

HEARING HEARD IN PUBLIC

BROWNE, Noel

Registration No: 155024

PROFESSIONAL CONDUCT COMMITTEE

JANUARY 2018

Outcome: Erased with immediate suspension

Noel BROWNE, a dental technician, Verified experience in Dental Technology was summoned to appear before the Professional Conduct Committee on 8 January 2018 for an inquiry into the following charge:

Charge

“That being registered as a dental care professional;

1. On 8 November 2016 you were cautioned by the Trading Standards department of Staffordshire County Council for the following offences:
 - a. Between 20 March 2014 and 12 March 2015 Denture Problems UK Ltd did engage in a commercial practice which was a misleading action in that it did make implied claims as to the type of business that it could lawfully carry out and in particular that it could lawfully supply, fit and manufacture dentures which claims were false and this was likely to cause the average consumer to take a transactional decision which he would not otherwise have taken, and you Noel Browne being a Director of Denture Problems UK Ltd, did consent or connive in that offence by authorising the making of those implied claims. Contrary to rr.9 and 15 of the Consumer Protection from Unfair Trading regulations 2008.
 - b. Between 20 March 2014 and 12 March 2015 Denture Problems UK Ltd did engage in a commercial practice which was a misleading action in that it did carry out work for which its personnel were not qualified, in particular the supply, fitting and manufacture of dentures to the public without the involvement of a registered dentist and this was likely to cause the average consumer to take a transactional decision which he would not otherwise have taken, and you Noel Browne, being a Director of Denture Problems UK Ltd did consent or connive in that offence by carrying out such work on its behalf. Contrary to rr.9 and 15 of the Consumer Protection from Unfair Trading Regulations 2008.
 - c. Between the 20 March 2014 and 12 March 2015 failed without reasonable excuse to comply with the requirements of r.15 of the Medical Devices Regulations 2002, in that you did manufacture custom made medical devices, namely dentures, and on each occasion did fail to provide a statement to the consumer containing the required statutory information, in particular that the device is intended for exclusive use by a particular patient, the name of the

authorised person who drew up to the prescription, the particular features of the medical device as specified in the prescription and a statement of conformity. Contrary to s.12(4)(a) of the Consumer Protection Act 1987.

- d. Between the 20 March 2014 and 12 March 2015 you did impliedly represent that you were qualified to carry out the practice of dentistry, in particular the supply, fitting and manufacture of dentures without the involvement of a registered dentist, whereas this representation was false because this fell outside your scope of practice as a Dental Technician, and that this was a misrepresentation for the purposes of the Misrepresentation Act 1967. We understand that you admit to having therefore committed both Domestic and Community infringements as defined under ss.211-212 of the Enterprise Act 2002.
2. In respect of allegation 1b you have worked beyond your scope of practice;
 3. Your conduct in relation to allegation 2 was:
 - a. Misleading;
 - b. Dishonest.

By reason of the matters alleged, your fitness to practise is impaired by reason of your cautions and/or misconduct.”

Mr Browne was not present and was not represented. On 9 January 2018 the Chairman announced the findings of fact to the Counsel for the GDC:

“Service and proceeding in the absence of the Registrant

Mr Browne is neither present nor represented at the Professional Conduct Committee (PCC) hearing of his case. In his absence, the Committee first considered whether the General Dental Council (GDC) had complied with serving the Notice of Hearing on Mr Browne in accordance with Rules 13 and 65 of the GDC (Fitness to Practise) Rules Order of Council 2006 (the Rules). In so doing, it has had regard to the documents before it as well as the submissions made by Mr Middleton, who represents the GDC. It has accepted the advice of the Legal Adviser.

The Committee has seen a copy of the Notice of Hearing letter dated 5 December 2017 addressed to Mr Browne’s registered address. The letter sets out the date, time and location of today’s hearing, as well as the particularised facts of the charge, in compliance with Rule 13. The Royal Mail receipt confirms that the letter was delivered to Mr Browne’s registered address on 6 December 2017, which is more than 28 days in advance of today’s hearing. Furthermore, the Committee has seen a copy of a GDC Secure File Share email dated 5 December 2017 which confirms that the Notice of Hearing letter was sent on that day to the email address previously used by Mr Browne to communicate with the GDC. Having regard to all of these documents, the Committee is satisfied that the GDC has served the Notice of Hearing on Mr Browne in accordance with Rules 13 and 65.

Proceeding in absence

The Committee then went on to consider whether to hear this case in the absence of Mr Browne, in accordance with Rule 54. Mr Middleton invited the Committee to do so on the basis that Mr Browne is aware of today's hearing and he has voluntarily chosen not to attend this hearing. He advised the Committee that Mr Browne's last communication with the GDC was an email dated 4 April 2017 in which Mr Browne advised that he was not working and had chosen not to respond to the allegation at that stage. There has been no response from Mr Browne since then in connection with this hearing.

The Committee has considered the submissions made by Mr Middleton, during the course of which he highlighted the relevant factors in deciding whether to proceed in the absence of a Registrant, as outlined in a number of cases, including *Adeogba v GMC*. It has accepted the advice of the Legal Adviser.

The Committee has borne in mind that the discretion to proceed in the absence of the respondent must be exercised with the utmost care and caution. It has also kept in mind the GDC's statutory objectives, which include the protection, promotion and the maintenance of the health, safety and well-being of the public, and the maintenance of the reputation of the profession.

The Committee notes that Mr Browne has not responded to the Notice of Hearing and there is nothing before it to suggest that he would attend on a future occasion, given his stated position in April 2017 that he was not working and had chosen not to respond to the allegations against him at that stage. The Committee has received no new information to indicate that Mr Browne's position has since changed. It has concluded that Mr Browne has elected not to participate in these proceedings.

The Committee has also had regard to the serious nature of the allegations against Mr Browne, which includes an allegation that his conduct was dishonest. The Committee considers that it is in the public interest, as well as in Mr Browne's own interests, to deal with this case expeditiously and no purpose would be served by an adjournment. It is aware that the GDC intends to call a witness to give evidence at the hearing. Having regard to all these factors, the Committee has decided that it is fair and appropriate to proceed in the absence of Mr Browne in accordance with Rule 54.

The GDC's case

In November 2016 Staffordshire County Council's Trading Standards notified the GDC that on 8 November 2016 it had cautioned Mr Browne for a number of offences in relation to Denture Problems UK Ltd (Mr Browne's company), which were contrary to sections of the Consumer Protection from Unfair Trading Regulations 2008. This included the following allegation 1(b)):

"between 20 March 2014 and 12 March 2015 Denture Problems UK Ltd did engage in a commercial practice which was a misleading action in that it did carry out work for which its personnel were not qualified, in particular the supply, fitting and manufacture of dentures to the public without the involvement of a registered dentist and this was likely to cause the average consumer to take a transactional decision which he would not otherwise have taken. Mr Browne, being a Director of Denture Problems UK Ltd, did consent or connive in that offence by carrying out such work on its behalf. Contrary to rr.9 and 15 of the Consumer Protection from Unfair Trading Regulations 2008."

The background to this matter is that Mr Grief, a Senior Enforcement Officer at Trading Standards, Staffordshire County Council, carried out an investigation into Mr Browne following a complaint received from a clinical dental technician working at a dental practice in Staffordshire. The informant complained that Mr Browne's company, Denture Problems UK Ltd, was advertising "home visits" in local newspapers and that this was a service that Mr Browne and his employees, who were all dental technicians, were not qualified to undertake. Mr Grief produced a case summary which set out the investigation in full, as well as a statement dated 16 March 2015 for the purposes of the investigation. He also provided a witness statement for the GDC dated 13 September 2017. In that statement he provided key points of the investigation which included having a first meeting with Mr Browne on 27 June 2014. At that meeting Mr Browne confirmed under caution that only he and two employees, both dental technicians, worked at the business and that he visited patients at their homes. He also confirmed that patient records were kept at his home address. Mr Grief considered that the advertising material for Denture Problems UK Ltd suggested that they were offering a service for the provision of new, full sets of dentures, which fell outside the GDC's Scope of Practice. These concerns, which formed the basis of the visit on 27 June 2014, were put to Mr Browne and recorded in a Record of Visit, signed by Mr Browne on that day.

Mr Grief provided information as to the enquiries he had made with Mr Browne's patients concerning their dealings with Mr Browne and Denture Problems UK Ltd. Mr Browne was asked to produce a full client list of all of his patients. Mr Browne subsequently provided a list of 12 of his current patients at the time of the request. Initially only 6 out of the 12 patients responded by contacting Mr Grief by telephone. He also sent follow up letters to the patients who had not initially responded, which generated one further response. In each case, the patients were supplied with replacement upper and lower dentures and had been visited at home by Mr Browne working alone. The patients also confirmed that they had responded to adverts in local newspapers.

Later, a formal interview with Mr Browne was requested, but this was declined. Mr Browne was cautioned on 8 November 2016.

The GDC's case is that Mr Browne's fitness to practise is impaired by reason of his caution by the Trading Standards Department of Staffordshire County Council on 8 November 2016 covering acts that were said to have taken place between 20 March 2014 and 12 March 2015. In respect of allegation 1(b), the GDC alleges that Mr Browne worked beyond the scope of his practice and that his conduct in this regard was misleading (allegation 3(a)) and dishonest (allegation 3(b)).

In support of its case, the GDC relies on the signed caution dated 8 November 2016, the witness statement of Mr Grief dated 13 September 2017 and his accompanying exhibits. The Committee also received oral evidence from Mr Grief in which he clarified aspects of the investigation that he carried out. He confirmed that he worked as part of a criminal investigation team. He explained that at his first meeting with Mr Browne on 27 June 2014, he was accompanied by a colleague and two police officers. He also confirmed that Staffordshire County Council followed the Ministry of Justice's guidance "Simple Caution for Adult Offenders", which included establishing whether or not there was evidence to justify a prosecution, whether Mr Browne had made a formal admission of what was alleged and whether he had understood the implications of accepting the caution before consenting to it. The Committee found Mr Grief to be a credible witness, whose account was supported by his contemporaneous notes of the patients who had contacted him in respect of their dealings with Mr Browne.

In addition, the Committee received a copy of the witness statement of Ms Masson (an employee of the GDC’s In-House Legal Prosecutions Service) dated 14 December 2017 and her accompanying exhibits; these comprised a copy of Mr Browne’s completed employment information form of February 2017, a telephone attendance note of a conversation that took place between an Assistant Prosecution Lawyer and Mr Browne on 4 November 2016 as well as an email dated 4 April 2017 from Mr Browne to the GDC Casework department in response to the referral of his case to the GDC’s Case Examiners. The Committee agreed to admit the witness statement of Ms Masson in accordance with Rule 57(1) as it considered it to be fair and relevant to these proceedings. It decided not to receive oral evidence from Ms Masson since there were no matters arising from the content of her statement which necessitated further questions being asked of her.

The Committee has also had regard to the evidence of Ms Boorer, a Policy Manager at the GDC, who provided information relating to the GDC’s “Scope of Practice” which sets out clearly what a dental technician is permitted to carry out, subject to being trained, competent and indemnified. It also sets out additional skills which dental technicians can develop as well as a list of procedures that they are not permitted to carry out.

The Committee has borne in mind that it has received no defence case from Mr Browne or indeed any formal admissions, save for the record of the telephone call to the GDC dated 4 November 2016 17 in which it is recorded that “He felt he had no choice but to accept the caution from trading standards because of the way it was handled by them. He spent £20,000 fighting the case and then in the end had to accept.” It has drawn no adverse inference by Mr Browne’s non-attendance at the hearing.

In respect of the charge alleging that Mr Browne’s conduct was dishonest (charge 3(b)), the Committee received submissions from Mr Middleton and advice from the Legal Adviser of the test it must apply, as set out in the Supreme Court judgment in the case of Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67. This was as follows:

“... When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence going to whether he genuinely held the belief, but it is not a requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established by the fact-finder the tribunal must then consider whether that conduct was dishonest by the standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.”

The Committee has accepted the advice of the Legal Adviser. The Committee has borne in mind that the burden of proof is on the GDC and that it must decide the facts according to the civil standard of proof, on the balance of probabilities. Mr Browne need not prove anything.

The Committee has considered each charge separately. I will now announce the Committee’s findings in relation to each charge:

1(a)	Have been found proved
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1(d)	In reaching its decision, the Committee has had regard to the evidence of Mr Grief in which he sets out his case summary regarding the investigation he carried out into Mr Browne’s practice at Denture Problems UK Ltd. He referred to the letter dated 8

	<p>November 2016 from Staffordshire County Council to Mr Browne which set out in full the offences understood to have been admitted by him on that date (the 'Caution Letter'). In his oral evidence Mr Grief confirmed that Staffordshire County Council followed the Ministry of Justice's guidance "Simple Caution for Adult Offenders" and that Mr Browne had signed the bottom of the letter to admit the offences set out. The Committee notes that the written Undertakings given by Mr Browne to Staffordshire County Council Trading Standards Service and referred to in the Caution Letter contains Mr Browne's signature, which is the same signature as that shown in the Caution Letter. Furthermore, the Committee has had regard to the record of the telephone call dated 4 November 2016 which states that Mr Browne accepts that he had received a caution from Trading Standards. The Committee is satisfied that the caution issued by the Trading Standards Department of Staffordshire County Council on 8 November 2016 amounts to a caution in accordance with Section 36N(2) of the Dentists Act 1984 (as amended). In reaching its decision, the Committee is satisfied that the procedure followed by Staffordshire County Council in issuing the caution was equivalent to that carried out by the police.</p>
2	<p>Found proved</p> <p>The Committee has borne in mind Mr Browne's acceptance, by virtue of the caution on 8 November 2016, that between 20 March 2014 and 12 March 2015, he on behalf of Denture Problems UK Ltd (for which he was the director) engaged in carrying out work for which he was not qualified, in particular, the supply, fitting and manufacture of dentures to the public without the involvement of a registered dentist. There is nothing to indicate that Mr Browne had obtained a prescription from a dentist before providing dentures to his patients. Indeed, his email dated 28 February 2015 to Mr Grief, Mr Browne stated "... also I work alone when seeing customers. I do not believe I am putting any of my customers at risk like you have stated, I provide a service of home visit for all of my customers and I believe this is a benefit for customers who are house bound, disabled and the elderly who find it difficult to visit a dentist. I have had 38 years of experience in manufacture of dentures, in the time I have been seeing the customers direct I have not had one complaint from any of my customers."</p> <p>The Committee has had regard to Ms Boorer's evidence in relation to the GDC's "Scope of Practice". She explained that the registrant is registered with the GDC as a dental technician and that in that capacity he is responsible for making dental devices to a prescription from a dentist or clinical dental technician. Dental technicians also repair dentures direct to members of the public. Ms Boorer confirmed that while a registered dental technician can make full sets of dentures and other dental appliances, they can only do so on prescription from a dentist. With regard to home visits, Ms Boorer said that dental technicians can work with a dentist, assisting the dentist with the designing or fitting of a dental appliance, but only if they have had additional training to do so. Dental technicians, she explained, cannot independently examine a patient or take measurements to be used for a new set of dentures. She commented that the advertisements of Mr Browne's practice do not make it clear whether a dentist or a clinical dental technician will be available to carry out the required patient examination and provide the prescription for the new dentures.</p> <p>The Committee has had regard to Mr Grief's contemporaneous telephone notes of his</p>

	<p>conversations with Mr Browne’s patients, some of whom stated that he inspected their mouths and took impressions when visiting them at their homes. Furthermore, there was no reference to a prescription from a dentist in the notes. In addition, the Committee has seen a list of Mr Browne’s customers at the time, provided by him, which state “full upper and lower” (dentures) in respect of the work being carried out for each of the patients. On the evidence before it, the Committee has concluded that Mr Browne was working independently and was carrying out the provision of new dentures without the benefit of a prescription. Taking all these factors into account, it is satisfied that Mr Browne was working outside the scope of his practice.</p>
3(a)	<p>Found proved</p> <p>The Committee, having adopted the common sense meaning of the word ‘misleading’, which means giving a wrong idea or impression, has found this charge proved. In reaching its decision, the Committee considers that Mr Browne’s actions in working outside the scope of his practice, gave the clear impression to his patients that he was qualified to work independently to examine patients and provide new sets of dentures. His advertising material also gave the reader the clear impression that as a dental technician, he was entitled and qualified to provide patients with new dentures without reference to any other dental professional.</p>
3(b)	<p>Found proved</p> <p>In considering whether Mr Browne’s actions in working beyond the scope of his practice were dishonest, the Committee has had regard to the test of dishonesty, as referred to above. It firstly considered the state of Mr Browne’s knowledge or belief about what he was permitted to do in accordance with his scope of practice. The Committee considers that Mr Browne would have been aware that he was not permitted to provide a full set of dentures and other dental appliances without a prescription. He was also not permitted to independently examine a patient or take measurements to be used for a new set of dentures. The Committee accepted evidence from Mr Grief that Mr Browne continued to visit patients in their homes despite being advised by Trading Standards Department of Staffordshire County Council at their initial visit to his business premises in June 2014 that this activity was not permitted by the GDC under their scope of practice for his category of registration. He therefore knew that what he was doing fell outside the scope of his practice. The Committee considered that Mr Browne was motivated by financial gain, as evidenced by the significant amount of money he spent on advertising his services, including home visits. During the period from 27 November 2013 to 28 August 2014 he spent at least £8,000 in various publications. In working independently, Mr Browne would have profited unjustifiably by offering and providing services which clearly fell outside the scope of his practice. Mr Browne’s only explanation as set out in his email of 28 May 2015 was that he believed he provided a service for the benefit of customers who “find it difficult to visit a dentist”. The Committee considered that in so doing, Mr Browne concealed from the patients that he was not qualified or permitted to carry out this work. The Committee has concluded that an ordinary and honest member of the public would consider that an individual who knowingly carried out work which falls outside the scope of practice to be dishonest. Therefore, applying the test of dishonesty, the Committee has concluded that Mr Browne has acted dishonestly.</p>

We move to Stage Two”

On 9 January 2018 the Chairman announced the determination as follows:

“Mr Middleton, on behalf of the General Dental Council (GDC), made submissions in accordance with Rule 20(1)(a) of the Fitness to Practise Rules 2006 (the Rules). He submitted that Mr Browne’s conduct in working beyond the scope of his practice, which was misleading and dishonest, amounts to misconduct. He invited the Committee to conclude that Mr Browne’s fitness to practise is currently impaired by reason of that misconduct. He also submitted that Mr Browne’s caution by Staffordshire County Council’s Trading Standards on 8 November 2016 in relation to multiple offences concerning Denture Problems UK Ltd (Mr Browne’s company) was serious and amounts to current impairment. He submitted that the appropriate sanction in this case is that of erasure. During the course of his submissions, Mr Middleton referred the Committee to relevant sections of the GDC’s “Guidance for the Practice Committees including Indicative Sanctions Guidance” (October 2016). Mr Middleton also made submissions, in accordance with Rule 22, that should the Committee make a direction that Mr Browne’s registration be suspended or that his name be erased from the Dental Care Professionals’ Register, then an immediate order of suspension was necessary for the protection of the public and was otherwise in the public interest.

He confirmed that Mr Browne has no fitness to practise history.

Misconduct

The Committee first considered whether the facts found proved against Mr Browne in relation to charges 2 and 3 amount to misconduct. In so doing, the Committee has had regard to the evidence adduced in this case, as well as the submissions made by Mr Middleton. It has accepted the advice of the Legal Adviser.

The findings in this case are that Mr Browne, who is registered as a dental technician, and who was a director of Denture Problems UK Ltd, worked beyond the scope of his practice between 20 March 2014 and 12 May 2015 in relation to the provision of dental services by Denture Problems UK Ltd. The Committee found that his actions in this regard were misleading and dishonest. Denture Problems UK Ltd advertised that home visits were available. He continued to visit patients in their homes despite being advised by the Trading Standards Department of Staffordshire County Council at their initial visit to his business premises in June 2014 that this activity was not permitted by the GDC under their scope of practice for his category of registration. The Committee took the view that in holding himself out to offer services outside his scope of practice, Mr Browne gave the clear impression to his patients that he was permitted and qualified to provide them with new dentures without reference to any other dental professional. The Committee found this conduct to be misleading and dishonest. This conduct was sustained over a period of approximately a year, involving the provision of dentures to elderly patients, and for which there was financial gain. In the Committee’s view, these patients were vulnerable and indeed, Mr Browne, in his email correspondence, accepted that his customers were house bound, disabled and elderly and who found it difficult to visit a dentist.

In considering whether the facts found proved amount to misconduct the Committee has had regard to the following paragraphs of the “Standards for the Dental Team” guidance (effective from 30 September 2013) which it considers Mr Browne has breached:

Standard 1.3 You must be honest and act with integrity.

Standard 1.7.1 You must always put your patients’ interests before any financial, personal or other gain.

Standard 7.2.1 You must only carry out a task or a type of treatment if you are appropriately trained, competent, confident and indemnified.

In addition, the Committee has had regard to Mr Browne's breach of the GDC's "Scope of Practice" document (effective from 30 September 2013) which makes it clear that as a dental technician he can only make devices to a prescription from a dentist or clinical dental technician. Mr Browne carried this work out alone, in contravention of his scope of practice as a dental technician. The Committee considers that Mr Browne's conduct in this regard had the potential to put patients at risk of harm and undermined confidence in the profession. Mr Browne, like all registrants, would have received guidance from the GDC which states the scope of practice of each category of dental professional. The Committee considers that Mr Browne chose to disregard this guidance. He knowingly misled patients by offering and providing dental services that he was not qualified to do. The Committee takes a serious view of his dishonesty in this regard.

Having regard to all of the findings against Mr Browne, including his breaches of the standards of the profession, the Committee is satisfied that the findings against him are serious and amount to misconduct.

Current impairment

The Committee next considered whether Mr Browne's fitness to practise is currently impaired by reason of his caution and/or misconduct. In so doing, it has had regard to the submissions made by Mr Middleton. The Committee notes Mr Browne's limited engagement with the GDC in relation to these proceedings against him, which essentially amounts to several brief emails. In his last communication to the GDC (an email dated 4 April 2017) Mr Browne advised that he was not working and had chosen not to respond to the allegation at that stage. The Committee notes the absence of any evidence of remediation in respect of the matters relating to this case.

The Committee, in reaching its decision, has had regard to the public interest and accepted that there was no burden or standard of proof at this stage. The Committee has exercised its own independent judgement in reaching its decision.

The Committee takes a serious view of the nature of the Mr Browne's caution by Staffordshire County Council's Trading Standards on 8 November 2016 in relation to multiple offences concerning Denture Problems UK Ltd between 20 March 2014 and 12 March 2015. These offences related to making implied claims as to the type of business that it could lawfully carry out; supplying, fitting and manufacturing dentures to the public without the involvement of a registered dentist or a clinical dental technician; and misrepresenting that he was qualified to carry out supplying, fitting and manufacturing dentures in these terms. The Committee has borne in mind that the offences related to events that took place over a period of a year, covering the period between 2014 and 2015 and involved acting in contravention of the Consumer Protection from Unfair Trading Regulations 2008 and other regulations. As a registered dental technician Mr Browne had a professional duty to protect his patients and to safeguard their interests. He abused his position in working outside his scope of practice to produce new dentures for patients following a visit to their home addresses, while he was working alone. His actions had the potential to place those under his care, who had not had the benefit of having a prescription from a dentist or a clinical dental technician, at unwarranted risk of harm, including physical and financial harm. The offences to which he admitted included making false statements. It has concluded that the serious nature of his caution has brought the profession into disrepute and amounts to a

breach of one of the fundamental tenets of the profession – namely to put his patients' interests first.

There is no evidence before the Committee of the steps taken by Mr Browne to address and remediate the matters set out in the charges against him, or any evidence of reflection by him. The telephone note dated 4 November 2016 of a conversation that took place between an Assistant Prosecution Lawyer and Mr Browne on that date states that Mr Browne “felt he had no choice but to accept the caution from trading standards because of the way it was handled by them.” The Committee has not had the benefit of being able to ask Mr Browne questions about the charges against him and therefore it is not able to assess his level of insight. It has received no evidence to reassure it that Mr Browne understands the importance of working within the scope of his practice as part of his professional obligations. Indeed, the Committee heard evidence that Mr Browne continued to visit patients independently in their own homes despite being advised by Trading Standards Department in June 2014 that this activity was not permitted by the GDC under their scope of practice for his category of registration. In these circumstances, the Committee has concerns about Mr Browne's lack of insight into his conduct. It considers that the absence of any remediation and his lack of insight raises a risk of repetition and, therefore, a finding of impairment is necessary for the protection of patients.

The Committee further considered the wider public interest, in particular the need to declare and uphold proper standards of conduct and behaviour, so as to maintain public confidence in the profession. The Committee has found that Mr Browne worked beyond the scope of his practice over a long period of time and that he was misleading and dishonest in this regard. These are serious matters. In these circumstances, the Committee considers that the public would be concerned by such matters and that public confidence would be undermined if a finding of impairment were not made.

Having regard to all of these matters, the Committee has determined that Mr Browne's fitness to practise is currently impaired by reason of his caution and his misconduct.

Sanction

The Committee next considered what sanction, if any, to impose on Mr Browne's registration. It recognises that the purpose of a sanction is not to be punitive, although it may have that effect, but to protect patients and the wider public interest. It has taken into account the GDC's “Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016)”. The Committee has applied the principle of proportionality, balancing the public interest with Mr Browne's own interests. It notes from Mr Browne's last written communication with the GDC in his email of April 2017 that he was not working.

The Committee has had regard to the mitigating and aggravating features of this case. It has borne in mind that Mr Browne has no previous fitness to practise history. The aggravating features of this case include the risk of harm to patients by working outside his scope of practice, his dishonest conduct, which was sustained over a period of time and involved financial gain, involving vulnerable patients. The Committee has also had regard to Mr Browne's blatant disregard of his scope of practice.

The Committee has considered the range of sanctions available to it, starting with the least serious. In view of the serious nature of the findings, the Committee has determined that it would be wholly inappropriate to conclude this case without taking any action in respect of Mr Browne's registration or with a reprimand.

The Committee then considered whether a period of conditional registration would adequately protect patients and uphold confidence in the profession. In so doing, the Committee has had regard to the serious nature of the findings in this case, including the proven dishonesty. Mr Browne continued to work outside the scope of his practice despite being warned not to do so. The Committee has no information regarding his current circumstances nor has Mr Browne recently engaged with this regulatory process. In these circumstances, the Committee cannot be satisfied that conditions of practice would be workable. Furthermore, the Committee considers that conditions would be wholly insufficient for the maintenance of public confidence in the dental profession and upholding the reputation of the dental profession given the serious nature of the findings against Mr Browne.

The Committee went on to consider whether to suspend Mr Browne's registration. In so doing, it had regard to the serious nature of the findings against Mr Browne, both in relation to his caution and his dishonest conduct. There is no evidence before the Committee of any remorse or insight from Mr Browne as to his conduct in working beyond the scope of his practice and indeed, he continued to work in this regard despite being advised that this work fell outside the scope of his practice by the Trading Standards Department. This demonstrates a blatant disregard of the GDC's Scope of Practice which is required to ensure the safety and well-being of patients. Taking all these factors into account, the Committee has concluded that suspension would not be appropriate or sufficient for maintaining public confidence in the profession and upholding professional standards. Dishonest conduct of this nature is unacceptable and is highly damaging to a registrant's fitness to practise and to public confidence in dental professionals. The Committee is satisfied that the matters found proved are so serious that they are fundamentally incompatible with Mr Browne remaining on the Dental Care Professionals' Register.

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

The interim order of suspension on Mr Browne's registration is hereby revoked.

Having directed that Mr Browne's name be erased from the Dental Care Professionals' Register, the Committee has considered whether to make an order for immediate suspension of Mr Browne's registration. Mr Middleton submitted that such an order is necessary for the protection of the public and is otherwise in the public interest. He advised the Committee that the current interim order of suspension on Mr Browne's registration is due to expire on 17 January 2018, and that this order should be revoked in accordance with Rule 21(3). He also advised that unless this Committee makes an immediate order, Mr Browne will be free to practise during the 28 day appeal period and, if an appeal is lodged, until that appeal is disposed of.

The Committee has reached serious findings against Mr Browne and is satisfied, for the reasons rehearsed above in determining that his name be erased from the Dental Care Professionals' Register, that Mr Browne poses a risk to patients and that it would be inconsistent to allow him the opportunity to continue to practise during the intervening appeal period.

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

The effect of the foregoing direction and this order is that Mr Browne's registration will be suspended forthwith. Unless Mr Browne exercises his right of appeal, the substantive direction of erasure will take effect 28 days from when notice is deemed to have been served on him. Should Mr Browne exercise his right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal proceedings.

That concludes the case for today."