

HEARING PARTLY HEARD IN PRIVATE¹

WALKER, Katie

Registration No: 125592

PROFESSIONAL CONDUCT COMMITTEE

OCTOBER 2014 – APRIL 2017

Most recent outcome: suspended indefinitely**

** See page 16 for the latest determination.

Katie WALKER, a dental nurse, NVQ L3 Oral Health Care: Dental Nursing & Indp Asses City & Guilds 2006, was summoned to appear before the Professional Conduct Committee on 27 October 2014 for an inquiry into the following charge:

Charge

“Whilst working as a dental nurse at the Harpers Dental Practice you:

1. Failed to maintain adequate standards of infection control between March 2011 and December 2012, including:
 - a. not decontaminating an impression material application gun on 29 November 2012;
 - b. storing a contaminated impression material application gun in a clean cupboard on 29 to 30 November 2012;
 - c. not carrying out sufficient decontamination of clinical areas and equipment;
 - d. wearing contaminated gloves when cleaning surgery worktops;
 - e. incorrectly bagging up sterilised instruments;
 - f. holding the aspirator tip against your leg while assisting chair-side in surgery;
 - g. not wearing gloves to deal with clinical waste;
 - h. not correctly completing decontamination logs;
 - i. signing a decontamination log as completed, when you had not carried out all necessary tasks;
 - j. wearing in the clinical environment:
 - i. false nails
 - ii. uncovered footwear
 - iii. dirty footwear
 - iv. dirty clothing.

¹ At the initial hearing some parts were heard in private. The subsequent review hearings were heard in public.

2. You did not adhere to current standards in respect of decontamination between March 2011 and December 2012.
3. Failing to provide to the GDC proof of evidence of your professional indemnity insurance.
4. Your actions at paragraphs 1 and 2 above put patients' safety at risk.

and that therefore the Registrant's fitness to practise as a dental care professional is impaired by reason of misconduct."

Ms Walker was not present and was not represented. On 30 March 2015 the Chairman announced the findings of fact to the Counsel for the GDC:

"Ms Price,

This is the resumption of the part-heard case of Ms Walker. The initial hearing session commenced on 27 October 2014 and was adjourned on 30 October 2014, following a successful adjournment application by Ms Walker. She had not appreciated that she was able to obtain legal representation via her professional indemnifiers, and wished to do so. The Committee agreed to grant her time to seek and engage legal representation to assist her with the continuation of this case. Ms Walker had been representing herself and had been participating in the hearing via telephone.

Since the adjournment in October 2014, Ms Walker has failed to engage with the General Dental Council (GDC) in respect of this Professional Conduct Committee hearing. She is neither present, nor represented on this occasion. On behalf of the GDC, you made an application to continue with the hearing in her absence under Rule 54 of the GDC (Fitness to Practise) Rules 2006 ('the Rules').

In deciding whether to proceed today, the Committee first considered whether notification of this hearing had been sent to Ms Walker in accordance with Rules 13 and 65. It saw the Notification of Hearing (NOH), dated 20 February 2015, which was sent by Special Delivery and First Class post to Ms Walker's registered address. A Royal Mail 'Track and Trace' receipt confirmed that the NOH was delivered and signed for on 21 February 2015 in the printed name of 'K WALKER'. The Committee noted that a copy of the NOH was also sent to her by email. On the basis of this information, the Committee was satisfied that all reasonable efforts had been made to send notification to Ms Walker in accordance with the Rules and that the requirements of service have been met.

The Committee next considered whether to exercise its discretion to proceed with the hearing in Ms Walker's absence. It approached this issue with the utmost care and caution. In accordance with the advice of the Legal Adviser, the Committee took into account the issue of fairness to both parties, with fairness to Ms Walker being of cardinal importance. It also took into account its duty to safeguard the public interest by ensuring an expeditious conclusion of this case.

The Committee had regard to the correspondence from the GDC to Ms Walker regarding her attendance at today's hearing, to which there has been no response. It also noted your submissions regarding the further unsuccessful attempts made by you this morning to contact her by telephone and by text message. The Committee was satisfied, from the information provided, that Ms Walker had been given every opportunity to engage with this process. There has already been a delay of five months due to the adjournment that was granted on 30 October 2014. The Committee was not satisfied that a further adjournment

would secure Ms Walker's attendance on a future date. It concluded that she had voluntarily absented herself from these proceedings. The Committee considered the serious nature of the allegations in this case, some of which Ms Walker has already admitted. In all the circumstances, the Committee determined that it was fair and in the public interest to proceed with the hearing in Ms Walker's absence.

The charge against Ms Walker arises out of her employment as a dental nurse, between March 2011 and December 2012. It is alleged by the GDC that Ms Walker did not maintain adequate standards of infection control and, as a result, she put patients' safety at risk. There is also a separate allegation that Ms Walker failed to provide the GDC with proof of her professional indemnity insurance.

At the outset of the hearing on 27 October 2014, Ms Walker told the Committee that she admitted the following heads of charge: 1(d), 1(g), 1(j)(i), 1(j)(iv) and 3.

The Committee received documentary evidence, which comprised correspondence between the GDC and Ms Walker and the witness statements of Mr DH, dentist, Ms GC, dental nurse and Ms KG, dentist. The Committee also heard oral evidence from each of these witnesses via Skype and from Ms Walker regarding the factual matters in this case. By way of expert evidence, the Committee received a report from, and heard the evidence of, Mr Martin Fulford, who was called by the GDC. Mr Fulford also provided the Committee with a copy of the Department of Health document 'Decontamination Health Technical Memorandum 01-05: Decontamination in primary care dental practices' ('HTM 01-05').

The Committee has considered all the evidence presented to it. It has taken into account your submissions made on behalf of the GDC, and it has accepted the advice of the Legal Adviser. The Committee has considered each head of charge separately and it has borne in mind that the burden of proof rests with the GDC. The standard of proof is the civil standard, that is, whether the allegations are proved on the balance of probabilities. This means that the Committee has had to decide whether it was more likely than not that the alleged matters occurred. The Committee has drawn no adverse inference from Ms Walker's absence.

In reaching its decisions in relation to the sub-heads at head of charge 1, the Committee accepted the evidence of Mr Fulford that full compliance with HTM 01-05 is required in order to maintain adequate standards of cross infection control. The Committee was also satisfied that Ms Walker had a duty as a registered dental nurse to comply with the requirements of this document.

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

1.a.	<p>Proved.</p> <p>The Committee accepted the evidence of Mr DH, Ms GC and Ms KG. It had regard to the notes DH made of his investigation into an 'Infection Prevention & Control Incident' which occurred on 30 November 2012. He stated in these notes, which he provided with his witness statement, that he had been working with Ms CG at the time of the incident in question. He stated that she, on preparing the dental equipment required, drew his attention to contamination on the impression material application gun. Both Ms GC and Ms KG corroborate this evidence in their witness statements. The Committee also noted that within the documentation relating to the investigation into her practice, Ms Walker had admitted that she forgot to clean the application gun and that the contamination had been pointed out to</p>
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	her by Ms GC.
1.b.	<p>Proved.</p> <p>The Committee accepted the clear evidence of Ms GC, as contained within her witness statement. She stated that she had been responsible for retrieving the impression material application gun from storage, and that is when she noticed that the instrument was contaminated.</p>
1.c.	<p>Proved.</p> <p>The Committee saw a letter dated 25 August 2011 from Mr DH to Ms Walker regarding a meeting that they had had the previous day. In his letter he set out a number of concerns that they had discussed regarding her practice. These included her failure to clean out the aspirator filter and store it correctly, her failure to clean denture burs, and her failure to empty out waste water from the autoclave. Mr DH also drew Ms Walker's attention to her need to comply with HTM 01-05.</p> <p>The Committee also had regard to the information Mr DH provided regarding his inspection of the decontamination room at the practice on 14 September 2012. He noted that a metal shelf in the 'clean area' and the tops of the walls had not been cleaned by Ms Walker at the end of that particular surgery session.</p> <p>The Committee was satisfied from all of this evidence that there were occasions when Ms Walker did not carry out sufficient decontamination of clinical areas and equipment. It accepted the evidence of Mr Fulford, who confirmed that the instructions within HTM 01-05 needed to be complied with. It was clear to the Committee that Ms Walker was failing to comply with all that the memorandum required her to do.</p>
1.d.	<p>Admitted and proved.</p> <p>The Committee noted from the evidence received and from Ms Walker's admission that she wore contaminated gloves on one occasion, namely on 14 September 2012.</p>
1.e.	<p>Not proved.</p> <p>The Committee was not satisfied that the GDC had discharged its burden in relation to this head of charge. It was in no doubt from the evidence that the bag for sterilising the instruments was not properly sealed. However, in its view, there was insufficient evidence to prove that it was Ms Walker that had incorrectly bagged the instruments. The Committee noted that there were a number of dental nurses working in and around the surgery at the material time. It also noted from Mr DH's witness statement that Ms Walker had stated that the writing on the relevant check list was not hers. In evidence to the Committee, she denied this allegation and said that she had not been given the chance to explain the matter fully to Mr DH. In the light of the evidence, the Committee was persuaded that someone else could have bagged the instruments incorrectly.</p>

1.f.	<p>Not proved.</p> <p>The Committee accepted the evidence of Ms Walker that she had a habit of placing the “long tube” of the aspirator against her leg, but not the tip. The Committee received no evidence to the contrary. It took into account the demonstration given by Mr DH during his evidence and his comments about the potential of cross infection control by holding an aspirator in the manner described by Ms Walker. However, in the Committee’s view, this was not evidence that she held the aspirator tip against her leg, as specifically alleged.</p>
1.g.	Admitted and proved.
1.h.	<p>Proved.</p> <p>The Committee saw evidence that Ms Walker incorrectly completed decontamination logs. It noted the copy of the decontamination log for the week ending 19 August 2011, on which Ms Walker had recorded “N/A” in respect of two tasks which should have been done.</p>
1.i.	<p>Proved.</p> <p>Ms Walker had signed the decontamination log for the week ending 19 August 2011.</p>
1.j.i.	Admitted and proved.
1.j.ii.	<p>Proved.</p> <p>Ms Walker seemed unclear about the precise meaning of the term “uncovered footwear” as set out in this head of charge. However, she accepted that the shoes she was wearing at the time were canvas ballet pumps. The Committee was therefore satisfied that she was wearing uncovered footwear.</p>
1.j.iii.	<p>Proved.</p> <p>It is well documented within the notes relating to the investigation into Ms Walker’s practice that she did wear dirty clothing. The Committee accepted the evidence of Mr DH in his witness statement and the contemporaneous record made by CF (a receptionist). In her evidence, Ms Walker confirmed to the Committee that she did have a stain on her uniform, although she did not accept that the stain made her clothes dirty.</p>
1.j.iv.	Admitted and proved.
2.	<p>Proved.</p> <p>The Committee took into account its findings so far, and also Mr Fulford’s evidence in relation to the status of HTM 01-05. It was satisfied that on numerous occasion between the dates in question, Ms Walker failed to adhere to current standards in respect of decontamination.</p>
3.	<p>Admitted and proved.</p> <p>The Committee was satisfied that Ms Walker had a duty as a GDC registrant</p>

	to provide proof of her professional indemnity insurance to her regulator. She admitted that she did not do so. Whilst the Committee noted that the GDC has subsequently received evidence that she was indemnified over the period in question, this was not provided by Ms Walker.
4.	Proved. Cross infection control standards are in place specifically to protect patients. Ms Walker did not conform to all of the standards applicable to her work as a dental nurse and therefore put patients' safety at risk.

We move to Stage Two.”

On 31 March 2015 the Chairman announced the determination on misconduct and impairment as follows:

“Ms Price,

Ms Walker is neither present nor represented.

The Committee has considered all the evidence presented to it. It has taken into account your submissions made on behalf of the General Dental Council (GDC) and it has accepted the advice of the Legal Adviser.

Facts

The proven facts are that Ms Walker failed to maintain adequate standards of infection control between March 2011 and December 2012, whilst she was practising as a dental nurse. Her conduct in this respect included:

- Failing to follow decontamination procedures;
- not correctly completing decontamination logs;
- wearing contaminated gloves when cleaning surgery worktops;
- not wearing gloves to deal with clinical waste;
- wearing inappropriate and dirty clothing in the clinical environment.

In failing to adhere to current standards in respect of decontamination, Ms Walker put patients' safety at risk.

The Committee has also found that Ms Walker failed to provide the GDC with proof of her professional indemnity insurance.

Misconduct

The Committee considered whether the facts found proved amount to misconduct. It took into account that a finding of misconduct in this regulatory context should relate to a serious departure from accepted professional standards. It had regard to the GDC's 'Standards for Dental Professionals (May 2005)', in particular the following principles and paragraphs:

1. Putting patients' interests first and acting to protect them.
5. Maintain your professional knowledge and competence.

- 5.3. Find out about current best practice in the fields in which you work. Provide a good standard of care based on available up-to-date evidence and reliable guidance.
- 5.4 Find out about laws and regulations which affect your work, premises, equipment and business, and follow them.

Ms Walker failed to adhere to fundamental standards of cross infection control. The evidence confirms that there were established cross infection control protocols in place at the practice where she worked. It was also clear that Ms Walker, who is a dental nurse of many years' experience, was well aware of what was expected of her. This included her accepted knowledge of the Department of Health's 'Decontamination Health Technical Memorandum 01-05: Decontamination in primary care dental practices' ('HTM 01-05'). Despite this, Ms Walker fell seriously short of these standards and the GDC's professional standards on more than one occasion, and in many aspects of her work. This included concerns about her personal appearance and behaviour.

The Committee took into account the report of Mr Martin Fulford, the expert witness called by the GDC, whose opinion was that Ms Walker's failure to carry out her duties adequately and with due diligence in respect of decontamination put not only patients' safety at risk, but also that of her colleagues.

The Committee also had regard to Ms Walker's failure to provide the GDC with proof of her professional indemnity insurance. Professional indemnity insurance is an important requirement for all dental professionals, as it provides patients with the assurance of financial redress, should anything go wrong with their dental treatment. The Committee considered that it was Ms Walker's duty as a registered dental nurse to submit evidence of her professional indemnity insurance on request. By not doing so, she demonstrated a disregard for her regulator and its important function in protecting patients.

In all the circumstances, the Committee is satisfied that its serious findings well exceeded the threshold of misconduct. Misconduct is therefore made out in this case.

Impairment

The Committee next considered whether Ms Walker's fitness to practise is currently impaired by reason of her misconduct.

In reaching its decision, the Committee exercised its independent judgement and has borne in mind that its duty is to act in the public interest. The public interest 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.

The Committee was satisfied that Ms Walker's failings are remediable with insight. However, in view of her intermittent engagement with the GDC, it has received no evidence of remediation. Furthermore, the Committee has not seen or heard any evidence to suggest that Ms Walker has any insight into her shortcomings. She has not demonstrated any remorse for her failings, nor has she shown any understanding of the serious risk her behaviour posed to patients, to her colleagues and on occasion to herself. Ms Walker has been provided with every opportunity to engage with this process, but has chosen not to do so.

In the absence of any evidence to the contrary, the Committee has concluded that the serious concerns about Ms Walker's practice remain unaddressed. It considered that the risk

of repetition is high and that if this risk materialises, the safety and wellbeing of patients could be compromised. A finding of impairment is therefore necessary to protect the public.

The Committee went on to consider the public interest. It decided that public confidence in the dental profession would be undermined if a finding of impairment were not made in the circumstances of this case. A reasonable, fully informed member of the public would expect strict adherence to well established systems of cross infection control.

In all the circumstances, the Committee has determined that Ms Walker's fitness to practise is currently impaired."

On 31 March 2015 the Chairman announced the determination on sanction as follows:

"Ms Price,

Ms Walker is neither present nor represented.

The Committee has considered all the evidence presented to it. It has taken into account your submissions made on behalf of the General Dental Council (GDC) and it has accepted the advice of the Legal Adviser.

The Committee has already determined that the findings against Ms Walker amount to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It has now considered what sanction, if any, to impose on her registration.

The Committee has borne in mind that the purpose of a sanction is not to be punitive, although it may have that effect, but to protect patients and to protect the wider public interest. It has taken into account the 'Guidance for the Professional Conduct Committee (November 2009)'. It considered the range of sanctions available to it, starting with the least serious. The Committee applied the principle of proportionality, balancing the public interest with Ms Walker's own interests.

In view of its serious findings, which highlight an ongoing risk to the safety and wellbeing of patients, the Committee has determined that it would be inappropriate to conclude this case without taking any action in respect of Ms Walker's registration. It reached the same conclusion in respect of a reprimand. These courses of action would not serve to protect the public from potential harm, nor would they satisfy the wider public interest.

The Committee considered whether to impose conditions on Ms Walker's registration. However, given her intermittent engagement with this regulatory process, it concluded that it could not formulate any workable conditions to protect the public adequately.

The Committee went on to consider whether to suspend Ms Walker's registration. In doing so, it took into account your submissions regarding the aggravating features in this case. These being:

- the clear risk of patient harm arising out of Ms Walker's failings in infection control;
- the lack of evidence of insight;
- the lack of evidence of any remorse;
- Ms Walker's failure to provide evidence of her professional indemnity insurance, which demonstrated a disregard for her regulatory body.

The Committee noted that despite being given every opportunity to participate in this adjourned hearing Ms Walker had chosen not to do so.

The Committee had regard to the evidence it received at the start of the hearing, in October 2014, in relation to Ms Walker's health. However, it concluded that this evidence is not relevant to the issues in this case. This was confirmed by the medical report seen by the Committee. Her condition did not impact on her capabilities in carrying out her duties. Ms Walker herself agreed that this was the case.

Having taken all of the above factors into account, the Committee was in no doubt that the matters in this case are serious. They involve wide ranging and fundamental failings on Ms Walker's part, which cover several areas of her work. She has also failed in her duty to engage fully with her professional body. Ms Walker appears to have failed to grasp the serious nature of the concerns that have been raised about her practice and her behaviour.

However, having considered all the circumstances, the Committee does not find that her shortcomings indicate an incompatibility with continued registration. It remains of the view that Ms Walker's failings are remediable with insight. It therefore considered that a higher sanction than suspension would be punitive and disproportionate.

The Committee has determined to suspend Ms Walker's registration for a period of 6 months. It considers that this sanction is proportionate and sufficient for the protection of the public. The Committee was also satisfied that it would address the public interest by sending a clear message to Ms Walker and to dental professionals that the behaviour highlighted in this case is unacceptable. In considering the length of the suspension, the Committee decided that a 6-month period would give Ms Walker the opportunity to focus her mind on the issues in this case and afford her the opportunity to address her clinical failings.

A Committee will review Ms Walker's case at a resumed hearing, to be held shortly before the end of the period of suspension. That Committee will consider what action to take in relation to her registration. She will be informed of the date and time of that resumed hearing.

The Committee reviewing Ms Walker's case may find it helpful to receive from her:

- evidence of her insight into the matters in this case;
- evidence of how she has been addressing the clinical failings that have been identified in her practice;
- evidence of her knowledge and understanding of her obligations to her regulatory body.

Unless Ms Walker exercises her right of appeal, her registration will be suspended 28 days from the date when notice of this determination is deemed to have been served upon her. However, the Committee now invites submissions from you, as to whether her registration should be suspended immediately, pending this substantive determination taking effect."

“Ms Price,

In reaching its decision on whether to impose an immediate order of suspension on Ms Walker’s registration, the Committee has taken into account your submission that such an order should be imposed. It has accepted the advice of the Legal Adviser.

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 the immediate suspension of Ms Walker’s registration. It has made serious findings in relation to failings in Ms Walker’s practice, which she is yet to address. The immediate suspension of her registration is therefore necessary to protect the public, pending the substantive determination taking effect. Further, the Committee has decided that a period of suspension is required to send a clear message that Ms Walker’s behaviour has been unacceptable. It considered that public confidence in the dental profession, and in this regulatory process, would be undermined if an order were not imposed in response to this.

The effect of the foregoing determination and this order is that Ms Walker’s registration is to be suspended to cover the appeal period. If Ms Walker does not appeal, the substantive direction for suspension, as already announced, will take effect 28 days from the date when notice is deemed to have been served upon her and it will continue for a period of 6 months.

Should Ms Walker exercise her right of appeal, this immediate order for suspension will remain in place until the resolution of any appeal.

The interim order currently on Ms Walker’s registration is hereby revoked.

That concludes this hearing.”

At a review hearing on 23 October 2015 the Chairman announced the determination as follows:

“Ms Donnelly,

This is a resumed hearing for the purposes of s 36Q of the Dentists Act 1984 (the “Act”). On behalf of the General Dental Council (GDC) you made an application to proceed in the absence of Ms Walker.

Service

A notification of hearing dated 15 September 2015 was sent by Special Delivery to Ms Walker at both her registered address and an alternative last known address. Royal Mail ‘Track and Trace’ records that the items were delivered on 16 September 2015, each signed for under the name ‘K WALKER’. However, the item sent to Ms Walker’s registered address was subsequently returned to sender marked ‘addressee gone away’.

A copy of the notification was also sent to Ms Walker via an email secure file service on 5 October 2015.

The notification duly set out the time, date and venue of this hearing, amongst other information prescribed under Rule 28 of the General Dental Council (Fitness to Practise) Rules 2006 (the “Rules”). There was an incorrect reference to s 36Q(2) of the Act (instead of s 36Q(1)). However, nothing turns on this typographical error in terms of the validity of the notification, which had been duly served on Ms Walker in accordance with Rule 65.

Absence

The Committee was satisfied that the GDC had made all reasonable efforts to notify Ms Walker of this hearing and its purpose. Ms Walker is likely to be aware of this hearing, having apparently signed for the notification sent to her alternative last known address. There was no response from her to that notification. She ceased engaging in these proceedings following her successful application for an adjournment of her initial hearing before the Professional Conduct Committee (PCC) in October 2014. The adjournment had been granted to allow Ms Walker time to pursue legal advice. However, when the hearing resumed on 30 March 2015 there had been no further contact from her and the initial PCC determined to proceed in her absence:

...Ms Walker had been given every opportunity to engage with this process. There has already been a delay of five months due to the adjournment that was granted on 30 October 2014. The Committee was not satisfied that a further adjournment would secure Ms Walker's attendance on a future date. It concluded that she had voluntarily absented herself from these proceedings...

There has been no application for a postponement of the hearing today and there is nothing to suggest that an adjournment would make Ms Walker's attendance more likely at a future date. In all circumstances the Committee found that Ms Walker had waived her right to attend this hearing. Further, the period of suspension to which her registration is currently subject is due to expire on 4 November 2015. Any adjournment beyond that date may result in a loss of jurisdiction in relation to the matter before the Committee.

The Committee balanced the public interest, which includes the expeditious disposal of proceedings, with Ms Walker's interests, and was satisfied that it would be fair and in the interests of justice to proceed, notwithstanding her absence.

The resumed hearing

On 31 March 2015 the initial PCC found that Ms Walker's fitness to practise as a dental nurse is impaired by reason of her misconduct, summarising the factual background as follows:

...Ms Walker failed to maintain adequate standards of infection control between March 2011 and December 2012, whilst she was practising as a dental nurse. Her conduct in this respect included:

- *Failing to follow decontamination procedures;*
- *not correctly completing decontamination logs;*
- *wearing contaminated gloves when cleaning surgery worktops;*
- *not wearing gloves to deal with clinical waste;*
- *wearing inappropriate and dirty clothing in the clinical environment.*

In failing to adhere to current standards in respect of decontamination, Ms Walker put patients' safety at risk.

The Committee has also found that Ms Walker failed to provide the GDC with proof of her professional indemnity insurance...

In finding that Ms Walker's fitness to practise is impaired, the initial PCC stated:

...Ms Walker's failings are remediable with insight. However, in view of her intermittent engagement with the GDC, it has received no evidence of remediation. Furthermore, the Committee has not seen or heard any evidence to suggest that Ms Walker has any insight into her shortcomings. She has not demonstrated any remorse for her failings, nor has she shown any understanding of the serious risk her behaviour posed to patients, to her colleagues and on occasion to herself. Ms Walker has been provided with every opportunity to engage with this process, but has chosen not to do so.

In the absence of any evidence to the contrary, the Committee has concluded that the serious concerns about Ms Walker's practice remain unaddressed. It considered that the risk of repetition is high and that if this risk materialises, the safety and wellbeing of patients could be compromised. A finding of impairment is therefore necessary to protect the public.

The Committee went on to consider the public interest. It decided that public confidence in the dental profession would be undermined if a finding of impairment were not made in the circumstances of this case. A reasonable, fully informed member of the public would expect strict adherence to well established systems of cross infection control...

The initial PCC directed that Ms Walker's registration be suspended for a period of six months with a review. It stated that any reviewing Committee may find it helpful to receive the following from Ms Walker:

- *evidence of her insight into the matters in this case;*
- *evidence of how she has been addressing the clinical failings that have been identified in her practice;*
- *evidence of her knowledge and understanding of her obligations to her regulatory body.*

It is the role of this Committee today to undertake the review directed by the initial PCC. The Committee heard your submissions and accepted the advice of the Legal Adviser. It considered all the material before it carefully.

In assessing whether Ms Walker's fitness to practise remains impaired by reason of her misconduct, the Committee had regard in particular to her level of insight, any remediation and the risk of repetition. It is for Ms Walker to satisfy this Committee that she has addressed all aspects of impairment found by the initial PCC.

There is no new information before the Committee regarding any insight Ms Walker may have developed, nor is there any evidence of remediation, given her complete lack of engagement following the adjournment of her initial PCC in October 2014. The findings against Ms Walker relate to serious failings in basic and fundamental aspects of dental nursing practice. Those failings put patients, colleagues and Ms Walker at risk of harm. The Committee considered that her clinical failings are remediable, but in the absence of evidence of any insight and remediation there remains a real risk of repetition.

Ms Walker had disregarded the regulatory requirements of her profession by failing to provide the GDC with proof of her indemnity status. There is no evidence before this Committee that she now understands and accepts the importance of her obligations to her regulatory body and the risk of repetition therefore remains high.

In the light of all of the above, and in the absence of any evidence to demonstrate that there has been any change in circumstances, the Committee decided that Ms Walker's fitness to practise remains impaired. Further, public confidence in the profession and this regulatory process would be seriously undermined if a finding of impairment were not made today.

There is nothing before the Committee to suggest that conditions of practice could be formulated which would be workable, measurable and proportionate to address the risk Ms Walker poses. There has been no engagement from her and the Committee cannot therefore be satisfied that she would comply with any conditions on her registration.

Accordingly, the Committee directs that Ms Walker's registration in the Dental Care Professionals Register shall continue to be suspended under the title of dental nurse for a further period of six months beginning with the date on which the current period of suspension would otherwise expire. It considers that this sanction is proportionate and sufficient for the protection of the public.

The period of suspension will be reviewed prior to its expiry. Any reviewing Committee may be assisted by evidence from Ms Walker on the matters indicated by the initial PCC and quoted above.

That concludes the hearing today."

At a review hearing on 20 April 2016 the Chairman announced the determination as follows:

“Service of Notice of Hearing

The Committee was informed at the start of this hearing that Ms Walker was not in attendance nor was she represented. In her absence, the Committee first considered whether the notice of this hearing had been served on Ms Walker in accordance with rules 28 and 65 of *the General Dental Council (Fitness to Practise) Rules Order of Council 2006* (the rules).

The Committee received a copy of the Notice of Resumed Hearing, dated 19 January 2016, which was sent to Ms Walker's registered address by Special Delivery. The notice was also sent to Ms Walker at an alternate address and via email.

The Committee had sight of an extract from the Royal Mail Track and Trace service which states the item was delivered at Ms Walker's registered address on 25 January 2016, and signed for in the name 'JASON'. It also had sight of an extract in respect of the notice sent to the alternate address which shows that this was delivered on 22 January 2016 and signed for in the name 'WALKER'.

In all the circumstances, the Committee was satisfied that the GDC had made all reasonable efforts to inform Ms Walker of this hearing and concluded that notice had been served in accordance with the rules.

Proceeding in the absence of Ms Walker:

The Committee then considered whether to exercise its discretion under rule 54 to proceed in the absence of Ms Walker. The Committee heard the submissions made by Miss Iman on behalf of the General Dental Council (GDC). It accepted the advice of the Legal Adviser.

The Committee bore in mind that it must exercise the utmost care and caution when considering whether to proceed in Ms Walker's absence. It has also borne in mind the overall fairness of the proceedings to both parties, as well as the public interest in the timely review of this case.

The Committee had regard to the information before it that Ms Walker has not engaged with the GDC since the imposition of the initial suspension order and has not attended any previous hearing. The Committee concluded, based on all of the information before it, that Ms Walker had voluntarily absented herself from this hearing. The Committee was of the view that an adjournment of this review would serve no useful purpose. Further, the Committee considered that it was essential to review the existing order before it lapsed to ensure that the public would not be put at risk.

Having weighed the interests of Ms Walker with those of the GDC and the public interest, including the need for a review to take place expeditiously, the Committee has decided to proceed in Ms Walker's absence.

Decision on Review:

This is the second review of a suspension order initially imposed on Ms Walker's registration for a period of 6 months, with a review, following the decision by the Professional Conduct Committee (PCC) on 31 March 2015.

This hearing was convened pursuant to Section 36Q of the Dentists Act 1984 (the Act) to review the current suspension order, which is due to expire on 31 July 2016.

At the initial substantive hearing in March 2015 the PCC considered allegations relating to whether Ms Walker's fitness to practise was impaired by reason of misconduct. The March 2015 Committee found that her fitness to practise was impaired by reason of her misconduct and imposed a suspension order for 6 months with a review.

At the review in October 2015 the PCC concluded that Ms Walker's fitness to practise remained impaired and imposed a further period of suspension for six months with a review. That Committee gave the following reasons for its decision:

There is no new information before the Committee regarding any insight Ms Walker may have developed, nor is there any evidence of remediation, given her complete lack of engagement following the adjournment of her initial PCC in October 2014. The findings against Ms Walker relate to serious failings in basic and fundamental aspects of dental nursing practice. Those failings put patients, colleagues and Ms Walker at risk of harm. The Committee considered that her clinical failings are remediable, but in the absence of evidence of any insight and remediation there remains a real risk of repetition.

Ms Walker had disregarded the regulatory requirements of her profession by failing to provide the GDC with proof of her indemnity status. There is no evidence before this Committee that she now understands and accepts the importance of her obligations to her regulatory body and the risk of repetition therefore remains high.

In the light of all of the above, and in the absence of any evidence to demonstrate that there has been any change in circumstances, the Committee decided that Ms Walker's fitness to practise remains impaired. Further, public confidence in the profession and this regulatory process would be seriously undermined if a finding of impairment were not made today.

Today Miss Iman referred the Committee to the documentation before it. She outlined the background of this case. Miss Iman submitted that Ms Walker's fitness to practise remains impaired and in the absence of any information from her regarding any remediation or insight there remains a risk of repetition.

The Committee accepted the advice of the Legal Adviser.

The Committee was of the view that the misconduct identified was remediable, but there was no evidence that Ms Walker had taken any steps to address the identified misconduct. Ms Walker has not engaged with the GDC since before the PCC in March 2015.

The Committee was of the view that, given the lack of evidence regarding insight and remediation, there remains a real risk of repetition of the misconduct in this case.

The Committee concluded, based on the information before it, that Ms Walker's fitness to practise remains impaired by reason of her misconduct.

The Committee then considered what, if any, sanction to impose in this case. The Committee was aware of the range of sanctions available to it and that it must consider the sanctions in order starting with the least serious.

The Committee was aware that it should have regard to the principle of proportionality, balancing the public interest against Ms Walker's own interests. The public interest includes the protection of the public, the maintenance of public confidence in the profession, and declaring and upholding standards of conduct and performance within the profession.

The Committee noted its powers under section 36Q of the Act. The Committee had the power to extend the current order for a maximum period of 12 months. Alternatively it could revoke the suspension order or replace the order with a conditions of practice order for up to 3 years.

The Committee first considered whether it would be appropriate to allow the current order to lapse at its expiry or to revoke it with immediate effect. The Committee considered that, given all of the information before it, and for all the reasons outlined above, it would be wholly inappropriate to revoke the current order or to allow it to lapse, as this would not protect the public nor would it be in the public interest.

The Committee next considered whether a period of conditional registration would be appropriate in this case. The Committee was mindful that any conditions imposed must be proportionate, measurable and workable. The Committee was aware that in order for conditions to be appropriate and workable there would need to be some measure of engagement from Ms Walker, which is noticeably absent in this case.

Given the above, the Committee concluded that replacing the suspension order with a conditions of practice order would not be workable or appropriate at this stage.

The Committee considered whether extending the current suspension order would be proportionate and appropriate in this case. The Committee concluded that in all the circumstances of this case a further period of suspension on Ms Walker's registration would

protect the public, uphold the public interest and give Ms Walker what may be one final opportunity to address the misconduct identified in this case. The Committee concluded that given Ms Walker's continued non-engagement and for all the reasons outlined above the appropriate order is that of 12 months suspension, with a review.

The reviewing Committee would be assisted by evidence from Ms Walker relating to what, if any, steps she has taken towards remediation, evidence of insight and an update on her current indemnity insurance status.

That concludes this hearing."

At a review hearing on 12 April 2017 the Chairman announced the determination as follows:

"This is a hearing convened to review the current suspension order relating to Ms Katie Walker.

Decision on service of notice of hearing:

Ms Walker was neither present nor represented at today's hearing. In her absence, the Committee first considered whether notice of this hearing had been served on her in accordance with rules 28 and 65 of the *General Dental Council (Fitness to Practise) Rules Order of Council 2006* (the rules).

The Committee received a copy of the Notice of Hearing, dated 14 March 2017, which was sent to Ms Walker's registered address by Special Delivery and First Class Post. The Committee was satisfied that the notice contained proper notification of today's hearing, including its time, date and location, as well as notification that the Committee has the power to proceed with the hearing in Ms Walker's absence. Additionally, an email of the notice of hearing was sent on 14 March 2017. The Committee also had sight of the extract from the Royal Mail Track and Trace service which indicated that the letter was returned marked 'returned to sender'.

The Committee was satisfied that the notice of this PCC review hearing was served on Ms Walker in compliance with the rules.

Decision on Proceeding in the absence of Ms Walker:

Mr Ahmed, on behalf of the GDC, then made an application under Rule 54 that the hearing should proceed in Ms Walker's absence. The Committee bore in mind that its discretion to proceed with a hearing in these circumstances should be exercised with the utmost care and caution. The Committee was referred to the cases of *R v Jones* [2003]; *R v Hayward* [2001] QB 862; *R v Jones* [2001] EWCA Crim 168; and *GMC v Adeogba & Visvardis* [2016] EWCA Civ 162. It also took account of Mr Ahmed's submissions.

The Committee considered carefully the submissions made by Mr Ahmed and had regard to the issue of the public interest in the expeditious review of this case. He informed the Committee that Ms Walker had been properly notified of today's hearing, had made no application for an adjournment, and had chosen voluntarily to absent herself.

The Committee accepted the advice of the Legal Adviser. It was aware that any registrant has the right to a fair hearing and the right to participate in it.

In the absence of any request from Ms Walker for an adjournment and taking into account her non-attendance at the previous hearings and her non-engagement with the GDC since

the initial adjourned hearing on the 27 October 2014, the Committee was of the view that no useful purpose would be gained by adjourning today. The Committee had no information before it to suggest that Ms Walker would be likely to attend any adjourned hearing for this review. The Committee was mindful that the existing order is due to expire shortly.

The Committee concluded, in all the circumstances, that it was in the public interest to proceed with the hearing in Ms Walker's absence.

Review Hearing

This is a resumed hearing pursuant to Section 36Q of the Dentists Act 1984 (as amended) ('the Act') to review the order of suspension imposed on Ms Walker's registration.

In October 2014 a Professional Conduct Committee (PCC) was adjourned. Ms Walker applied for an adjournment at that hearing to seek legal advice and the hearing resumed in March 2015. However, since then Ms Walker stopped engaging and did not attend the hearing. At the substantive hearing, some of the allegations were proved against Ms Walker. These related to multiple and wide ranging clinical deficiencies in the standard of care and treatment she provided, including cross infection control and lack of indemnity insurance. In March 2015, the PCC directed that Ms Walker's registration be suspended for a period of 6 months to be reviewed prior to its expiry.

First Review

On 23 October 2015, the order of suspension was first reviewed. On that date the Committee decided to proceed in Ms Walker's absence due to her non-engagement. That Committee noted at that hearing that she had not provided any evidence of remediation and in those circumstances that Committee concluded that the same risks to patient safety and public confidence remained. That Committee found that Ms Walker's fitness to practise remained impaired and directed that the order of suspension be extended for a further period of 6 months with a review prior to its expiry.

Second Review

On 20 April 2016, the order of suspension was further reviewed in Ms Walker's absence. That Committee noted that Ms Walker had provided no evidence about any steps she may have taken to remediate the deficiencies identified in her practice. In those circumstances, that Committee concluded that the same risks to patient safety and public confidence remained. It determined that Ms Walker's fitness to practise remained impaired and directed that the order of suspension be extended for a further period of 12 months with a review prior to its expiry.

Third Review

Today this Committee has comprehensively reviewed the case taking into account all the evidence presented. It has considered the submissions made by Mr Ahmed on behalf of the GDC. The Committee accepted the advice of the Legal Adviser.

In considering whether Ms Walker's fitness to practise is currently impaired, the Committee noted that this was a matter for its own independent judgement. It also considered that its duty was to protect the public, declare and uphold proper standards of conduct and competence and maintain public confidence in the profession.

At the material time Ms Walker was working as qualified dental nurse. The facts found proved against Ms Walker related to a wide range of clinical deficiencies in basic areas in her practice including her failure to have indemnity insurance in place.

The Committee noted that the previous Committees gave Ms Walker indications of the steps she could take to assist the deliberations of a review Committee in determining whether her fitness to practise was no longer impaired. There was no evidence before this Committee of any remediation. As a consequence, the Committee concluded that there was a risk of repetition.

The Committee noted that Ms Walker had not acknowledged her faults or shown insight into the seriousness of the deficiencies in her practice. She did not attend this hearing and the Committee could neither assess her level of insight nor any remediation she may have undertaken. The Committee concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case.

The Committee therefore determined that Ms Walker's fitness to practise is currently impaired.

The Committee next considered what action, on this third review under s36Q of the Act, to impose on Ms Walker's registration. It reminded itself that the purpose of any sanction is not to be punitive although it may have that effect. The Committee bore in mind the principle of proportionality. It carefully considered the GDC's Guidance for the Practice Committees, including Indicative Sanctions Guidance (October 2016) ("the PCC Guidance").

The Committee first considered whether to revoke the suspension order. It was of the view that because of the serious nature of the proven allegations together with the absence of any evidence of Ms Walker's insight or remediation, there was a continued risk to patients. Therefore, it would be inappropriate to revoke the suspension order.

The Committee then considered whether to revoke the suspension and replace it with a direction for conditional registration. There has been no engagement by Ms Walker with these proceedings. The Committee noted that at numerous intervals, the GDC, in demonstrating its fairness to Ms Walker, had sent correspondence to her inviting her to engage and reminding her of the previous Committees' recommendations. The Committee concluded that any conditions would not be workable, appropriate or sufficient to protect patients and to uphold the wider public interest, in the circumstances of this case.

The Committee then considered whether to further extend the suspension order for a maximum period of 12 months. Given the Ms Walker's non-engagement with the GDC, her non-engagement in this hearing and previous hearings, the lack of any evidence of insight, remorse or remediation and the seriousness of the failings identified, the Committee was of the view that a further period of suspension with a review would not be likely to achieve a situation of Ms Walker being fully remediated, unimpaired and fit to practise. She has had nearly two years to demonstrate remediation and has wholly failed to do so.

The Committee therefore determined that the only appropriate and proportionate order to make was one of indefinite suspension. It was satisfied that the criteria for making such an order set out in section 36Q of the Act are met in the circumstances of this case. Ms Walker will have been suspended for at least 2 year on the date this direction takes effect and it is made not more than 2 months before the date on which the period of suspension would otherwise expire. The Committee concluded that to further extend the existing order of suspension would serve no useful purpose. The Committee considered the severity of this

outcome. However, in the circumstances, the Committee was satisfied that an indefinite suspension was the only appropriate, sufficient and proportionate order to make so as to protect the public and uphold the wider public interest, for the reasons given.

Accordingly, the Committee directed that Ms Walker's registration be suspended indefinitely pursuant to section 36Q of the Dentists Act 1984, as amended.

That concludes this hearing."