HEARING PARTLY HEARD IN PRIVATE*

*The Committee has made a determination in this case that includes some private information. That information has been omitted from this text.

KARUNASEKARA, ROSHAN

Registration No: 172165

PROFESSIONAL CONDUCT COMMITTEE

JULY 2016 – JULY 2019

Most recent outcome: Conditions extended and varied for 18 months (with a review)**

** See page 40 for the latest determination

Roshan Karunasekara, a dentist, MDDr Charles U Prague 2008, was summoned to appear before the Professional Conduct Committee on 11 July 2016 for an inquiry into the following charge:

CHARGE (as amended on 11, 15, 20, 22 and 25 July 2016)

"That being a registered dentist:

1. At all material times you were a United Kingdom registered Dental Practitioner practising at JE Thorpe and Associates, St Helens, Merseyside ("the Practice").
2. While working at the Practice, you provided care and treatment under the provisions of the NHS to the patients listed in Schedule A.

Care and Record Keeping

Patient B

3. Your care and treatment of Patient B on 23 April 2014 was substandard in that you failed, adequately or at all, to:

   (a) Carry out the following in relation to the two radiographs taken:
      i. Any reportage;
      ii. Any quality assurance;
   (b) Diagnose and/or treat caries at:
      i. UR7;
      ii. LR6;
      iii. LR7;
      iv. UL7;
   (c) [Withdrawn];
   (d) [Withdrawn];

4. Your record keeping in respect of Patient B was substandard on 23 April 2014 in that you failed to record, adequately or at all:

   (a) The processes and areas involved in the examination of:
      i. The extra-oral tissues;

ii. The soft tissues;

(b) The following in relation to the two radiographs taken:

i. Any reportage;

ii. Any quality assurance;

(c) An appropriate treatment plan;

(d) Any discussion regarding prevention of caries:

(e) An appropriate recall period;
(f) [Withdrawn];
(g) A risk assessment for:
i. Caries;
ii. Periodontal disease;

Patient F

5. Your care and treatment of Patient F on 28 April 2014 was substandard in that you failed, adequately or at all, to:

(a) Carry out a basic periodontal examination (BPE);
(b) Take routine bitewing radiographs;
(c) Investigate the presence of permanent teeth using an OPT radiograph;

6. Your record keeping in respect of Patient F on 28 April 2014 was substandard in that you failed to record, adequately or at all:

(a) Any BPE sextant scoring or other diagnostic indices;

(b) Any clinical justification for not taking appropriate radiographs;

(c) Any oral hygiene advice given;

(d) Any discussion regarding the management of periodontal disease;

(e) Any discussion of the possible reasons for the persistence of ULE and/or the possibility of missing permanent teeth;

Patient G

7. Your care and treatment of Patient G on 24 April 2014 was substandard in that you failed, adequately or at all, to:

(a) Carry out a basic periodontal examination (BPE);
(b) Take appropriate bitewing radiographs;

8. Your record keeping in respect of Patient G on 24 April 2014 was substandard in that you failed to record, adequately or at all:

(a) Any BPE sextant scoring or other diagnostic indices;

(b) Any clinical justification for not taking appropriate bitewing radiographs;

Patient H

9. Your care and treatment of Patient H on 7 April 2014 was substandard in that you failed to take appropriate bitewing radiographs;

10. Your record keeping in respect of Patient H on 7 April 2014 was substandard in that you failed, to record, adequately or at all:

    (a) Any clinical justification for not taking appropriate bitewing radiographs;

    (b) [Withdrawn];

Patient I

11. Your care and treatment of Patient I on 7 April 2014 was substandard in that you failed, adequately or at all, to:

    (a) [Withdrawn];
    (b) Assess the patient's periodontal condition through the taking of:
        i. Detailed pocket probing depth scores;
        ii. Bleeding scores;
        iii. Plaque scores;
    (c) Diagnose and/or treat periodontal disease in the upper anterior sextant;
    (d) [Withdrawn];

12. Your record keeping in respect of Patient I was substandard on 7 April 2014 in that you failed to record, adequately or at all:

    (a) Any clinical justification for:

        i. not taking appropriate radiographs;

        ii. not treating the periodontal disease in the upper anterior sextant;

        iii. [Withdrawn];

    (b) Detailed pocket scoring and/or indices of bleeding and/or plaque;
    (c) [Withdrawn];

Patient J

13. Your care and treatment of Patient J on 7 April 2014 was substandard in that you failed, adequately or at all, to:

    (a) Take appropriate radiographs;
    (b) [Withdrawn];
    (c) Assess the patient's periodontal condition through use of the following:
        i. detailed pocket probing depth scores;
        ii. bleedings scores;
        iii. plaque scores;
    (d) [Withdrawn];

14. Your record keeping in respect of Patient J was substandard on 7 April 2014 in that you failed to record, adequately or at all:

    (a) [Withdrawn];
    (b) [Withdrawn];
    (c) Detailed pocket scoring;
    (d) Indices of bleeding and/or plaque;
    (e) Any clinical justification for:
        i. Not taking appropriate radiographs;
        ii. [Withdrawn];

Patient K

15. Your care and treatment of Patient K between 9 April 2014 and 29 April 2014 was substandard in that you failed, adequately or at all, to:

    (a) Carry out the following in relation to the radiographs taken on 9 April 2014:
        i. Any reportage;
        ii. Any quality assurance;
    (b) Assess the patient's periodontal condition through use of the following:
        i. detailed pocket probing depth scores;
        ii. bleedings scores;
        iii. plaque scores;
    (c) [Withdrawn];
    (d) [Withdrawn];
    (e) Formulate an appropriate treatment plan to manage periodontal disease;

16. Your record keeping in respect of Patient K was substandard between 9 April 2014 and 29 April 2014 in that you failed to record, adequately or at all:

    (a) The following in relation to the radiographs taken on 9 April 2014:
        i. [Withdrawn];
        ii. Any reportage;
        iii. Any quality assurance;
    (b) [Withdrawn];
    (c) Detailed pocket scoring;
    (d) Indices of bleeding and/or plaque;
    (e) [Withdrawn];
    (f) [Withdrawn]:
        i. [Withdrawn];
        ii. [Withdrawn];
        iii. [Withdrawn];
    (g) Any risk assessment;
    (h) [Withdrawn];

Patient L

17. Your care and treatment of Patient L on 22 April 2014 was substandard in that you failed, adequately or at all, to:

    (a) Take appropriate radiographs prior to carrying out restorative treatment to UL6;

    (b) [Withdrawn];

18. Your record keeping in respect of Patient L was substandard on 22 April 2014 in that you failed to record, adequately or at all:
    (a) Any clinical justification for:
        i. not taking appropriate radiographs;
        ii. [Withdrawn];
    (b) [Withdrawn];
    (c) [Withdrawn]:

        i. [Withdrawn];

        ii. [Withdrawn];

Patient M

19. Your care and treatment of Patient M on 8 April 2014 was substandard in that you failed, adequately or at all, to:

    (a) Take an updated medical history;
    (b) Carry out the following in relation to the two radiographs taken:
        i. Any reportage;
        ii. Any quality assurance;
    (c) Permanently restore LL4 and/or to plan for its permanent restoration;
    (d) Set an appropriate recall period;

20. Your record keeping in respect of Patient M was substandard on 8 April 2014 in that you failed to record, adequately or at all:
    (a) The following in relation to the radiographs taken;
        i. [Withdrawn];
        ii. Any reportage;
        iii. Any quality assurance;
    (b) Any clinical justification for the 12 month recall period;

Patient P

21. Your care and treatment of Patient P on 30 April 2014 was substandard in that you failed, adequately or at all, to:

    (a) Take appropriate radiographs prior to undertaking treatment;
    (b) Permanently restore and/or plan to permanently restore UR5;
    (c) [Withdrawn]:
        i. [Withdrawn];
        ii. [Withdrawn];
        iii. [Withdrawn];
    (d) Formulate an appropriate treatment plan addressing the patient's periodontal pathology;

22. Your record keeping in respect of Patient P on 30 April 2014 was substandard in that you failed to record, adequately or at all:
    (a) Any clinical justification for not taking appropriate radiographs;
    (b) Any oral hygiene advice given;
    (c) Any discussion of:
        i. a treatment plan;
        ii. the future management of UR5 in relation to a permanent restoration;
        iii. alternative treatment options for UR5;
    (d) A risk assessment;

Patient R

23. Your care and treatment of Patient R between 14 April 2014 and 23 April 2014 was substandard in that:

    (a) Prior to providing a nightguard you failed to assess, adequately or at all the following:

i. The occlusion;
ii. The temporo-mandibular joint function;
iii. The presence or absence of abnormal sounds, and/or dysfunction and/or pathology;

(b) You failed to quality assure the radiograph taken on 14 April 2014;
(c) You failed to diagnose and/or treat caries at:
i. UL4;
ii. UL6;
iii. [Withdrawn];
(d) You prescribed antibiotics on 14 April 2014 when it was not clinically indicated and/or justified;
(e) [Withdrawn];

24. Your record keeping in respect of Patient R between 14 April 2014 and 23 April 2014 was substandard in that you failed to record, adequately or at all:
(a) Appropriate information relating to:
i. The occlusion;
ii. The temporo-mandibular joint function;
iii. The presence or absence of abnormal sounds, dysfunction and/or pathology;
(b) The following in relation to the radiograph taken on 14 April 2014:
i. [Withdrawn];
ii. Any quality assurance of it;
(c) Any clinical justification for prescribing antibiotics on 14 April 2014;
(d) Any advice given in relation to a preventative strategy;
(e) Details of post-operative information given following extraction of UL5;

Patient S

25. Your care and treatment of Patient S between 10 April 2014 and 14 May 2014 was substandard in that you:

(a) Failed to carry out the following in relation to the radiographs taken on 10 April 2014:
i. Any reportage;
ii. Any quality assurance;
(b) Failed adequately or at all to treat and/or make arrangements to treat periodontal disease

26. Your record keeping in respect of Patient S between 10 April 2014 and 14 May 2014 was substandard in that you failed to record, adequately or at all:
(a) The following in relation to the radiographs taken on 10 April 2014:
i. Any reportage;
ii. Any quality assurance;
(b) [Withdrawn];
(c) Any oral hygiene advice given;
(d) [Withdrawn];

Patient T

27. Your care and treatment of Patient T on 30 April 2014 was in that you failed, adequately or at all, to:

(a) Carry out a basic periodontal examination (BPE);
(b) Carry out the following in relation to the radiographs taken:
  i. Any reportage;
  ii. Any quality assurance;
(c) [Withdrawn];

28. Your record keeping in respect of Patient T on 30 April 2014 was substandard in that you failed to record, adequately or at all:
(a) A basic periodontal examination (BPE);
(b) The following in relation to the radiographs that were taken:
  i. Any reportage;
  ii. Any quality assurance;
(c) [Withdrawn];
(d) Any oral hygiene advice given;
(e) [Withdrawn];

Patient V

29. Your care and treatment of Patient V on 11 April 2014 was substandard in that you failed, adequately or at all, to:

(a) Treat and/or make arrangements to treat the periodontal condition;
(b) Take appropriate radiographs;

30. Your record keeping in respect of Patient V on 11 April 2014 was substandard in that you failed, adequately or at all, to record:
(a) Any clinical justification for not taking appropriate radiographs;
(b) Any oral hygiene advice given;
(c) Any discussion of the periodontal condition;
(d) Any advice given regarding the long term management of LRE;

Patient X

31. Your care and treatment of Patient X on 2 May 2014 was substandard in that you:
(a) Failed to take appropriate radiographs;
(b) Failed to carry out, adequately or at all, an extra-oral and/or soft tissue examination;
(c) Failed to treat and/or make arrangements to treat the patient's periodontal condition;
(d) Failed, adequately or at all, to explain the treatment plan to the patient;
(e) Failed to obtain informed consent prior to carrying out treatment;
(f) Failed to provide the patient with post-operative information;
(g) Prescribed antibiotics to the patient on 2 May 2014 when it was not clinically indicated and/or justified;
(h) Continued treating the patient when she told you that the local anaesthesia administered in the upper left jaw and the lower jaw had not worked and that she was experiencing pain;

32. Your record keeping in relation to Patient X was substandard in that you:
(a) On 2 May 2014 recorded that you had carried out an extra-oral and soft tissue examination when you had not carried one out;
(b) On 2 May 2014 failed to record any clinical justification for:
  i. not taking appropriate radiographs;
  ii. [Withdrawn];
(c) On 2 May 2014 failed to record, adequately or at all:

i. Any oral hygiene advice given;
ii. Any discussion regarding the periodontal condition;
iii. [Withdrawn];
iv. Whether informed consent had been given prior to carrying out treatment;

(d) On 2 May 2014 failed to record that the patient had reported that the local anaesthesia administered in the upper left jaw had not been effective;

(e) Amended the patient records on 7 May 2014 without making it clear on the face of them:
i. that you were making amendments retrospectively; and/or
ii. which day the treatment referred to;

Patient Y

33. Your care and treatment of Patient Y on 2 May 2014 was substandard in that you failed, adequately or at all, to:
(a) Treat the cause of the pain;
(b) [Withdrawn]:
i. [Withdrawn];
ii. [Withdrawn];
iii. [Withdrawn];
iv. [Withdrawn];
(c) Carry out in relation to the radiograph taken on 2 May 2014:
i. Any reportage;
ii. Any quality assurance;

34. Your record keeping in relation to Patient Y was substandard in that you:
(a) On 2 May 2014 incorrectly recorded that the patient was complaining about LL5 when it was LL4 that was the cause of the pain;
(b) Failed to record on 2 May 2014 that you had filled LL4;
(c) On 2 May 2014 failed to record, adequately or at all, in relation to the radiograph taken:
i. [Withdrawn];
ii. Any reportage;
iii. Any quality assurance;
iv. The area to which the radiograph refers;
(d) [Withdrawn]:
i. [Withdrawn];
ii. [Withdrawn];
iii. [Withdrawn];
iv. [Withdrawn];
(e) On 2 May 2014 failed to record, adequately or at all, any discussion with the patient regarding:
i. Treatment options for LL4 other than root canal treatment;
ii. Any oral hygiene advice given;
iii. The future management of periodontal pathology;
(f) Amended the records on 8 May 2014 without making it clear on the face of the records that:
i. You were making amendments retrospectively;
ii. Which day the treatment referred to;
iii. Which tooth was being restored by filling;

Patient Z

35. Your care and treatment of Patient Z on 6 May 2014 was substandard in that you continued to treat the 5-year-old patient when he asked you to stop and made it clear that he was in pain;

36. Your record keeping in relation to Patient Z was substandard in that you:
    (a) On 6 May 2014 failed to record, adequately or at all:
        i. A treatment plan for dealing with the patient's oral hygiene;
        ii. A risk assessment for likely caries incidence;
        iii. [Withdrawn];
        iv. That the patient had expressed that he was in pain when you were carrying out the treatment;
    (b) Amended the records on 8 May 2014 without making it clear on the face of the records that:
        i. you were making amendments retrospectively; and/or
        ii. which day the treatment referred to;

Patient AA

37. Your care and treatment of Patient AA on 6 May 2014 was substandard in that you:
    (a) Failed, adequately or at all, to:
        i. Take appropriate radiographs;
        ii. Carry out a modified periodontal examination (BPE);
    (b) Continued to treat the young patient when he was clearly upset;
38. Your record keeping in relation to Patient AA on 6 May 2014 was substandard in that you:
    (a) Failed to record, adequately or at all:
        i. Any preventative strategy or advice given to improve oral hygiene;
        ii. A risk assessment for likely caries incidence overall;
        iii. Any clinical justification for not taking appropriate radiographs;
        iv. A modified BPE;
        v. Any information regarding the occlusion, crowding and/or general prognosis of the young patient;
        vi. That the patient had been upset during the treatment;

AND, by reason of the facts stated, your fitness to practise as a dentist is impaired by reason of your:

i. Deficient professional performance; and/or,
ii. Misconduct."

On 25 July 2016 the Chairman made the following statement regarding the finding of facts:

"Mr Karunasekara

You are represented at this hearing of the Professional Conduct Committee (PCC) by Mr Michael Mylonas QC. Ms Bo Eun Jung of Counsel presents the case for the General Dental Council (GDC).

Preliminary matters

On behalf of the GDC Ms Jung applied to amend head of charge 38 (a) (iii) in accordance with Rule 18 of the General Dental Council (Fitness to Practise) Rules 2006 ('the Rules') for

the purposes of correcting a typographical error. Ms Jung subsequently applied to withdraw a number of heads of charge. Mr Mylonas on your behalf made no objection to the amendments.

Further amendments were made to heads of charge 15 and 35 during the course of the Committee's factual inquiry to correct other typographical errors. At the conclusion of the evidence the Committee proposed amendments to heads of charge 11 (c), 12 (a) (ii), 32, 34 and 36 for the purposes of clarification. The parties made no objection to the amendments.

The Committee considered that it was fair for each of the amendments to be made, and the schedule of charge was duly amended.

On your behalf Mr Mylonas made a number of admissions to the heads of charge. The admissions were noted by the Committee and are set out below.

Background to the case and summary of allegations

The allegations that you face relate to the treatment that you provided to 18 patients between 23 April 2014 and 14 May 2014. You were in practice during the period in question at JE Thorpe and Associates in St. Helens, Merseyside. The practice is a mixed NHS and private practice.

Following the commencement of your period of work at the practice, a number of members of staff raised concerns about you with the principal dentist, who is referred to for the purpose of these proceedings as Witness 1. In May 2014, a patient, referred to for the purposes of these proceedings as Patient X, made a formal complaint about the care and treatment that she had received. The GDC has since raised formal allegations about you in relation to that patient, more particularly that you failed to undertake appropriate pre-treatment examinations, failed to formulate and explain an adequate treatment plan, failed to obtain informed consent, prescribed antibiotics when not clinically justified, and continued to treat the patient when she was in pain. A number of record-keeping failures associated with this care and treatment have also been charged.

The Practice Manager, who is referred to for the purposes of these proceedings as Witness 2, then reported a concern about two young sibling patients, namely Patient Z and Patient AA. It is alleged that these two siblings were upset when being treated by you on 6 May 2014, and that you had continued to treat them despite their distress and, in the case of Patient Z, despite their pain and their requests for you to stop. You were summarily dismissed from the practice on 8 May 2014 and Witness 1 reported the concerns that had been raised to NHS England. Following your dismissal Witness 1 reviewed records of the 450 patients whom you had seen. He decided to recall ten per cent of those patients for remedial treatment.

Following Witness 1's referral you were suspended from the NHS Dental Performers' List and an investigation was carried out by NHS England. This investigation included a targeted record-card audit carried out by Mr Mike Williams, a Dental Practice Adviser with NHS England and the Regional Training Programme Director for NHS Health Education North West. Mr Williams reviewed the records that you made of your care and treatment of Patients X, Z, AA and a fourth patient, namely Patient Y. As part of the NHS investigation another Dental Practice Adviser, Mr Geoff Brown, conducted a further record-card audit drawn from a random sample of record cards relating to other patients to whom you had provided care and treatment.

These record-card audits raised a number of concerns in respect of your treatment to the patients in question. These concerns included failings in diagnosing and treating caries; taking, justifying, quality assessing and reporting on radiographs; undertaking basic periodontal examinations (BPEs) and other periodontal assessments; forming appropriate treatment plans; performing soft tissue and other diagnostic assessments; prescribing antibiotics when not clinically indicated; and continuing to treat patients when they were clearly in pain. A number of record-keeping failures associated with these alleged shortcomings have also been alleged, including an allegation that you amended entries that you had made in patients' records without making it clear that you had made retrospective amendments.

Evidence

The Committee heard oral evidence from Witness 1; Witness 2; Patient X; from the GDC's expert witness, namely Dr Keith Marshall; and from you.

The Committee has been provided with documentary material in relation to the heads of charge that you face, including copies of the patient records relating to the patients involved in this case; the witness statements and documentary exhibits of Witness 1, Witness 2, Patient X, a dental nurse at the practice, namely Witness 3, a Dental Practice Adviser with NHS England, namely Mr Mike Williams, and you; a letter from another dental nurse at the practice, who is referred to as Person 4; and the reports and joint statement of Dr Marshall and the expert witness acting for your defence team, namely Mr Abhijit Pal.

Committee's findings of fact

The Committee has taken into account all the evidence presented to it and has considered the submissions made by Ms Jung on behalf of the GDC and by Mr Mylonas on your behalf.

The Committee has accepted the advice of the Legal Adviser. The Committee has been reminded 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, the balance of probabilities.

In accordance with the Legal Adviser's advice it has considered each head of charge separately, although in respect of those heads of charge which have been found proved on the basis of your admissions the Committee's findings will be announced collectively. The Committee's findings in respect of heads of charge 4 (a) (i) and 4 (a) (ii), 32 (e) (i) and 32 (e) (ii), and 36 (b) (i) and 36 (b) (ii), will also be announced collectively.

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

1.	Admitted and proved
	The Committee finds the facts alleged at head of charge 1 proved on the basis of your admission. Unless otherwise stated the Committee also finds the facts alleged at the other heads of charge to which you have made admissions proved on the basis of those respective admissions.
2.	Admitted and proved
Patient B	
3.a.i	Admitted and proved
3.a.ii	Admitted and proved

3.b.i	Admitted and proved
3.b.ii	Admitted and proved
3.b.iii	Admitted and proved
3.b.iv	Admitted and proved
3.c	Withdrawn
3.d	Withdrawn
4.a.i	Admitted and proved in relation to the facts; culpability denied and not proved
4.a.ii	Admitted and proved in relation to the facts; culpability denied and not proved
	The Committee finds the facts alleged at heads of charge 4 (a) (i) and 4 (a) (ii) proved in relation to you not making adequate records of an extra-oral tissue examination and a soft tissue examination proved on the basis of your admissions. It finds that you were not under a duty to do so, and that therefore your inadequate record does not constitute a failure. The Committee notes that you did not make a record of extra-oral and soft tissue examinations on 23 April 2014, but accepts your evidence and the expert evidence of Mr Pal that, as you saw Patient B some nine days earlier and had made adequate records of the extra-oral and soft tissue examinations that you had carried out on that earlier occasion, you were not under a duty to repeat those examinations when next seeing the patient on 23 April 2014. The Committee therefore finds that your record-keeping in this regard does not constitute a culpable failure on your part, and accordingly it finds that element of the head of charge not proved.
4.b.i	Admitted and proved
4.b.ii	Admitted and proved
4.c	Admitted and proved
4.d	Admitted and proved
4.e	Admitted and proved
4.f	Withdrawn
4.g.i	Admitted and proved
4.g.ii	Admitted and proved in relation to the facts; culpability denied and proved
	The Committee finds the facts alleged at head of charge 4 (g) (ii) in relation to the absence of a record of a risk assessment for periodontal disease proved on the basis of your admission. It also finds that this was a culpable failure on your part. Although you recorded some elements of a periodontal assessment in the clinical note that you made on 23 April 2014, including oral hygiene and BPE scores, the

	Committee notes that you did not record a conclusion about periodontal disease, for instance whether the patient was at a high, medium or low risk of periodontal disease. The Committee accepts the agreed opinion of Dr Marshall and Mr Pal that such a finding was required for a risk assessment, that you were under a duty to make such a risk assessment, and that your failure to do so meant that your record-keeping was substandard in this particular respect.
Patient F	
5.a	Admitted and proved
5.b	Admitted and proved
5.c	Admitted and proved in relation to the facts; culpability denied and not proved
	The Committee finds the facts alleged at head of charge 5 (c) in relation to you not investigating the presence of permanent teeth using an orthopantomograph (OPT) radiograph proved on the basis of your admission. The Committee does not however consider that this represents a failure on your part. It accepts the evidence of Dr Marshall and Mr Pal on the question of whether you were under a duty to obtain such a radiograph, namely that bitewing radiographs were appropriate and that you were not under a duty to obtain an OPT radiograph. The Committee has found at head of charge 5 (b) above that your omission of a bitewing radiograph was a failure on your part, the effect of which was that your care and treatment of Patient F on 28 April 2014 was substandard in that respect. The Committee considers that the culpable failing was in relation to that omission, rather than the omission of an OPT radiograph, and that the absence of an OPT radiograph does not represent a failure in your duty to maintain an adequate standard of care and treatment.
6.a	Admitted and proved
6.b	Admitted and proved
6.c	Admitted and proved
6.d	Admitted and proved
6.e	Admitted and proved
Patient G	
7.a	Admitted and proved
7.b	Admitted and proved
8.a	Admitted and proved
8.b	Admitted and proved
Patient H	
9.	Admitted and proved

10.a	Admitted and proved
10.b	Withdrawn
Patient I	
11.a	Withdrawn
11.b.i	Admitted and proved
11.b.ii	Admitted and proved
11.b.iii	Admitted and proved
11.c	Not proved as amended
	The Committee finds the facts alleged at head of charge 11 (c) not proved. In your evidence to this Committee you stated that you did in fact diagnose periodontal disease in the patient's upper anterior sextant, and that having discussed it with the patient at the appointment in question the patient declined treatment as the patient considered it would further loosen the already mobile two remaining teeth. The Committee accepts your evidence on this point and notes that it is supported by the contemporaneous entry that you made in the patient's records of a BPE score of '3' in the upper anterior sextant. The Committee therefore finds that you did diagnose periodontal disease in the upper anterior sextant. As the patient did not want you to treat that condition, you were not under a duty to do so and the absence of treatment was therefore not a culpable failure on your part.
11.d	Withdrawn
12.a.i	Admitted and proved in relation to the facts; culpability denied and not proved
	The Committee finds the facts alleged at head of charge 12 (a) (i) in relation to you not providing a clinical justification for not taking appropriate radiographs proved on the basis of your admission. The Committee does not however find that this represents a culpable failure on your part. In reaching this finding the Committee accepts the expert evidence of Mr Pal, who states that he does not consider that you were required to take radiographs of the mobile teeth. As the Committee accepts that you were not under a duty to take appropriate radiographs, it finds that the absence of a clinical justification for taking radiographs that were not required was not a failure on your part and was not an instance of substandard record-keeping.
12.a.ii	Admitted and proved as amended
12.a.iii	Withdrawn
12.b	Admitted and proved
12.c	Withdrawn
Patient J	

13.a	Admitted and proved
13.b	Withdrawn
13.c.i	Admitted and proved
13.c.ii	Admitted and proved
13.c.iii	Admitted in relation to the facts; culpability denied and proved
	The Committee finds the facts alleged at head of charge 13 (iii) in relation to the absence of plaque scores proved on the basis of your admission. The Committee also finds that you were under a duty to do so, and that having failed to obtain such scores to inform your assessment of the patient's periodontal condition your care and treatment of Patient J was substandard in this respect. In your oral evidence to this Committee you accepted that plaque scores would have assisted with your assessment of the patient's periodontal condition. The Committee accepts the expert evidence of Dr Marshall and Mr Pal, who agree that plaque scores were required to make such an assessment. The Committee therefore finds that this represents a failure on your part and that your care and treatment of the patient was substandard in this particular respect.
13.d	Withdrawn
14.a	Withdrawn
14.b	Withdrawn
14.c	Admitted and proved
14.d	Admitted and proved
14.e.i	Admitted and proved
14.e.ii	Withdrawn
Patient K	
15.a.i	Admitted as amended and proved
15.a.ii	Admitted as amended and proved
15.b.i	Admitted as amended and proved
15.b.ii	Admitted as amended and proved
15.b.iii	Admitted as amended and proved
15.c	Withdrawn
15.d	Withdrawn
15.e	Proved as amended
	The Committee finds the facts alleged at head of charge 15 (e) proved. The Committee was first of all satisfied that the GDC had established to the required standard that Patient K did in fact have periodontal disease, noting as it did that you had recorded BPE scores

	of '2' and '3'. The Committee therefore does not accept your evidence that a treatment plan was not required on the basis that the patient did not have periodontal disease. The Committee accepts the expert evidence of Dr Marshall, who stated that an adequate treatment plan for the management of the periodontal disease that was present should have included oral hygiene instructions, interdental cleaning and advice on smoking cessation. The Committee prefers this evidence to that of Mr Pal, who in his report stated that a six-month recall of the patient was adequate. The Committee accepts Dr Marshall's view that a treatment plan covering the elements referred to above was required, and further accepts his evidence that the absence of such a treatment plan was a culpable failure on your part. This failure meant that your care and treatment of Patient K was substandard in this respect.
16.a.i	Withdrawn
16.a.ii	Admitted and proved
16.a.iii	Admitted and proved
16.b	Withdrawn
16.c	Admitted and proved
16.d	Admitted and proved
16.e	Withdrawn
16.f.i	Withdrawn
16.f.ii	Withdrawn
16.f.iii	Withdrawn
16.g	Admitted and proved
16.h	Withdrawn
Patient L	
17.a	Admitted and proved
17.b	Withdrawn
18.a.i	Admitted and proved
18.a.ii	Withdrawn
18.b	Withdrawn
18.c.i	Withdrawn
18.c.ii	Withdrawn
Patient M	
19.a	Admitted and proved
19.b.i	Admitted and proved

19.b.ii	Admitted and proved
19.c	Admitted and proved
19.d	Admitted and proved
20.a.i	Withdrawn
20.a.ii	Admitted and proved
20.a.iii	Admitted and proved
20.b	Admitted and proved
Patient P	
21.a	Admitted and proved
21.b	Admitted and proved
21.c.i	Withdrawn
21.c.ii	Withdrawn
21.c.iii	Withdrawn
21.d	Admitted and proved
22.a	Admitted and proved
22.b	Admitted and proved
22.c.i	Admitted and proved
22.c.ii	Admitted and proved
22.c.iii	Admitted and proved
22.d	Admitted and proved
Patient R	
23.a.i	Admitted and proved
23.a.ii	Admitted and proved
23.a.iii	Admitted and proved
23.b	Admitted and proved
23.c.i	Admitted and not proved
	The Committee finds the facts alleged at head of charge 23 (c) (i) not proved. Although you have tendered an admission to this head of charge, in his oral evidence to this Committee Dr Marshall stated that the carious lesion previously identified by him and Mr Pal could in fact be an anatomical shadow, and that he was not able to categorically state that the tooth was carious. The Committee therefore finds the facts alleged at this head of charge not proved.
23.c.ii	Admitted and proved

23.c.iii	Withdrawn
23.d	Admitted and proved
23.e	Withdrawn
24.a.i	Admitted and proved
24.a.ii	Admitted and proved
24.a.iii	Admitted and proved
24.b.i	Withdrawn
24.b.ii	Admitted and proved
24.c	Admitted and proved
24.d	Admitted and proved
24.e	Not proved
	The Committee finds the facts alleged at head of charge 24 (e) not proved. It notes that you entered the acronym, 'POIG' in the patient's clinical records, meaning that postoperative information was given. The Committee heard from Witness 2 that it was the custom of the practice to give a postoperative information sheet to all patients following an extraction. The Committee accepts the expert evidence of Mr Pal, who in his report stated that such an entry was sufficient for the purposes of recording the details of postoperative information that was provided to the patient. The Committee therefore finds the facts alleged at this head of charge not proved.
Patient S	
25.a.i	Admitted and proved
25.a.ii	Admitted and proved
25.b	Proved
	The Committee finds the facts alleged at head of charge 25 (b) proved. Although the Committee notes that the FP17DC form that you completed in relation to this appointment recorded that scaling and polishing was to be provided in relation to the patient's periodontal condition, it accepts the expert evidence of Mr Pal that oral hygiene instructions were also required to be given to the patient on account of the BPE scores of '1' and '2'. You have stated that you did not provide such oral hygiene instructions to the patient, and there was insufficient evidence of a plan to provide this. The Committee accepts the evidence of Dr Marshall and Mr Pal that this represents a culpable failure on your part to provide an adequate standard of care and treatment to the patient in this regard.
26.a.i	Admitted and proved
26.a.ii	Admitted and proved

26.b	Withdrawn
26.c	Admitted and proved
26.d	Withdrawn
Patient T	
27.a	Admitted and proved
27.b.i	Admitted and proved
27.b.ii	Admitted and proved
27.c	Withdrawn
28.a	Admitted and proved
28.b.i	Admitted and proved
28.b.ii	Admitted and proved
28.c	Withdrawn
28.d	Admitted and proved
28.e	Withdrawn
Patient V	
29.a	Admitted and proved
29.b	Admitted and proved
30.a	Admitted and proved
30.b	Admitted and proved
30.c	Admitted and proved in relation to the facts; culpability denied and proved
	The Committee finds the facts alleged at head of charge 30 (c) in relation to the recording of a discussion of Patient V's periodontal condition proved on the basis of your admission. It also finds that this constitutes a culpable failing on your part to provide an adequate standard of record-keeping. The Committee accepts the expert evidence of Dr Marshall that the periodontal condition suggested by the BPE scores of '1' and '2' should have been discussed with the patient, and that you should have recorded that discussion in the patient's clinical notes.
30.d	Admitted and proved
Patient X	
31.a	Admitted and proved
31.b	Proved in relation to the extra-oral examination; not proved in relation to soft tissue examination
	The Committee finds the facts in relation to your alleged failure to

	carry out an extra-oral examination proved. It finds the facts in relation to your alleged failure to carry out a soft tissue examination not proved. In her evidence to this Committee Patient X stated that an extra-oral examination was not performed, and that she only became aware of such an examination when it was performed by a subsequent treating dentist. The Committee found Patient X's evidence on this point to be clear, consistent and credible, and it was therefore able to rely on her account, specifically her description of external palpation of her tissues. The Committee preferred her account to that which you gave, and noted that although you initially stated that you recalled performing such an examination you conceded under cross-examination that you were relying on your recollection of what would have been your usual practice at the time. Having found that you did not perform an extra-oral examination, the Committee then considered whether you were in fact under a duty to do so. The Committee accepted the shared view of Dr Marshall and Mr Pal that any such failure to undertake an extra-oral examination would represent substandard care. The Committee therefore found that you were under a duty, and that you failed in this regard to maintain an adequate standard of care and treatment. The Committee finds that the GDC has not provided sufficient evidence to demonstrate that you did not undertake a soft tissue examination. In your evidence to this Committee you stated that you conducted a soft tissue examination. The Committee has not been provided with sufficient evidence from Patient X or any witness that this examination did not happen and therefore finds this element of the head of charge not proved.
31.c	Admitted and proved
31.d	Proved
	The Committee finds the facts alleged at head of charge 31 (d) proved. The Committee heard oral evidence on this point from the patient in question, namely Patient X. She stated that you simply started to treat her and did not explain to her beforehand what you would be doing and what treatment you would be giving. She further stated that the treatment plan set out in the FP17DC form was only provided to her on the way out of your surgery. Patient X stated that she had to ask you what you were doing during the course of treatment. She stated that the treatment had not been explained to her. The Committee accepts Patient X's evidence as clear and credible. Although you stated in your evidence to this Committee that you did explain what would happen, you conceded that in retrospect the patient may not have understood the treatment plan. The Committee further accepts the expert evidence of Dr Marshall and Mr Pal that any such omission of information about the treatment plan would represent a culpable failure on your part to provide an adequate

	standard of care and treatment to the patient.
31.e	Proved
	The Committee finds the facts alleged at head of charge 31 (e) proved. Having found at head of charge 31 (d) above that you did not provide an adequate explanation to the patient of the treatment that you would provide to her, including any risks and benefits. It follows that you did not obtain the patient's informed consent for that treatment. The Committee also notes that when he treated Patient X at a recall appointment on 15 May 2014 Witness 1 recorded that Patient X had stated to him that you had not obtained her informed consent for the treatment that you provided to her on 2 May 2014. The Committee accepts the shared view of Dr Marshall and Mr Pal that any such omission would represent a culpable failure to provide an adequate standard of care and treatment to Patient X.
31.f	Not proved
	The Committee finds the facts alleged at head of charge 31 (f) not proved. In her oral evidence to the Committee Patient X stated that you informed her at the appointment that the tooth that you had treated would require time to settle, and that she may need to take painkillers. The Committee also heard evidence from you on this point, namely that you provided some information to the patient about possible pain and swelling. This account is consistent not only with Patient X's recollection, but also with the entry that you made in the patient's clinical records that the patient may need to take painkillers and antibiotics, and that the tooth may take some 24 hours to settle, with the possibility of extraction arising if further problems surfaced. The Committee therefore finds that this evidence suggests that you did in fact provide the patient with post-operative information and accordingly the facts alleged at this head of charge are not proved.
31.g	Admitted and proved
31.h	Not proved
	The Committee finds the facts alleged at head of charge 31 (h) not proved. The Committee accepts as credible the account that you provided of having stopped when you were asked to do so. In her evidence to the Committee, Patient X stated that you stopped treating her on two separate occasions in response to her reporting that the anaesthesia that you had administered was not working. The Committee therefore finds that, when so informed by the patient, you did not continue to treat her. Although the Committee found Patient X to be an honest and helpful witness, it was not able to conclude from her evidence that there were further occasions during the appointment at which she expressed that she was in pain to you. By her own account, towards the end of the appointment, she wished to simply continue and conclude the treatment. The Committee therefore finds the facts alleged at this head of charge not proved.

32.a	Proved as amended in relation to the extra-oral examination; not proved as amended in relation to the soft tissue examination
	The Committee finds the facts alleged at head of charge 32 (a) proved in relation to the recording of the extra-oral examination, and not proved in relation to the recording of the soft tissue examination. The Committee found at head of charge 31 (b) above that you did not perform an extra-oral examination. You did however record that you had performed such an examination, and the Committee therefore finds this element of the head of charge proved. It further finds that this was a culpable failure on your part to maintain an adequate standard of record-keeping. At the same head of charge above the Committee did not find proved the allegation that you did not perform a soft tissue examination, and the Committee therefore finds that the entry that you made in the patient's records of the fact of that examination cannot be said to be inaccurate or substandard.
32.b.i	Admitted and proved as amended
32.b.ii	Withdrawn
32.c.i	Admitted and proved as amended
32.c.ii	Admitted and proved as amended
32.c.iii	Withdrawn
32.c.iv	Admitted and proved as amended
32.d	Admitted and proved as amended in relation to the facts; culpability denied and not proved
	The Committee finds the facts alleged at head of charge 32 (d) in respect of the patient's reporting of the ineffective anaesthesia proved on the basis of your admission. The Committee however finds that it has not been established that you were under a duty to record such a report, and therefore finds that a culpable failure has not been made out to the standard required. Although it notes that in his report to the Committee Mr Pal states that any such omission would represent a failure to provide an adequate standard of record-keeping, Mr Pal offers no reasoning to support his assertion and he did not give oral evidence to the Committee. Dr Marshall did not make this direct criticism in his report. In his oral evidence he stated that such a report should have been recorded 'for completeness', but the Committee was uncertain that he was advancing this as a significant criticism. The Committee is therefore not satisfied that the duty for you to record the patient's report has been established.
32.e.i	Admitted and proved in relation to the facts; culpability denied and not proved
32.e.ii	Admitted and proved in relation to the facts; culpability denied and proved

	The Committee finds the facts alleged at heads of charge 32 (e) (i) and 32 (e) (ii) in relation to your making of amendments proved on the basis of your admissions. It does not find that not making it clear that an amendment was being made in retrospect constitutes an instance of substandard record-keeping when the amendment was simply to correct a spelling mistake, namely to substitute the word, 'problems' for the word 'probelms'. The Committee accepts the expert evidence of Dr Marshall, who was not critical of you correcting a spelling mistake without making clear that this particular correction was retrospective. However, the Committee does find that your records were substandard in relation to you not making it clear which day the amended note referred to. The entry that you made for 7 May 2014 for the purposes of correcting a spelling error was the same as that for the treatment on 2 May 2014 save for the corrected spelling, and the Committee accepts the expert evidence of Dr Marshall that this could have been confusing to a subsequent treating dentist who may have considered that treatment had been provided on 7 May 2014 when that was not the case.
Patient Y	
33.a	Admitted and proved as amended
33.b.i	Withdrawn
33.b.ii	Withdrawn
33.b.iii	Withdrawn
33.b.iv	Withdrawn
33.c.i	Admitted and proved
33.c.ii	Admitted and proved
34.a	Admitted and proved
34.b	Admitted and proved
34.c.i	Withdrawn
34.c.ii	Admitted and proved as amended
34.c.iii	Admitted and proved as amended
34.c.iv	Admitted and proved as amended in relation to the facts; culpability denied and not proved
	The Committee finds the facts alleged at head of charge 34 (c) (iv) in relation to the absence of a record of the area to which the radiograph refers proved on the basis of your admission. However, the Committee does not consider that this constituted a culpable failure to maintain an adequate standard of record-keeping. Although Dr Marshall states that such an omission was substandard, the Committee prefers the evidence of Mr Pal on this point, to the effect that the area that was visible was obviously the lower left area, particularly as this was the

	only radiograph that was taken on the day in question. The Committee does not therefore find that you failed to maintain an adequate standard of record-keeping in this regard.
34.d.i	Withdrawn
34.d.ii	Withdrawn
34.d.iii	Withdrawn
34.d.iv	Withdrawn
34.e.i	Admitted and proved as amended in relation to the facts; culpability denied and proved
	The Committee finds the facts alleged at head of charge 34 (e) (i) in relation to the discussion of treatment options proved on the basis of your admission. It further finds that this represents a culpable failure on your part to provide an adequate standard of record-keeping. In reaching this finding the Committee accepts the shared expert view of Dr Marshall and Mr Pal, namely that you should have recorded the other available option, namely extraction of the tooth.
34.e.ii	Admitted and proved as amended in relation to the facts; culpability denied and not proved
	The Committee finds the facts alleged at head of charge 34 (e) (ii) in relation to the giving of oral hygiene advice proved on the basis of your admission. However it finds that this does not represent a culpable failure on your part. The Committee notes that the appointment in question was a pain appointment, and that Patient Y was due to reattend on a later date when appropriate instruction could have been given and recorded. The Committee considers that this accords with the view of Mr Pal expressed in his written report. Therefore, the Committee finds that you were not under a duty to provide this information to the patient at the appointment on 2 May 2014 and that as such you did not fail to maintain an adequate standard of record-keeping.
34.e.iii	Admitted and proved as amended in relation to the facts; culpability denied and not proved
	The Committee finds the facts alleged at head of charge 34 (e) (iii) in relation to the discussion of the future management of periodontal pathology proved on the basis of your admission. However it finds that this does not represent a culpable failure on your part. As noted at head of charge 34 (e) (ii) above the appointment was a pain appointment with the patient to return at a later date when appropriate instruction could have been given and recorded. The Committee again considers that this accords with the view of Mr Pal expressed in his written report. Therefore, the Committee once more finds that you were not under a duty to provide this information to the patient at the appointment on 2 May 2014 and that as such you did not fail to

	maintain an adequate standard of record-keeping.
34.f.i	Admitted and proved
34.f.ii	Admitted and proved
34.f.iii	Admitted and proved
Patient Z	
35.	Not proved as amended
	The Committee finds the facts alleged at head of charge 35 not proved. The Committee has concluded that it has not been provided with sufficient evidence to demonstrate that you continued to treat Patient Z when he asked you to stop and made it clear that he was in pain. The Committee found Witness 2 to be an honest, credible and helpful witness, but was mindful of her admission that she had initially thought that only one patient was being treated by you when that was not in fact the case. She conceded that this made it more difficult for her to be sure that the expressions of pain and anxiety that she heard were from Patient Z. The Committee also noted that Witness 2 was not in the same room as you, and she conceded that it was possible that some sounds that she heard had come from a different treatment room that was in use at that time. The Committee was therefore not able to place great reliance on the account that she provided. The Committee was provided with a written letter from the dental nurse who was working alongside you, namely Person 4. Person 4 corroborated your account of you having stopped for a period of around ten minutes in response to the patient's apparent discomfort. In her account there was no mention of shouting and screaming, which is consistent with your account. Having taken all of the evidence presented to it into consideration the Committee was not able to find on the balance of probabilities that you had continued to treat the patient despite the patient's expressions of pain, and it therefore finds the facts alleged at this head of charge not proved.
36.a.i	Admitted and proved as amended
36.a.ii	Admitted and proved as amended
36.a.iii	Withdrawn
36.a.iv	Not proved as amended
	The Committee finds the facts alleged at head of charge 36 (a) (iv) not proved. The Committee considers that the GDC has not demonstrated to the standard required that Patient Z was in pain when you were carrying out the treatment. The Committee therefore finds that you were not under a duty to record something which, in its view, has not been demonstrated to have happened.
36.b.i	Admitted and proved in relation to the facts; culpability denied and not proved

36.b.ii	Admitted and proved in relation to the facts; culpability denied and proved
	The Committee finds the facts alleged at heads of charge 36 (b) (i) and 36 (b) (ii) in relation to your making of amendments proved on the basis of your admissions. As with its findings at heads of charge 32 (e) (i) and 32 (e) (ii) above, the Committee does not find that not making it clear that an amendment to correct the spelling of a word was being made in retrospect constitutes an instance of substandard record-keeping; in this case you corrected the spelling of the term, 'occlusiom' which had appeared in your earlier note of your treatment of 6 May 2014. The Committee again accepts the expert evidence of Dr Marshall, who was not critical of you correcting a spelling mistake. However, the Committee does again find that your records were substandard in relation to you not making it clear which day the amended note referred to. The entry that you made for 8 May 2014 for the purposes of correcting a spelling error was the same as that for the treatment on 7 May 2014 save for the corrected spelling, and the Committee accepts the expert evidence of Dr Marshall that this could have been confusing to a subsequent treating dentist who may have considered that treatment had been provided on 8 May 2014 when that was not the case.
Patient AA	
37.a.i	Admitted and proved
37.a.ii	Admitted and proved
37.b	Not proved
	The Committee finds the facts alleged at head of charge 37 (b) not proved. In your evidence to this Committee you stated that you stopped on a number of occasions to check that Patient AA was not in pain. The Committee accepts your evidence that you did not carry on with treating the patient regardless. The evidence that has been provided in support of this allegation comes, principally, from Witness 2, and for the reasons set out at head of charge 35 above the Committee was not able to place reliance on her account, particularly as she was not able to be sure that Patient AA was in fact being treated. Witness 2 stated in her oral evidence that it was only after this appointment that she became aware that there was more than one child being treated. The Committee notes that in her letter Person 4 stated that the patient became upset, although you managed to carry on and complete the treatment. However, her account of your treatment of Patient AA lacks sufficient detail for it to be able to form a clear and reliable narrative of the events in question. The Committee has not been able to test the evidence of Person 4. The Committee therefore finds that the evidence presented to it is not sufficient for it to find the facts alleged at this head of charge proved.
38.a.i	Admitted and proved

38.a.ii	Admitted and proved
38.a.iii	Admitted and proved as amended
38.a.iv	Admitted and proved
38.a.v	Admitted and proved
38.a.vi	Not proved
	The Committee finds the facts alleged at head of charge 38 (a) (vi) not proved. As set out at head of charge 37 (b) above, the Committee is not satisfied that Patient AA was upset during treatment. The Committee therefore finds that you were not under a duty to record something which, in its view, has not been demonstrated to have happened.

We move to stage two."

On 27 July 2016 the Chairman announced the determination as follows:

"Mr Karunasekara

Application to admit evidence under Rule 57 (2)

IN PRIVATE

[text omitted]

IN PUBLIC

Stage two

The Committee has considered all of the evidence presented to it, both written and oral.

It has had particular regard to the documentary material contained in a remediation bundle submitted on your behalf. The bundle includes certificates relating to continuing professional development (CPD) that you have undertaken; reflective statements on the areas of maintaining professional relationships, radiography and record-keeping; a further reflective statement concerning clinical observation sessions that you have attended at a practice in Manchester; and testimonial letters from your dental colleagues. The Committee noted that you have made significant efforts to remediate the failings evident in this case.

The Committee has further taken into account the submissions made by Ms Jung on behalf of the General Dental Council (GDC), and those made by Mr Mylonas on your behalf. The Committee has accepted the advice of the Legal Adviser.

Fitness to practise history

In accordance with Rule 20 (1) (a) of the Rules Ms Jung informed the Committee that you have no fitness to practise history with the GDC.

Misconduct

The Committee first considered whether the facts that have been found proved constitute misconduct. In deciding this the Committee has exercised its own independent judgement.

In its deliberations the Committee has had regard to the following paragraphs of GDC's *Standards for the Dental Team* (September 2013) which state that as a dentist you must:

1.1 Listen to your patients

1.2 Treat every patient with dignity and respect at all times

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

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 Give patients the information they need, in a way they can understand, so that they can make informed decisions

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

3.2 Make sure that patients (or their representatives) understand the decisions they are being asked to make

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

7.2 Work within your knowledge, skills, professional competence and abilities

7.3 Update and develop your professional knowledge and skills throughout your working life

In light of the findings of fact that it has made, the Committee has concluded that your practice in a number of areas fell far short of the standards reasonably expected of a registered dentist. These areas included your radiography, patient assessment, treatment planning, record-keeping and obtaining of informed consent. The Committee considers that your failings in these areas represent serious and significant departures from fundamental tenets of the profession, and that accordingly they amount to misconduct. These shortcomings were repeated across a considerable number of specific patient cases. The Committee has heard that both expert witnesses agree that your actions and omissions fell far below the required standards in a number of cases.

Your acts and omissions placed patients at risk of harm and, in a number of instances, caused actual harm to patients in your care. Your failure to treat caries that was present in a number of cases caused harm to those patients. Your other shortcomings created the potential for harm to be caused to those and other patients, more particularly your failure to obtain a medical history, take appropriate radiographs, provide preventative advice and planning in respect of patients' periodontal conditions, obtain informed consent, properly plan treatment and appropriately prescribe antibiotics. Your poor record-keeping, that was in evidence in a number of cases, may have caused harm for the patients concerned, given that the records may have made it difficult for subsequent treating dentists to have a clear understanding of the treatment that you provided.

On this basis, the Committee has determined that the findings that it has made against you in relation to these specific areas are serious and fall far below the standards reasonably

expected of a registered dentist, given their nature, number and importance to the safe practice of dentistry. As such, the Committee considers that they amount to misconduct.

Deficient professional performance

The Committee, having considered that the facts found proved amount to misconduct, determined that it was unnecessary to address the question of deficient professional performance in respect of exactly the same facts.

Impairment

The Committee then went on to consider whether your fitness to practise is currently impaired by reason of your misconduct. In doing so, it has exercised its independent judgement. 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 the declaring and upholding of proper standards of conduct and behaviour.

In exercising its own independent judgement, the Committee considers that the identified shortcomings in your practice, relating as they do to clinical matters, are capable of being remedied. However, it is not satisfied that there is yet enough evidence available to prove that these deficiencies have been remedied in full. The Committee therefore finds that it cannot be said that the misconduct that it has found is highly unlikely to recur. It notes that you accept that your fitness to practise is currently impaired.

The Committee has had regard to the mitigating and aggravating factors that are present in this case. The mitigating factors are as follows. The Committee has heard evidence that you started working at the practice in question shortly before before the incidents in question. It notes that the practice was under some pressure to deliver its units of dental activity (UDA) targets and that the induction that you received was relatively brief. The Committee notes that you are otherwise of good character, as evidenced by the supportive and positive testimonials submitted on your behalf. Your actions, whilst serious, were not motivated by and did not result in any financial gain, and you have taken some steps to avoid a repetition of such behaviour. You have also demonstrated some insight into your misconduct, and you have apologised to one of the patients, namely Patient X, in relation to the standard of care and treatment that you provided to her, as well as accepting that you could have handled her case more appropriately.

The aggravating factors are as follows. Your actions placed patients at risk of harm and in some cases caused actual harm. Your misconduct in respect of your failure to obtain informed consent represents a breach of patient trust, and the Committee further notes that a number of the patients to whom its findings relate were children and were therefore vulnerable. Your misconduct, whilst taking place over a relatively short period of time, was sustained and repeated across a significant number of patients. The Committee was also concerned that some aspects of your conduct arose from a lack of adherence to the standards and guidance which exist to effectively regulate the profession and protect the public, and that you demonstrated a lack of regard for the need to familiarise yourself with those requirements. The Committee also considers that, for the reasons set out below, your insight into the matters that have precipitated these proceedings is only partial.

The Committee has been provided with documentary information which sets out the steps that you have taken to address and remedy the deficiencies that this Committee has now found. You have gone some considerable way in remediating these shortcomings, as

evidenced by the targeted continuing professional development (CPD) that you embarked on shortly after the incidents giving rise to these proceedings occurred. However, the Committee has not been provided with sufficient evidence of you having put this learning into practice. The Committee has been informed that you have not worked as a dentist for some two years, and it has not been provided with any clinical audits which might allow it to determine that your extensive learning has been embedded in to your practice. The Committee also notes that, whilst your remediation has on the whole been focussed on the specific areas of deficiency, the Committee has not been provided with detailed information on the work that you may have done to address particular areas of concern, namely extra-oral examinations and the diagnosis and treatment of caries. The Committee is also concerned to note the uneven nature of some of your remediation, more particularly the training and reflection that you have undertaken in some areas, but the lack of observation of good practice in those same areas, and vice versa. The Committee has also not been provided with evidence of you having worked with the local Dental Deanery to formulate a structured personal development plan (PDP) which, in the Committee's view, would have assisted you in your efforts to remediate.

The partial nature of your remediation is also evident in the degree of insight that you have demonstrated into the matters that have precipitated these proceedings. This partial insight also contributes to the Committee's overall assessment that your misconduct has not been fully remediated. You came before this Committee making extensive admissions to the facts. As stated above you apologised to Patient X and stated that with hindsight you accept that she may not have properly understood the treatment that you planned to provide to her. However, the Committee notes that you did not admit to a number of since-proven allegations about which your own expert was critical. When giving evidence to this Committee you were not able to explain properly why you did not obtain bitewing radiographs for a number of patients. The Committee was also concerned that, in your oral evidence to this Committee, you appeared to seek to deflect blame for some of your failings by suggesting that you relied on your dental nurse to prompt you to obtain radiographs. Although the reflective writings that you have produced reveal some insight, the Committee considers that, when taking all of the information presented to it into consideration, your insight can only be said to be developing and partial.

The Committee considers that there is a risk of the misconduct that it has found being repeated because of the unremediated nature of that misconduct. The extensive and targeted remediation that you have undertaken, and the degree of insight that you have shown, has had the effect of lowering the risk to the public arising from your misconduct, but the risk has not been reduced to the extent that it could be said that your shortcomings are highly unlikely to recur. The Committee therefore considers that there is currently the possibility of the identified shortcomings being repeated in your practice and that your fitness to practise remains impaired by reason of your misconduct.

The Committee further considers that a finding of impairment is also required to maintain public confidence in the profession and to declare and uphold proper professional standards because of the seriousness and number of the failings that it has identified.

Sanction

The Committee then determined what sanction, if any, would be appropriate in light of the findings that it has made. The Committee recognises that the purpose of a sanction is not punitive, although it may have that effect, but is instead imposed in order to protect patients and safeguard the wider public interest.

In reaching its decision the Committee has taken into account the GDC's *'Guidance for the Practice Committees including Indicative Sanctions Guidance'* (October 2015). The Committee has applied the principle of proportionality, balancing the public interest with your own interests.

The Committee has considered the range of sanctions available to it, starting with the least serious. In the light of the findings made against you, the Committee has determined that it would not be appropriate to conclude this case with no action. The misconduct that it has found, raising as it does concerns about public protection and public confidence, means that some form of action must be taken.

The Committee next considered whether it would be proportionate and appropriate to conclude the case with a reprimand. It has determined that, in light of its findings of misconduct in a number of key areas of your practice of dentistry, it could not reasonably and responsibly dispose of the case in that way. Indeed, if it were to do so, the Committee considers that a reprimand would not maintain public confidence in the profession and would not provide the necessary safeguards for public protection, as it would permit unrestricted practice.

The Committee considered whether it would be sufficient and proportionate to place conditions on your registration. It took into account that any conditions imposed must be clear, workable, measurable and verifiable. The Committee carefully considered whether conditional registration would be appropriate and took into account that it must act proportionately, imposing the minimum restriction necessary to protect the public and safeguard the wider public interest.

The Committee has concluded that it can formulate workable conditions which would protect the public and maintain trust and confidence in the profession. The Committee has therefore determined that it is appropriate and proportionate to place conditions on your registration for a period of 18 months, with a review hearing to take place prior to the end of that period. The Committee considers that this period of time is necessary and sufficient for you to continue and conclude the process of remedying the shortcomings that have been identified. A period of conditional registration will also have the effect of allowing you to put into practice that which you have learned as part of your efforts to date to remediate.

Having concluded that conditions are appropriate and proportionate, the Committee considered that, for the reasons outlined, to impose any higher sanction would be disproportionate. The Committee specifically considered that a period of suspension would not be appropriate or proportionate given that conditions can adequately meet the risks identified.

The following conditions are set out as they will appear against your name in the Dentists' Register:

1. He must notify the GDC promptly of any professional appointment he accepts and provide the contact details of his employer or any organisation for which he is contracted to provide dental services and the Commissioning Body on whose Dental Performers List he is included or Local Health Board if in Wales, Scotland or Northern Ireland.
2. He must allow the GDC to exchange information with his employer or any organisation for which he is contracted to provide dental services, and any

Postgraduate Dental Dean/Director, reporter, workplace supervisor or educational supervisor referred to in these conditions.

3. At any time he is providing dental services, which require him to be registered with the GDC, he must agree to the appointment of a reporter nominated by him and approved by the GDC. The reporter shall be a GDC registrant. The reporter shall be the workplace supervisor referred to at condition (10) below.

4. He must allow the reporter to provide reports to the GDC at intervals of not more than three months and the GDC will make these reports available to any Postgraduate Dental Dean/Director or educational supervisor referred to in these conditions.

5. He must inform the GDC of any formal disciplinary proceedings taken against him, from the date of this determination.

6. He must inform the GDC if he applies for dental employment outside the UK.

7. He must work with a Postgraduate Dental Dean/Director (or a nominated deputy), to formulate a Personal Development Plan, specifically designed to address the deficiencies in the following areas of his practice:

   a. Treatment planning

   b. Diagnosis and treatment of caries

   c. Diagnosis and treatment of periodontal disease

   d. Radiography

   e. Antibiotic prescribing

   f. Pain management and local anaesthesia

   g. Obtaining informed consent

   h. Communication skills

   i. Treatment of anxious patients

   j. Record-keeping

   This Personal Development Plan must include reflection on the impact of his academic learning on his day-to-day clinical practice.

8. He must forward a copy of his Personal Development Plan to the GDC within two months of the date on which these conditions become effective.

9. He must meet with the Postgraduate Dental Dean/Director (or a nominated deputy), on a regular basis to discuss his progress towards achieving the aims set out in his Personal Development Plan. The frequency of his meetings is to be set by the Postgraduate Dental Dean/Director (or a nominated deputy).

10. At any time he is employed, or providing dental services, which require him to be registered with the GDC; he must place himself and remain under the close supervision of a workplace supervisor nominated by him, and agreed by the GDC.

11. His day-to-day work must be supervised by the workplace supervisor referred to at condition (10) above. The workplace supervisor must be registered as a

dentist with the GDC. The workplace supervisor should work at the same practice and must be available to the registrant should assistance be required. The registrant should meet with the workplace supervisor on a weekly basis utilising one-to-one case-based discussions covering the subjects listed at condition (7) above.

12. He must audit his record-keeping, informed consent, radiography and antibiotic prescribing, and provide copies of those audits to the GDC on a three-monthly basis along with supervision reports. He must ensure that the audit reports are checked and countersigned by the workplace supervisor referred to above.

13. He must keep his professional commitments under review and limit his dental practice in accordance with his workplace supervisor's advice.

14. He must confine his dental practice to general practice posts in a partnership or group practice of at least three members.

15. He must not work as a locum or undertake any out-of-hours work or on-call duties.

16. He must inform within one week the following parties that his registration is subject to the conditions, listed at (1) to (15), above:

    i. Any organisation or person employing or contracting with him to undertake dental work

    ii. Any prospective employer (at the time of application)

    iii. The Commissioning Body on whose Dental Performers List he is included or seeking inclusion, or Local Health Board if in Wales, Scotland or Northern Ireland (at the time of application)

17. He must permit the GDC to disclose the above conditions, (1) to (16), to any person requesting information about his registration status.

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 (as amended) 1984 the interim order of conditions in place on your registration is hereby revoked.

Immediate order

The Committee then invited submissions as to whether your registration should be made subject to an immediate order of conditions or suspension, pending the substantive direction of conditions taking effect.

Decision on immediate order of conditions

Having directed that your registration be made subject to conditions, the Committee has considered whether to impose an order for immediate conditions in accordance with Section 30 (2) of the Dentists Act 1984 (as amended). It has heard the submissions of Ms Jung on behalf of the GDC that an order is necessary. The Committee has also heard from Mr Mylonas on your behalf that you accept that an order is necessary. The Committee has accepted the advice of the Legal Adviser.

In all 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

conditions on your registration. The Committee has decided that, given the risks that it has identified, it would not be consistent or appropriate to allow you to practise during the intervening appeal period without restrictions.

The effect of the foregoing determination and this immediate order is that your registration will be made subject to conditions from the date on which notice of this decision is deemed served upon you. Unless you exercise your right of appeal, the substantive conditions order will be recorded in the Dentists' Register 28 days from the date of deemed service. Should you exercise your right of appeal, this immediate order of conditions will remain in place until the resolution of any appeal.

That concludes this case."

At a review hearing on 7 February 2018 the Chair announced the determination as follows:

"Mr Karunasekara,

This is a resumed hearing pursuant to s 27C of the Dentists Act 1984. On 27 July 2016 the Professional Conduct Committee (PCC) found your fitness to practise to be impaired by reason of your misconduct in respect of your care and treatment of 18 patients between April and May 2014:

> …your practice in a number of areas fell far short of the standards reasonably expected of a registered dentist. These areas included your radiography, patient assessment, treatment planning, record-keeping and obtaining of informed consent. The Committee considers that your failings in these areas represent serious and significant departures from fundamental tenets of the profession, and that accordingly they amount to misconduct. These shortcomings were repeated across a considerable number of specific patient cases. The Committee has heard that both expert witnesses agree that your actions and omissions fell far below the required standards in a number of cases.
>
> Your acts and omissions placed patients at risk of harm and, in a number of instances, caused actual harm to patients in your care. Your failure to treat caries that was present in a number of cases caused harm to those patients. Your other shortcomings created the potential for harm to be caused to those and other patients, more particularly your failure to obtain a medical history, take appropriate radiographs, provide preventative advice and planning in respect of patients' periodontal conditions, obtain informed consent, properly plan treatment and appropriately prescribe antibiotics. Your poor record-keeping, that was in evidence in a number of cases, may have caused harm for the patients concerned, given that the records may have made it difficult for subsequent treating dentists to have a clear understanding of the treatment that you provided…

The initial PCC directed that your registration be made subject to your compliance with conditions for a period of 18 months with a review:

> …it is appropriate and proportionate to place conditions on your registration for a period of 18 months, with a review hearing to take place prior to the end of that period. The Committee considers that this period of time is necessary and sufficient for you to continue and conclude the process of remedying the shortcomings that have been identified. A period of conditional registration will also have the effect of allowing you to put into practice that which you have learned as part of your efforts to date to remediate.

It is the role of the Committee today to undertake that review. The Committee had regard to all the documentary evidence put before it, including your witness statement, your Continuing Professional Development (CPD) activity, your reflective writing, correspondence with the General Dental Council (GDC) Case Review Team (CRT) regarding your compliance with conditions, your Personal Development Plan (PDP) and testimonials.

You last practised in May 2014, having been summarily dismissed from your employment in respect of the matters which were before the PCC. You have been unable to secure any employment as a dentist. You have therefore since been unable to demonstrate substantive compliance with the conditions on your registration, most of which relate to clinical work, nor have you been able to formulate a PDP at this stage that addresses the embedding of your theoretical learning into clinical practice.

In her Communication Reports to the GDC dated 8 June 2017 and 30 October 2017, the Associate Dean for Conduct and Performance with whom you have been working to develop a PDP, identifies that you are unable to meet the requirements of your conditional registration, as you are out of practice. She further identifies her significant concern that you may have become deskilled from being out of practice for several years and that you would therefore need to complete a back to work course before you could safely treat patients.

The Associate Dean emailed you on 4 February 2018 to state:

> I have received a request by your case worker for my opinion as to any further need for 'back to practice' training that may be required to ensure that patients are not put at risk should you gain employment in clinical practice. Your case worker is not aware that you have already taken some steps in this matter as you have already helpfully completed a 6 hour Return to Dentistry course from the Eastman. However, it may be the opinion of the panel that you require a period of supervised clinical practice with an educational supervisor or for further clinical practice experience…

She also emailed the GDC Case Worker later that day:

> Mr Karunasekara is aware that there will be concern about his failure to get back into clinical practice and that the longer this situation goes on the more he will lose his fingertip skills. He attended a 6 hour 'Return to Dentistry' course laid on by the Eastman on 8th December 2017 but at our recent meeting on 30th January he had no prospect of putting his skills into practi[c]e. I understand, from reading his reflection on this course, that there was some opportunity (not specified) for him to use a hand piece and that this reassured him that he could still operate the machinery. It may be the opinion of the panel that a 6 hour course after a period of 3 years outside clinical practice is not sufficient to remove any risk to patients.
>
> I am aware of a course offered by Kings College, London, customised to retrain the individual dentist on an individual basis.The cost is negotiated depending on the needs assessment carried out at entry but in my opinion it should be approached as a possible route to take once a job has been secured so that the dentist moves immediately into a clinical setting on completion. In the past this has been most useful for deskilled practitioners who own, or who are in partnership in, a dental practice and can get straight back into practising their skills.
>
> Another alternative would be for Mr Karunasekara to apply for Performer List Validation by Experience (PLVE) once he has identified a training post with an educational supervisor…

The Council's submissions

Mr Round, on behalf of the GDC, submitted that, as you have not carried out any form of clinical work, you have only partially complied with the conditions on your registration. He acknowledged that you have undertaken a significant amount of remediation targeted at the areas of concern identified in these proceedings; and that your comprehensive CPD activity and reflective writing are commendable. However, there is no evidence that any of that

learning and reflection has been embedded in clinical practice. Further, as you have not practised for several years there are also concerns that you have become deskilled and that further training would be required.

It is submitted that you have not discharged the persuasive burden on you to demonstrate to this Committee that you have sufficiently addressed the deficiencies identified by the initial PCC. Your fitness to practise therefore remains impaired.

A further period of conditional registration would be appropriate, with variations to conditions 4 and 8, to clarify timeframes for compliance; and additionally, with the insertion of conditions requiring you to provide the GDC periodically with details of your attempts at gaining employment and requiring you to undertake a back to work course approved by the Postgraduate Dental Deanery before returning to clinical work.

The submissions on your behalf

Mr Kennedy, on your behalf, stated that you do not contest current impairment and agree to a continued period of conditional registration. You do not object in principle to the proposed variations to conditions 4 and 8 and to the insertion of a condition requiring you to provide the GDC with details of your attempts at gaining employment, if the Committee considers this necessary and appropriate.

The issue, he submitted, is in respect of the proposed insertion of the conditions requiring you to complete a back to work course approved by the Postgraduate Dental Deanery, as the two options proposed by the Associate Dean are unworkable. You are already on the NHS Dental Peformers List and so you are not eligible for Performer List Validation by Experience (PLVE); that process is something targeted at overseas qualified dentists as an alternative to Foundation Training. In respect of the course at King's College recommended by the Associate Dean, this would be a bespoke programme: it is an arrangement which costs many thousands of pounds and is beyond your current financial means.

A 1 day back to work course is available at the Eastman Dental Institute, which you have completed, and at King's College. However, neither of these courses are likely to be approved by the Associate Dean as being sufficient for your case. You have researched the possibility of completing a back to work course with LonDEC, but none are currently listed (the current listing running to May 2018).

The proposed conditions in respect of a back to work course would make it even more difficult for you to secure employment. A back to work course was not considered necessary by NHS England when imposing conditions in respect of your entry on its Performers List. Instead, NHS England were content for you to return to practice under a phased Back to Work plan, approved by the Postgraduate Dental Deanery. A condition of this nature would be more workable and proportionate in respect of your GDC registration.

Decision

The Committee accepted the advice of the Legal Adviser. The Committee had regard to the *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016).

In the Committee's judgment, you have undertaken substantial remediation over the past 18 months and have made considerable progress. The Committee commends you for the extensive CPD activity which you have undertaken. The CPD is comprehensive, targeted and relevant. You reflected on your learning. You also developed a comprehensive PDP which, due to your lack of clinical employment, is still very much in progress.

The Committee recognises that there has been a willingness to engage with the Postgraduate Dental Deanery and to comply with the conditions on your registration. There is no culpability in your failure to have demonstrated substantive compliance with the conditions on your registration. The reason for that lack of compliance is because you have been unable to secure employment as a dentist, caused in part by the fact of the stringent conditions on your registration.

You are motivated and have been diligent in trying to remedy your misconduct as far as your circumstances allow. However, your remediation has been limited only to the theory of dentistry. You have undertaken some clinical shadowing work and completed a 6 hour return to dentistry course but the fact remains that you have not practised dentistry for nearly 4 years. You are wholly unable to demonstrate to this Committee that any of your learning and reflection has been embedded into clinical practice.

In these circumstances, there remains, in the Committee's judgment, a very real risk of repetition. Public confidence in the profession would also be seriously undermined if a finding of current impairment were not made today. Not only have you failed to demonstrate embedded improvement in your practice but you are likely to also have become deskilled over the past 3-4 years.

Accordingly, the Committee finds that your fitness to practise as a dentist remains impaired.

The Committee balanced the public interest with your interests. There is a real risk of repetition and therefore a real risk of harm to the public. Substantial clinical concerns in respect of a large number of patients have yet to be remedied by you, despite your determination and your best efforts, for which you are to be commended. A sanction remains necessary to protect the public and to maintain public confidence in the profession.

The Committee was satisfied that conditional registration remains necessary and proportionate. In assessing the sufficiency of conditional registration, the Committee considered suspending your registration. It concluded that suspension would be disproportionate and punitive. You are reaching a state where, due to your lack of remediation in clinical practice, the suspension of your registration may become necessary. However, you are not at that stage yet. Conditions are still appropriate and workable.

The Committee comprehensively reviewed each of the conditions on your registration. It determined that variation to conditions 4 and 8 would be appropriate, in terms of clarifying timescales for compliance. Condition 7 should also be varied to make reference to an updated PDP. A condition should also be added requiring you to inform the GDC of your attempts in gaining employment as a dentist.

In respect of proposed conditions requiring you to complete a back to work course approved by the Postgraduate Dental Deanery, the Committee concluded on the evidence that this would be unworkable and too restrictive. You cannot access the kind of training which would be required under such conditions. Your continued remediation and your ability to return to clinical practice would in all likelihood be frustrated by the insertion of such conditions. The Committee was satisfied that the balance can be achieved through a condition of the kind already imposed on you by NHS England. A phased Back to Work plan, devised by you, agreed by the Postgraduate Dental Deanery and carried out under the supervision of a workplace supervisor, is wholly sufficient to manage and remedy any risk arising from the fact that you have not practised in some 4 years.

Accordingly, the Committee directs that: (i) the period of conditional registration be extended for a further period of 18 months beginning with the date on which it would otherwise expire;

and (ii) the conditions be varied. The conditions will appear against your name in the Register, as varied in the following terms:

1. He must notify the GDC promptly of any professional appointment he accepts and provide the contact details of his employer or any organisation for which he is contracted to provide dental services and the Commissioning Body on whose Dental Performers List he is included or Local Health Board if in Wales, Scotland or Northern Ireland.

2. He must allow the GDC to exchange information with his employer or any organisation for which he is contracted to provide dental services, and any Postgraduate Dental Dean/Director, reporter, workplace supervisor or educational supervisor referred to in these conditions.

3. At any time he is providing dental services, which require him to be registered with the GDC, he must agree to the appointment of a reporter nominated by him and approved by the GDC. The reporter shall be a GDC registrant. The reporter shall be the workplace supervisor referred to at condition (10) below.

4. He must allow the reporter to provide reports to the GDC every three months and the GDC will make these reports available to any Postgraduate Dental Dean/Director or educational supervisor referred to in these conditions.

5. He must inform the GDC of any formal disciplinary proceedings taken against him, from the date of this determination.

6. He must inform the GDC if he applies for dental employment outside the UK.

7. He must work with a Postgraduate Dental Dean/Director (or a nominated deputy), to review and update his current Personal Development Plan, specifically designed to address the deficiencies in the following areas of his practice:
   a. Treatment planning
   b. Diagnosis and treatment of caries
   c. Diagnosis and treatment of periodontal disease
   d. Radiography
   e. Antibiotic prescribing
   f. Pain management and local anaesthesia
   g. Obtaining informed consent
   h. Communication skills
   i. Treatment of anxious patients
   j. Record-keeping

   This Personal Development Plan must include reflection on the impact of his academic learning on his day-to-day clinical practice.

8. He must forward a copy of his updated Personal Development Plan to the GDC within six months of the date on which these conditions become effective and two months prior to any resumed hearing.

9. He must meet with the Postgraduate Dental Dean/Director (or a nominated deputy), on a regular basis to discuss his progress towards achieving the aims set out in his

Personal Development Plan. The frequency of his meetings is to be set by the Postgraduate Dental Dean/Director (or a nominated deputy).

10. At any time he is employed, or providing dental services, which require him to be registered with the GDC he must place himself and remain under the close supervision of a workplace supervisor nominated by him, and agreed by the GDC. The workplace supervisor must be registered as a dentist with the GDC. The workplace supervisor should work at the same practice and must be available to the registrant should assistance be required.

11. Prior to commencing clinical practice, he must devise a 'Back to Work' plan agreed by the Postgraduate Dental Dean/Director (or a nominated deputy) and his workplace supervisor. The Back to Work plan must be approved by the GDC. Any return to work must be undertaken in a phased manner over a minimum period of 3 months. When the Back to Work plan has been completed to the satisfaction of the workplace supervisor condition (12) will apply.

12. His day-to-day work must be supervised by the workplace supervisor referred to at condition (10) above. The registrant should meet with the workplace supervisor on a weekly basis utilising one-to-one case-based discussions covering the subjects listed at condition (7) above.

13. He must audit his record-keeping, informed consent, radiography and antibiotic prescribing, and provide copies of those audits to the GDC on a three-monthly basis along with supervision reports. He must ensure that the audit reports are checked and countersigned by the workplace supervisor referred to above.

14. He must keep his professional commitments under review and limit his dental practice in accordance with his workplace supervisor's advice.

15. He must confine his dental practice to general practice posts in a partnership or group practice of at least three members.

16. He must not work as a locum or undertake any out-of-hours work or on-call duties.

17. He must provide to the GDC within three months from the date on which these conditions become effective and every three months thereafter, details of attempts made at gaining employment that requires the provision of dental services.

18. He must inform within one week the following parties that his registration is subject to the conditions, listed at (1) to (17), above:
    i. Any organisation or person employing or contracting with him to undertake dental work
    ii. Any prospective employer (at the time of application)
    iii. The Commissioning Body on whose Dental Performers List he is included or seeking inclusion, or Local Health Board if in Wales, Scotland or Northern Ireland (at the time of application)

19. He must permit the GDC to disclose the above conditions, (1) to (18), to any person requesting information about his registration status.

An 18 month period of conditional registration is proportionate to the length of time you would need to develop and complete your Back to Work plan, in addition to the time which would be needed to demonstrate embedded improvement in clinical practice. The period of conditional registration shall be reviewed prior to its expiry.

That concludes the hearing today."

At a review hearing on 30 July 2019 the Chairman announced the determination as follows:

"Mr Karunasekara: This is the resumed hearing of your case in accordance with Section 27C of the Dentists Act 1984 (as amended) (the Act) following a direction made by a Professional Conduct Committee (PCC) on 7 February 2018 that your registration be subject to an order of conditions for a period of 18 months. That PCC indicated that the order should be reviewed before its expiry. You are present and you are represented by Mr Hockton at today's hearing. Mr Middleton appears on behalf of the General Dental Council (GDC).

Background

On 27 July 2016 the Professional Conduct Committee (PCC) found your fitness to practise to be impaired by reason of your misconduct in respect of your care and treatment of 18 patients between April and May 2014:

> …your practice in a number of areas fell far short of the standards reasonably expected of a registered dentist. These areas included your radiography, patient assessment, treatment planning, record-keeping and obtaining of informed consent. The Committee considers that your failings in these areas represent serious and significant departures from fundamental tenets of the profession, and that accordingly they amount to misconduct. These shortcomings were repeated across a considerable number of specific patient cases. The Committee has heard that both expert witnesses agree that your actions and omissions fell far below the required standards in a number of cases.
>
> Your acts and omissions placed patients at risk of harm and, in a number of instances, caused actual harm to patients in your care. Your failure to treat caries that was present in a number of cases caused harm to those patients. Your other shortcomings created the potential for harm to be caused to those and other patients, more particularly your failure to obtain a medical history, take appropriate radiographs, provide preventative advice and planning in respect of patients' periodontal conditions, obtain informed consent, properly plan treatment and appropriately prescribe antibiotics. Your poor record-keeping, that was in evidence in a number of cases, may have caused harm for the patients concerned, given that the records may have made it difficult for subsequent treating dentists to have a clear understanding of the treatment that you provided…

The initial PCC directed that your registration be made subject to your compliance with conditions for a period of 18 months with a review:

> …it is appropriate and proportionate to place conditions on your registration for a period of 18 months, with a review hearing to take place prior to the end of that period. The Committee considers that this period of time is necessary and sufficient for you to continue and conclude the process of remedying the shortcomings that have been identified. A period of conditional registration will also have the effect of allowing you to put into practice that which you have learned as part of your efforts to date to remediate.

The matter was reviewed on 7 February 2018 where that Committee determined that your fitness to practise remained impaired. You had stated to that Committee that you were unable to gain employment as a dentist and therefore unable to fully comply with the conditions imposed on your registration. It directed that the conditions on your registration to

be varied and that your conditional registration to continue for a further period of 18 months with a review.

Today's review

This Committee has considered all the documentary evidence before it provided by the GDC and on your behalf. This includes copies of your updated Personal Development Plan (PDP).

The Committee's attention has been drawn to the certificates of your Continuing Professional Development (CPD) in various areas including, radiography, safeguarding children, ethical values, complaint handling, time management skills, periodontal disease diagnosis and treatment planning, as well as your reflections on them, although it notes minimal CPD in the past year and your reasons for this.

It noted correspondence from your Post Graduate Deanery who confirm that they have withdrawn their support as you had not met with them since January 2018 and had failed to engage with their processes. During this hearing the Associate Post Graduate Deanery was contacted to answer a query from the Committee. A response was received via email that confirmed they would provide the support, which was offered to you in a previous email dated 10 October 2018. This would be conditional as long as you accept the appointment of a mentor, trained by Health Education North-West, to act as their nominated deputy and meet with them regularly.

Mr Middleton, on behalf of the GDC, acknowledged that you have been out of practice for over five years. Despite various attempts, you have been unsuccessful in gaining employment as a dentist. However, you have now been offered employment at a practice, which you have accepted.

Mr Middleton submitted that it is the GDC's position that you have not yet remediated the shortcomings in your dental practice identified in 2016, and you have been unable demonstrate that your fitness to practise is not impaired.

Mr Middleton referred to the case of Abrahaem v GMC [2008] EWHC 183 (Admin) where it was held that at review hearings there is a persuasive burden on the Registrant to satisfy the regulator that his or her fitness to practise is no longer impaired. The GDC's position is that you have failed to do so. In short, Mr Middleton submitted that the risk of repetition remains and your fitness to practise is impaired.

Mr Middleton submitted that given the fact that your registration has been imposed under a period of conditions for three years, as well as the lack of progress made, that the proportionate sanction would be one of suspension. He submitted that if the Committee were minded to determine otherwise, then public protection and public confidence would be maintained as a minimum by extending the current order of conditional registration for a further period of 18 months, to allow you to address the identified concerns and to demonstrate that they have been embedded into your practice.

Mr Hockton, on your behalf, accepted that your fitness to practise remains impaired. He asked the Committee to have regard to your employment and financial circumstances, which your Postgraduate Deanery have acknowledged. He submitted that you acknowledge the points raised by your Postgraduate Deanery, and in particular the mentorship. You agree to this mentorship and will abide by their requirements and processes.

Mr Hockton submitted that you have made considerable efforts to gain employment as a dentist, and that you have recently accepted a position at a practice in Liverpool with a back to work plan.

Mr Hockton also referred to your commitment to undertake a programme of remediation and comply with the conditions imposed on your registration. He submitted that this will be demonstrated by renewed engagement with your Postgraduate Deanery and this will provide a clear way forward. Mr Hockton submitted that your registration should be subject to conditions for a further period of 12 months.

The Committee recognises the employment difficulties you have been going through, which may partly have impeded your progress, during the time when your registration has been subject to conditions. It notes the theoretical remediation work you have undertaken in respect of your CPD. It is encouraged that you have been offered a position at a dental practice in Liverpool. It is clear from your evidence to the Committee that you are keen to undertake a full programme of remediation.

Nevertheless, the Committee considers that you have been out of dental practice for over five years and that you have been unable to demonstrate effective changes have been embedded in your practice. In the Committee's judgment, the risk of repetition of your misconduct remains. In these circumstances, the Committee has determined that your fitness to practise remains impaired by reason of your misconduct.

The Committee next considered what sanction, if any, to make on your registration. It reminded itself that the purpose of these proceedings is not to be punitive, but to protect the public, to uphold the reputation of the profession and to maintain public confidence in the profession. It has borne in mind the principle of proportionality. The Committee has also kept in mind the GDC's "Guidance for the Practice Committees including Indicative Sanctions Guidance" (October 2016).

In the light of its finding of current impairment, the Committee has concluded that it would not be appropriate for you to return to unrestricted practice. It notes that you have engaged in the process with the GDC, although there is some evidence before it that you have not engaged fully with the Postgraduate Deanery. You have now accepted a position at a dental practice in Liverpool. It notes that you are committed to undertaking a programme of remediation. The Committee notes the email confirmation from your Postgraduate Deanery today, that they would be willing to provide on-going educational support. The Committee is satisfied that you would comply with the conditions on your registration. It is therefore satisfied that it is necessary for the protection of the public and is otherwise in the public interest that your registration remains subject to conditions.

The Committee is mindful that you have encountered difficulties in complying with all of the conditions imposed previously as you were not able to obtain employment. However, it considers that you should continue to be subject to these conditions, for a further 18 months as it is of the view that you will need this time to complete and demonstrate full remediation.

The Committee considered that suspension was not proportionate due to the level of remediation provided, engagement with the GDC and the acknowledgement that you will cooperate with your Postgraduate Deanery. In light of the recent of the recent job offer, and in fairness to you, conditional registration would allow you to pursue this and provide you with the opportunity to embed your learning into clinical practice.

The Committee comprehensively reviewed each of the conditions on your registration. It determined that a further condition (No.10) would be appropriate, requiring you to place yourself and remain under the supervision of an Educational Supervisor/mentor, and to ensure he or she provides reports to the GDC every 6 months.

The conditions will appear against your name in the Register, as varied in the following terms:

1. He must notify the GDC promptly of any professional appointment he accepts and provide the contact details of his employer or any organisation for which he is contracted to provide dental services and the Commissioning Body on whose Dental Performers List he is included or Local Health Board if in Wales, Scotland or Northern Ireland.
2. He must allow the GDC to exchange information with his employer or any organisation for which he is contracted to provide dental services, and any Postgraduate Dental Dean/Director, reporter, workplace supervisor or educational supervisor referred to in these conditions.
3. At any time he is providing dental services, which require him to be registered with the GDC, he must agree to the appointment of a reporter nominated by him and approved by the GDC. The reporter shall be a GDC registrant. The reporter shall be the workplace supervisor referred to at condition (11) below.
4. He must allow the reporter to provide reports to the GDC every three months and the GDC will make these reports available to any Postgraduate Dental Dean/Director or educational supervisor referred to in these conditions.
5. He must inform the GDC of any formal disciplinary proceedings taken against him, from the date of this determination.
6. He must inform the GDC if he applies for dental employment outside the UK.
7. He must work with a Postgraduate Dental Dean/Director (or a nominated deputy), to review and update his current Personal Development Plan, specifically designed to address the deficiencies in the following areas of his practice:

   a. Treatment planning
   b. Diagnosis and treatment of caries
   c. Diagnosis and treatment of periodontal disease
   d. Radiography
   e. Antibiotic prescribing
   f. Pain management and local anaesthesia
   g. Obtaining informed consent
   h. Communication skills
   i. Treatment of anxious patients
   j. Record-keeping

   This Personal Development Plan must include reflection on the impact of his academic learning on his day-to-day clinical practice.
8. He must forward a copy of his updated Personal Development Plan to the GDC within six months of the date on which these conditions become effective and two months prior to any resumed hearing.
9. He must meet with the Postgraduate Dental Dean/Director (or a nominated deputy), on a regular basis to discuss his progress towards achieving the aims set out in his Personal Development Plan. The frequency of his meetings is to be set by the Postgraduate Dental Dean/Director (or a nominated deputy).

10. He must place himself and remain under the supervision of an Educational Supervisor/Mentor appointed by the Postgraduate Dental Dean/Director (or a nominated deputy). He must allow the Educational Supervisor/Mentor to provide reports to the GDC every 6 months and two weeks prior to the next PCC review hearing.

11. At any time he is employed, or providing dental services, which require him to be registered with the GDC he must place himself and remain under the close supervision of a workplace supervisor nominated by him, and agreed by the GDC. The workplace supervisor must be registered as a dentist with the GDC. The workplace supervisor should work at the same practice and must be available to the registrant should assistance be required.

12. Prior to commencing clinical practice, he must devise a 'Back to Work' plan agreed by the Postgraduate Dental Dean/Director (or a nominated deputy) and his workplace supervisor. The Back to Work plan must be approved by the GDC. Any return to work must be undertaken in a phased manner over a minimum period of 3 months. When the Back to Work plan has been completed to the satisfaction of the workplace supervisor condition (13) will apply.

13. His day-to-day work must be supervised by the workplace supervisor referred to at condition (10) above. The registrant should meet with the workplace supervisor on a weekly basis utilising one-to-one case-based discussions covering the subjects listed at condition (7) above.

14. He must audit his record-keeping, informed consent, radiography and antibiotic prescribing, and provide copies of those audits to the GDC on a three-monthly basis along with supervision reports. He must ensure that the audit reports are checked and countersigned by the workplace supervisor referred to above.

15. He must keep his professional commitments under review and limit his dental practice in accordance with his workplace supervisor's advice.

16. He must confine his dental practice to general practice posts in a partnership or group practice of at least three members.

17. He must not work as a locum or undertake any out-of-hours work or on-call duties.

18. He must provide to the GDC within three months from the date on which these conditions become effective and every three months thereafter, details of attempts made at gaining employment that requires the provision of dental services.

19. He must inform within one week the following parties that his registration is subject to the conditions, listed at (1) to (18), above:

    i. Any organisation or person employing or contracting with him to undertake dental work

    ii. Any prospective employer (at the time of application)

    iii. The Commissioning Body on whose Dental Performers List he is included or seeking inclusion, or Local Health Board if in Wales, Scotland or Northern Ireland (at the time of application)

20. He must permit the GDC to disclose the above conditions, (1) to (19), to any person requesting information about his registration status.

An 18 month period of conditional registration is proportionate to the length of time you would need to develop and complete your remediation, which would be needed to demonstrate embedded changes in your clinical practice. The period of conditional registration shall be reviewed prior to its expiry.

That concludes the hearing today."