

HEARING HEARD IN PUBLIC

LIMBU, Dino

Registration No: 246153

PROFESSIONAL CONDUCT COMMITTEE

AUGUST 2015

Outcome: Fitness to practise impaired; erasure with an immediate suspension order

Dinu LIMBU, a dental nurse, was summoned to appear before the Professional Conduct Committee on 13 August 2015 for an inquiry into the following charge:

Charge

“That being registered as a dental care professional (dental nurse), Dinu Limbu's (246153) fitness to practise is impaired by reason of misconduct and conviction. In that, you:

1. Did not cooperate with an investigation conducted by the GDC, including in relation to correspondence of:
 - a. 22 .10.13,
 - b. 13.11.13,
 - c. 23.01.14,
 - d. 12.05.14,
2. Did not inform the General Dental Council, either within an acceptable time-period or at all, that you were/ had been subject to criminal proceedings, including once you had been:
 - a. Arrested,
 - b. Charged,
 - c. Convicted,
3. On 30.06.14 were convicted at Reading Magistrates' Court of theft (by employee).”

On 13 August 2015 the Chairman made the following statement regarding the finding of facts:

“Ms Limbu

You are present at today's hearing via a video conferencing link with the agreement of the Committee. You confirmed that you were content to proceed with the hearing via video conferencing link. Mr Tom Stevens presents the case for the General Dental Council (GDC).

Preliminary matters

At the outset of the hearing you made admissions to each of the heads of charge. Your admissions were noted by the Committee.

Background to the case and GDC's submissions on the facts

On behalf of the GDC Mr Stevens provided details of the offences that gave rise to your conviction. He also adduced evidence on the circumstances surrounding those offences, and in relation to the allegations that you did not inform the GDC of those proceedings, or co-operate with the GDC, at the appropriate times.

The offences for which you were subsequently convicted took place whilst you were employed in managerial capacities at two sites operated by Toothbooth at Beaconsfield and Chesham in Buckinghamshire. Your duties involved the handling of monies in accordance with your employer's policies.

In September 2013 your employer conducted an investigation in relation to allegations of theft. It was alleged that you had persistently failed to deposit monies and had instead syphoned those monies for your own personal use. On 24 September 2013 you admitted to your employer that you had stolen monies from them over a period of time. You were suspended by your employer pending the outcome of those enquiries and you were dismissed from your post in October 2013.

You were arrested by the police on 24 September 2013. Your employer contacted the GDC to inform them of your arrest and of its own internal investigation. You were charged on 15 June 2014 with two offences of theft by employee. The first offence related to thefts from the Beaconsfield branch of the practice in the period from December 2012 to September 2013, which amounted to a loss of £13,712.00. The second offence concerned theft from the Chesham branch in the period June to September 2013, which amounted to a loss of £5,640.00. The total amount of monies alleged to have been stolen was in the sum of £19,353.76, representing thefts on a total of 243 occasions over a period of nine months.

On 30 June 2014 you appeared before Reading Magistrates' Court and were convicted of two offences of theft by employee. You subsequently appeared before the Crown Court at Reading and on 5 August 2014 you were sentenced to a period of 21 months' imprisonment concurrent on each charge.

The GDC also alleged that you did not co-operate with the GDC's investigation of these matters, in that you did not respond to written requests for information sent to you dated 22 October 2013, 13 November 2013, 23 January 2014 and 12 May 2014. The GDC further alleges that you did not inform the GDC of the criminal proceedings to which you were subject at the appropriate times, more particularly at the respective times of your arrest, charge and conviction.

Evidence

The Committee carefully considered the bundle of documentation provided to it by Mr Stevens. The bundle includes a certified copy of the Certificate of Conviction; the judge's sentencing remarks at your subsequent sentencing hearing; witness statements from representatives of your former employer and the GDC; and documentation relating to the criminal proceedings which culminated in your conviction.

The Committee has also heard oral evidence from you.

Committee’s findings of facts

The Committee has taken into account all the written and oral evidence presented to it. It has also considered the submissions made by Mr Stevens on behalf of the GDC and the evidence that you provided.

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 the Committee has considered each head of charge separately, although in respect of heads of charge 1 and 2 the findings will be announced collectively.

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

1.a	Admitted and proved
1.b	Admitted and proved
1.c	Admitted and proved
1.d	Admitted and proved
	The Committee finds the facts alleged at heads of charge 1 (a), 1 (b), 1 (c) and 1 (d) proved on the basis of your admissions. The Committee is mindful of your duty to co-operate with the GDC in connection with any concerns that are raised about your fitness to practise as required by Standard 9.4.1 of the GDC’s <i>Standards for the Dental Team</i> in place at the time of the incidents in question. The Committee also notes the documentary evidence contained in the bundle which demonstrates that the GDC wrote to you on four separate occasions and asked you to provide information about your employment and indemnity arrangements. You gave evidence to this Committee that you received each of those letters, and that you accept that you did not respond to them.
2.a	Admitted and proved
2.b	Admitted and proved
2.c	Admitted and proved
	The Committee finds the facts alleged at heads of charge 2 (a), 2 (b) and 2 (c) proved on the basis of your admissions. The Committee is mindful of your duty to inform the GDC of any criminal proceedings as required by Standard 9.3.1 of the GDC’s <i>Standards for the Dental Team</i> in place at the time of the incidents in question. The Committee also notes the documentary evidence contained in the bundle, and in particular the evidence of the paralegal with conduct of the GDC’s investigation, that you did not inform the GDC of your arrest, charge and conviction at the appropriate respective times, or at all. You stated in evidence to this Committee that you did not know that you were under any such obligation and you accept that you should have informed the GDC of the alleged matters at the appropriate times. The Committee is mindful of the advice given by the Legal Adviser that not knowing of a requirement is not a defence.
3	Admitted and proved

In respect of head of charge 3 the Committee had regard to Rule 57 (5) of the General Dental Council (Fitness to Practise) Rules 2006 and determined that the Certificate of Conviction provides conclusive proof of both the fact of the conviction and also of the offences which gave rise to that conviction. The Committee notes that the facts upon which the conviction was based have been found proven beyond reasonable doubt, which is an evidential standard that is higher than that employed by this Committee for the purpose of its proceedings. The Committee accepted that it cannot go behind the facts on which that conviction was made.

We move to stage two.”

On 13 August 2015 the Chairman announced the determination as follows:

“Ms Limbu

The Committee has considered all the evidence presented to it, both written and oral. It has taken into account the submissions made by Mr Stevens on behalf of the General Dental Council (GDC) and those made by you.

The Committee has accepted the advice of the Legal Adviser. In its deliberations the Committee has had regard to the GDC’s *Guidance for the Professional Conduct Committee, including Indicative Sanctions Guidance* (April 2015).

In its deliberations the Committee has had regard to the following paragraphs of GDC’s ‘*Standards for the Dental Team*’ (September 2013) in place at the time of the incidents giving rise to the facts. These paragraphs state that as a dental professional you must:

- 1.3.1 [...] justify the trust that patients, the public and your colleagues place in you by always acting honestly and fairly in your dealings with them. This applies to any business or education activities in which you are involved as well as to your professional dealings.
- 1.7.1 [...] always put your patients’ interests before any financial, personal or other gain.
- 9.1 Ensure that your conduct, both at work and in your personal life, justifies patients’ trust in you and the public’s trust in the dental profession.
- 9.3 Inform the GDC if you are subject to criminal proceedings or a regulatory finding is made against you anywhere in the world.
- 9.4 Co-operate with any relevant formal or informal inquiry and give full and truthful information.

Misconduct

The Committee first considered whether the facts that it has found proved at heads of charge 1 and 2 constitute misconduct. In considering this matter the Committee exercised its own independent judgement.

In light of the findings of fact that it has made, the Committee has concluded that your conduct constitutes acts and omissions which fell far short of the standards reasonably expected of a registered dental care professional. The Committee has determined that you repeatedly failed to provide information to the GDC as requested and that you further failed to inform the GDC on a number of occasions of the serious matter of ongoing criminal proceedings to which you were subject. Although the Committee notes that you now accept that you failed to co-operate and communicate in this way, it has also heard from you that

you were not aware of the requirements to which you were subject as a condition of your registration. The Committee has found that ignorance of these fundamental requirements is not a defence. The Committee is also concerned to note that you did not self-refer to the GDC in respect of the criminal proceedings and that the GDC instead had to rely on the information provided by your former employer and the police.

The Committee is in no doubt that your fellow registrants would regard your actions as deplorable, breaching as they did key GDC standards in relation to your responsibilities of co-operation and communication with the GDC and your responsibility to act in an honest and trustworthy manner. The Committee has therefore determined that the findings that it has made against you in relation to heads of charge 1 and 2 are serious and fall far below the standards reasonably expected of a registered dental professional. As such, the Committee considers that they amount to misconduct.

Impairment

The Committee then went on to consider whether your fitness to practise is currently impaired by reason of your conviction, or your misconduct, or both. In doing so, the Committee has again 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.

On behalf of the GDC Mr Stevens informed the Committee that, save for the matters presently before it, you have no fitness to practise history with the GDC.

The Committee has firstly determined that your fitness to practise is impaired by reason of your conviction. The Committee is mindful that the offences giving rise to your conviction occurred at, and related directly to, your place of work. You held positions of trust as a dental nurse and as a manager. The seriousness of the offences for which you were convicted was emphasised by the immediate custodial sentence that was imposed on you for a period of some 21 months. The offences related to 243 separate occasions on which monies in the sum of £19,353.76 were stolen over a period of nine months. These were serious offences involving dishonesty which entailed significant breaches of trust.

The Committee has concluded that public confidence in the profession would be harmed if you were deemed to be fit to practise in light of a conviction which by its very nature calls into question your integrity and honesty to such an extent. It has had regard to the serious nature of the offences of dishonesty of which you were convicted and for which you were imprisoned. The Committee considers that your proven conduct amounts to breaches of a fundamental tenet of the profession, namely the need for a dental care professional to be honest and trustworthy at all times. The Committee is in no doubt that public trust and confidence in the profession, and in the regulatory process, would be damaged if a finding of impairment were not made in light of your conviction. The Committee has further determined that a finding of impairment is required in order to declare and uphold proper professional standards.

The Committee has also determined that your fitness to practise is currently impaired by reason of the misconduct that it has found. The Committee is mindful that the heads of charge that have given rise to its finding of misconduct reveal attitudinal failures of the kind that also gave rise to your conviction, namely a repeated and protracted lack of integrity and honesty. In evidence to this Committee you stated that you now accept the seriousness of, and take responsibility for, what happened, and that you had not been in a state of mind

appropriate to deal with the GDC's investigation. The Committee notes the remorse that you have expressed and the fact that you appear to have begun to develop insight into your actions whilst in custody, but the Committee considers that this is not sufficient to demonstrate that you have remediated the attitudinal failures apparent in this case to the extent that your fitness to practise is not impaired. You failed to declare your actions to your employer and only admitted to them when questioned some time later. You have also not paid back the sums of money that you stole, and you gave a 'no comment' interview to the police when questioned. In deciding that your fitness to practise is impaired by reason of your misconduct, the Committee has again had regard to the need to declare and uphold proper standards in the profession, and to maintain public trust and confidence both in the profession and in the regulatory process.

Having regard to the need to maintain public confidence in the profession and in the regulator, and declare and uphold proper standards of conduct and behaviour, the Committee has determined that your fitness to practise is currently impaired by reason of your conviction and also by reason of your misconduct.

Sanction

The Committee then determined what sanction, if any, would be appropriate in light of the findings 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. 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, the Committee has determined that it would be wholly inappropriate to conclude this case without taking any action in respect of your registration. The Committee considers that the serious nature of the conviction and misconduct it has found proved means that action must be taken in order to maintain public confidence in the profession and in the regulator, and declare and uphold proper standards of conduct and behaviour. In reaching this decision the Committee again reminded itself that it has not been provided with sufficient evidence of you having taken adequate corrective or rehabilitative steps which might make a sanction unnecessary.

The Committee next decided whether it would be proportionate and appropriate to conclude the case with a reprimand. The Committee considers that the nature of the behaviours identified in key and fundamental areas of your conduct takes the matter beyond a reprimand, as a reprimand would not be sufficient to safeguard the reputation of the profession and the regulator or declare and uphold professional standards.

The Committee next considered whether a period of conditional registration would be appropriate. The Committee considers that conditions would not be appropriate or workable given the nature of the misconduct and conviction that the Committee has found, arising as they do from serious attitudinal failings. The Committee also considers that conditions would not be sufficient to declare and uphold proper professional standards, or maintain public trust and confidence in the profession and regulator as required by this case.

Having determined that conditions would not be appropriate, the Committee then went on to consider whether to suspend your registration. The Committee is not satisfied that the sanction of suspension would be appropriate or sufficient for maintaining public confidence in the profession and upholding professional standards. The Committee considers that the serious and repeated instances of dishonesty for considerable personal financial gain to the

detriment of your employer over a protracted period of time constitute a serious undermining of a central tenet of the profession, and that your behaviour is highly damaging both to your fitness to practise and to public confidence in the profession. This behaviour, which resulted in a conviction of two charges of theft and a significant custodial sentence, and which was described by His Honour Judge John in sentencing you as a ‘breach of trust’ was exacerbated by further manifestations of a deep-rooted attitudinal problem evident in your failure to communicate and co-operate with the GDC.

Accordingly, the Committee has determined that the appropriate and proportionate sanction in this case is that which remains, namely of erasure. The Committee has taken into account the impact of such a direction on your interests, but in the light of the serious nature of the matters that it has found proved, the Committee considers that the public interest outweighs your own interests in this matter. The Committee considers that erasure, and only erasure, is sufficient to declare and uphold proper professional standards and maintain public trust and confidence in the profession given the circumstances of this case.

Immediate order

The Committee now invites submissions as to whether your registration should be made subject to an immediate order, pending the substantive direction of erasure taking effect. “

“Ms Limbu

Existing interim order

In accordance with Rule 21 (3) of the General Dental Council (Fitness to Practise) Rules 2006 and 36P (10) of the Dentists Act 1984 (as amended) the extant interim order of suspension in place on your registration is hereby revoked.

Decision on immediate order of suspension

Having directed that your name be erased from the Register, the Committee has considered whether to impose an order for immediate suspension in accordance with Section 36U (1) of the Dentists Act (as amended) 1984.

The Committee has determined that it is otherwise in the public interest to impose an order for the immediate suspension of your registration. The Committee has today imposed the highest possible substantive sanction in this case. It has decided that it would be inconsistent to not suspend you from the Register pending the substantive direction of erasure taking effect, particularly given that any appeal would be unlikely to be concluded for a considerable period of time.

The effect of the foregoing determination and this immediate order is that your registration will be suspended from the date on which notice of this decision is deemed served upon you. Unless you exercise your right of appeal, your name will be erased from the Register for Dental Care Professionals 28 days from the date of deemed service. Should you exercise your right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

That concludes this case.”

