely's treatment of the 12 patients involved in this case fell far short of the standards expected of a general dental practitioner. In the PCC's judgment, the failings were serious, repeated and sustained departures from proper professional practice in a wide range of basic and fundamental areas. The PCC determined that the facts found proved amounted to misconduct.

In considering whether Mr Kiely's fitness to practise was currently impaired by reason of the misconduct it took into account that Mr Kiely's departures, although serious, were capable of being remedied. It considered that his claiming for Band 2 treatment in respect of one patient, which was found to be misleading, did not connote a deep seated harmful attitudinal problem which might be more difficult to remedy.

The PCC was provided with some evidence of remediation in the form of a personal development plan (PDP), a reflective statement written by Mr Kiely in February 2018 as well as correspondence and documentation provided by MyDentist and NHS England which set out plans of action. However, in the PCC's view, there was no evidence that Mr Kiely had taken any steps as a result. The PCC was also concerned that Mr Kiely's earlier responses to the allegations, whilst containing some admissions of omissions, did not address the harm and potential harm he caused to his patients. In the PCC's view, Mr Kiely's insight and remediation were "decidedly limited". It noted the information that Mr Kiely had not worked clinically since 2016. The PCC considered that there remained a risk of Mr Kiely repeating his conduct and that any such repetition may cause harm to patients and would otherwise place them at the risk of unwarranted harm. It determined that Mr Kiely's fitness to practise was impaired. The PCC was satisfied that a finding of impairment was required to maintain public confidence in the profession and in the regulatory process, and to declare and uphold proper professional standards.

The PCC directed that Mr Kiely's registration be suspended for a period of 12 months, with a review hearing to take place prior to the end of that period. It was satisfied that this order was sufficient for the protection of the public and to meet the public protection considerations in this case. It considered that this period of time was necessary for Mr Kiely to develop and demonstrate appropriate insight into, and proper remediation of, his misconduct, if in fact he is minded to do so.

The PCC directed a review hearing before the expiry of the order. It indicated that the reviewing Committee may be assisted by evidence of Mr Kiely's insight and steps he had taken, or was proposing to take, to remedy the shortcomings identified in the case.

Today's review

The Committee has comprehensively reviewed the current order of suspension. In so doing, it has had regard to the GDC bundle as well as the submissions made by Mr Ahmed. The bundle includes copies of correspondence from the GDC to Mr Kiely, setting out the recommendations of the previous PCC. The Committee notes the absence of any evidence of remediation from Mr Kiely or any of the information recommended by the previous PCC. Indeed, Mr Ahmed confirmed that the GDC has received no documents from Mr Kiely.

Mr Ahmed submitted that there has been no evidence provided by Mr Kiely to show any material change in the position since the PCC hearing in December 2018. While the GDC acknowledges the personal difficulties that Mr Kiely is facing, he has not provided any evidence of remediation to demonstrate that identified risks have been sufficiently addressed. The GDC's position is that Mr Kiely's fitness to practise remains impaired. Mr Ahmed submitted that the appropriate sanction in this case is an extension of the suspension order for a period of 12 months, with a review to take place before the expiry of the order.

The Committee considered carefully the submissions made. Throughout its deliberations, it has borne in mind that its primary duty is to address the public interest, which includes the protection of patients, the maintenance of public confidence in the profession and in the regulatory process, and the declaring and upholding of proper standards of conduct and behaviour. The Committee has accepted the advice of the Legal Adviser.

The Committee has borne in mind that there is a persuasive burden on Mr Kiely at a review to demonstrate that he has shown insight into his past shortcomings and has sufficiently addressed the PCC's concerns.

There is no evidence before this Committee that Mr Kiely has addressed further any of the deficiencies identified by the PCC in December 2018, despite being given the opportunity to do so. It has borne in mind the reasons cited by Mr Kiely in the telephone note dated 11 November 2019 as to why he has been unable to complete any CPD and the difficulties for him in securing employment as a dentist. However, in the absence of any evidence to demonstrate that he has addressed further the concerns identified by the PCC in 2018, the Committee considers that Mr Kiely remains a risk to the public. Accordingly, it has determined that Mr Kiely's fitness to practise remains impaired.

The Committee also considers that a finding of impairment is required to maintain public confidence in the profession and in the regulatory process, and to declare and uphold proper professional standards. Mr Kiely has been given an opportunity over the last year to demonstrate that he has addressed the PCC's concerns in 2018. He has not responded positively to this. Given the widespread and serious nature of the concerns and the absence of any further remediation, the Committee finds that trust and confidence in the profession would be undermined and that the profession would be brought into disrepute if a finding of impairment were not made in the particular circumstances of this case.

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

In the Committee's view, Mr Kiely remains a risk to the public with no evidence that he has attempted to remediate further his deficiencies. In these circumstances, the Committee is satisfied that terminating the current suspension order would not be appropriate or sufficient for the protection of the public.

The Committee considered whether to replace the current suspension order with one of conditions. In so doing, it had regard to the absence of any evidence of remediation from Mr Kiely and his very limited engagement with the GDC since the initial PCC hearing. In these circumstances, the Committee is not satisfied that conditions are appropriate, workable or sufficient for the protection of the public.

The Committee therefore directs that the current period of suspension on Mr Kiely's registration be extended for a period of 12 months. It is satisfied that extending the order for the maximum period of 12 months is necessary for the protection of the public and is otherwise in the public interest.

The order of suspension will be reviewed shortly prior to the end of the 12 month period. The reviewing Committee will consider what action it should take in relation to Mr Kiely's registration. The Committee acknowledges the personal difficulties Mr Kiely is currently experiencing. However, it would encourage him to re-engage with the GDC and to seek advice from those organisations that may be able to help him, particularly given the failings in this case are potentially remediable. This Committee adopts the same recommendations given by the PCC in November 2018, namely evidence of Mr Kiely having reflected upon and demonstrated insight into the matters that led to the PCC's findings of fact; steps taken by him, or planned to take, to remedy the shortcomings identified, including, but not limited to, updated PDPs and targeted learning in the form of focussed CPD.

That concludes today's case."