

**HEARING HEARD IN PUBLIC**

**PECKITT, Ninian Spenceley**

**Registration No: 47930**

**PROFESSIONAL CONDUCT COMMITTEE**

**JANUARY 2016**

**Outcome: Erased with Immediate Suspension**

Ninian Spenceley PECKITT, a dentist, F RCS Edin 1984, FDS RCS Eng 1987, FFD RCS Irel 1986, LRCP Lond 1979, M RCS Eng 1979, MB ChB Sheff 1979, BDS Edin 1974, was summoned to appear before the Professional Conduct Committee on 21 January 2016 for an inquiry into the following charge:

**Charge (as amended on 21 January 2016)**

“That, being a registered dentist:

1. On 20 April 2015, a Fitness to Practise Panel (Misconduct) of the Medical Practitioners Tribunal Service (MPTS) found that your fitness to practise as a doctor was impaired by reason of misconduct and made a substantive direction for erasure, to take effect 28 days from the date upon which written notice of this decision was deemed to be served upon you.
2. Between 23 March 2015 and 10 April 2015 you made the following inaccurate statements in correspondence to the General Medical Council (GMC):
  - (a) On 23 March 2015: *“the GDC is critical of the GMC and its departure from procedure.”*
  - (b) On 27 March 2015: (i) *“the GDC has overruled the GMC...”*; (ii) *“the GDC has been highly critical of the GMC.”*
  - (c) On 2 April 2015: *“the competence and lack of probity of the GMC has been condemned by the GDC.”*
  - (d) On 8 April 2015: *“GMC actions to date have been seriously criticised by the GDC ruling.”*
  - (e) On 10 April 2015: *“referral of this case to the GDC has resulted in the GMC being severely criticised by the GDC.”*
3. Your conduct in relation to each of allegations 2 (a) – (e) was misleading.
4. Your conduct in relation to each of allegations 2 (a) – (e) was dishonest in that you knew that the statements set out at paragraphs 2 (a) – (e) were untrue, or alternatively were deliberately closing your eyes to the fact that the statements were untrue.

In consequence of the matters set out above, your fitness to practise as a dentist is impaired by reason of (a) the determination of the MPTS pursuant to section 27 (2) (g) of the Dentists Act 1984 and/ or (b) misconduct pursuant to section 27 (2) (a) of the Dentists Act 1984.”

As Professor Peckitt did not attend and was not represented at the hearing, the Chairman made the following statement regarding proof of service on 21 January 2016. He addressed this to the Counsel for the GDC.

**“Decision on Service of Notice of Hearing:**

Professor Peckitt was neither present nor represented at today’s hearing. In his absence, the Committee first considered whether notice of this hearing had been served in accordance with rules 13 and 54 of the *General Dental Council (Fitness to Practise) Rules Order of Council 2006* (the rules).

The Committee received a copy of the Notification of Hearing, dated 24 November 2015, which was sent to Professor Peckitt’s registered address by way of special delivery and email. The Committee also had sight of the extract from the Royal Mail Track and Trace website showing the item as delivered on 25 November 2015 and signed for. There was also contained within the documents before the Committee a copy of a telephone note which detailed a conversation between Professor Peckitt and a member of staff at Capsticks Solicitors (Capsticks), acting on behalf of the General Dental Council (GDC). On 24 November 2015 Professor Peckitt telephoned Capsticks to request the password to open the notice of hearing that was sent to him by email. The Committee was satisfied that the letter contained proper notification of today’s hearing, including its time and date, as well as notification that the Committee has the power to proceed with the hearing in the absence of Professor Peckitt.

The Committee was satisfied, having regard to the submissions made by Miss Power on behalf of the GDC, and the advice of the Legal Adviser, that the notice of hearing was served on Professor Peckitt in accordance with the rules.

**Proceeding in the absence of Professor Peckitt:**

The Committee then considered proceeding in the absence of Professor Peckitt. The Committee had regard to the submissions made by Miss Power and the advice of the Legal Adviser.

The Committee was mindful that the discretion to proceed in the absence of Professor Peckitt must be exercised with the utmost care and caution as referred to in the case of R. v Jones (Anthony William), (No.2) [2002] UKHL 5. The Committee was aware that every registrant has the reasonable right to attend their hearing or be represented. The Committee must consider all the circumstances of Professor Peckitt’s absence, whether he has chosen voluntarily to absent himself, whether an adjournment would be likely to secure his attendance at a future hearing and the nature of the case against him, when reaching any decision regarding proceeding in his absence.

The Committee had sight of correspondence between Professor Peckitt and Capsticks. This included a series of emails between Professor Peckitt and Capsticks during the course of this morning prior to the start of this hearing. An email was sent to the hearings Department of the GDC on 20 January 2016 declaring a conflict of interest of one of the Committee members due to sit on this hearing. Following receipt of this the members of the Committee were changed to ensure that the case was considered by a Committee consisting of three members with no previous knowledge of this case or any persons involved in it. A number of additional emails have been exchanged between Professor Peckitt and Capsticks following the change in Committee members. Professor Peckitt raised concerns regarding the

jurisdiction to consider the case against him as he is a Maxillofacial Surgeon and there is no Committee member of the same speciality on this Committee.

The Committee was aware that the case against Professor Peckitt is not in relation to his work as a Maxillofacial Surgeon but rather that he was erased from the General Medical Council (GMC) register following a hearing to consider his fitness to practise, as well as allegations relating to correspondence he provided to the GMC where he made assertions about the GDC which are alleged to have been misleading. Further, it is alleged that his conduct was dishonest. The Committee accepted the advice of the Legal Adviser, and accepted the submission made by Miss Power, that there is no other body apart from the Professional Conduct Committee (PCC), which would be able to deal appropriately with matters relating to allegations that Professor Peckitt's fitness to practise as a registered dentist is impaired by reason of misconduct and or the determination of the MPTS pursuant to section 27(2)(g) of the Dentist Act 1984 (the act). The Committee concluded that Professor Peckitt's assertions to the contrary are ill conceived and ill-informed and ultimately wrong.

In deciding whether to proceed in the absence of Professor Peckitt, the Committee had regard to its responsibilities for public protection and the expeditious disposal of the case. It also considered Professor Peckitt's right to attend this hearing. In the light of all the correspondence from Professor Peckitt, particularly his position that he would not be in attendance but would 'represent' himself via email, the Committee has determined that he has chosen voluntarily to absent himself from this hearing. Professor Peckitt has provided evidence for this Committee to consider during the course of this hearing in respect of the charges. The Committee will take that into account, although it will have to decide what weight is appropriate to attach to that evidence in the absence of the attendance of Professor Peckitt or any of his witnesses to be cross examined on the evidence.

In the absence of any request from Professor Peckitt for an adjournment of this hearing, and having regard to the correspondence from him, the Committee concluded that no useful purpose would be gained by adjourning today. Having weighed the interests of Professor Peckitt with those of the GDC and the public interest in an expeditious disposal of the hearing, the Committee decided to proceed in his absence.

#### **Decision and reasons on application to amend charge:**

The Committee heard an application made by Miss Power, under rule 18, to amend the wording of charge 2(a). She informed the Committee that there is a typographical error in the quote contained therein. The proposed amendment was to substitute the words 'has been' to read 'is' as this accurately reflects the quote taken from the correspondence sent to the GMC from Professor Peckitt.

Miss Power informed the Committee Professor Peckitt was informed about this application in an email dated 21 January 2016 at 11:43 and he provided a response at 12:37. Professor Peckitt objected to the amendment and stated 'I object to evidence/allegations being tampered with by the GDC and I allege that to alter such evidence/allegations amounts to an offence.'

The Committee accepted the advice of the Legal Adviser in respect of amending the charges.

The Committee considered the application and concluded that it would allow the amendment to correct the typographical error as applied for. The Committee was of the view that the

amendment will in no way be prejudicial to Professor Peckitt and did not accept his assertion that to make such an amendment would amount to an offence.

Professor Peckitt was not present and was not represented. On 22 January 2016 the Chairman announced the findings of fact to the Counsel for the GDC:

In reaching its decisions on the facts, the Committee considered all the evidence presented in this case. The Committee had regard to the submissions made by Miss Power on behalf of the GDC.

The Committee accepted the advice of the Legal Adviser. In accordance with that advice, it has considered each charge separately. The Committee drew no adverse inference from the non-attendance of Professor Peckitt and considered the material he submitted to the GDC throughout the course of the proceedings.

The Committee was conscious that the burden of proof rests with the GDC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts of a charge will only be proved if the Committee finds that it is more likely than not that the facts occurred as alleged. The Committee reminded itself that Professor Peckitt was not required to prove or disprove anything.

The evidence put before the Committee consisted of a number of documents including copies of the determination produced by the Medical Practitioners Tribunal Service and the transcript of Professor Peckitt's hearing, which took place between 7 and 20 April 2015, a witness statement and correspondence between the GDC and Professor Peckitt and between Professor Peckitt and the GMC. The Committee also had before it a bundle of documents provided by Professor Peckitt including testimonials and a report from Dr Peter Vickers.

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

1.	<p>On 20 April 2015, a Fitness to Practise Committee (Misconduct) of the Medical Practitioners Tribunal Service (MPTS) found that your fitness to practise as a doctor was impaired by reason of misconduct and made a substantive direction for erasure, to take effect 28 days from the date upon which written notice of this decision was deemed to be served upon you.</p> <p><b>Found Proved</b></p> <p>The Committee had sight of the outcome from the MPTS along with the determination produced by the MPTS and the transcript of the hearing, which took place between 7 and 20 April 2015. It was clear from the documents that Professor Peckitt's fitness to practise was found to be impaired and a direction was made for his name erased from the GMC register.</p> <p>The Committee was aware that it could not go behind the decision of another statutory body. In accordance with Section 27(2)(g) of the Dentist Act 1984 the Committee finds this charge proved.</p>
2.	<p>Between 23 March 2015 and 10 April 2015 you made the following inaccurate statements in correspondence to the General Medical Council (GMC):</p>

2.a	On 23 March 2015: <i>“the GDC is critical of the GMC and its departure from procedure.”</i>
2.b	On 27 March 2015: (i) <i>“the GDC has overruled the GMC...”</i> ; (ii) <i>“the GDC has been highly critical of the GMC.”</i>
2.c	On 2 April 2015: <i>“the competence and lack of probity of the GMC has been condemned by the GDC.”</i>
2.d	On 8 April 2015: <i>“GMC actions to date have been seriously criticised by the GDC ruling.”</i>
2.e	On 10 April 2015: <i>“referral of this case to the GDC has resulted in the GMC being severely criticised by the GDC.”</i>
<p><b>Found Proved in its entirety</b></p>	
<p>The Committee had sight of a number of emails that Professor Peckitt sent to the GMC, as detailed in the charge. On 10 April 2015 the GDC was contacted by the GMC regarding various email correspondence that it had received from Professor Peckitt which broadly stated that the GDC had closed its case against him and as such the GMC should not pursue its case. The Committee was satisfied that the quotes contained within the charge are directly lifted from the correspondence sent by Professor Peckitt. These emails were forwarded to the GDC following a request made by a GDC caseworker following that telephone conversation.</p>	
<p>The Committee had sight of the letter sent by the GDC to Professor Peckitt, dated 12 March 2015, informing him of the outcome of the GDC’s Investigating Committee (IC) Rule 10 consideration of its first case against him. The decision of the IC stated:</p>	
<p><i>‘The Committee has reviewed the decision of 4 December 2014, the GDC Rule 10 application and the original IC bundle of 4 December 2014. The information provided sets out that on 4 December 2014 the Committee decided “that the GMC has scrutinised the evidence before it and decided that it was sufficient to impose conditions on the registrant’s registration”, the Committee was satisfied that there was a real prospect of a finding of current impairment being made by a GDC Practice Committee. However the information in the Rule 10 Application and the original IC bundle sets out that on 14 August 2013 the GMC’s Interim Orders Committee placed conditions on the registrant’s registration rather than conditions being imposed following a substantive GMC finding of Impairment of fitness to practise; on that basis the Committee considers that it is appropriate to revise its earlier decision.’</i></p>	
<p>The Committee considered that the decision of the IC was clear that it was closing the case against Professor Peckitt on the grounds it was made on erroneous information as the GMC case had not been completed and the GMC had not made any findings in relation to Professor Peckitt’s fitness to practise at that stage. A second investigation had in fact been opened by the GDC and Professor Peckitt was informed of this by way of a letter dated 3 February 2015. The second case against Professor Peckitt was put on hold until the outcome of the substantive GMC hearing in April 2015. There is no</p>	

	<p>mention in the letter of 12 March 2015 of any criticism of the GMC decision or process.</p> <p>The Committee considered that based on the documents before it the statements made by Professor Peckitt were inaccurate in that the GDC did not make any criticisms of the GMC or its processes. As such this charge is found proved in its entirety.</p>
<p>3.</p>	<p>Your conduct in relation to each of allegations 2 (a) – (e) was misleading.</p> <p><b>Found Proved</b></p> <p>Having found that the incorrect statements were made by Professor Peckitt in his communications with the GMC the Committee then considered whether the statements were misleading. The Committee had sight of an email sent to the GDC on 28 April 2015 from the GMC requesting information regarding the assertion from Professor Peckitt that the GDC had closed its case against him. The GMC further queried the assertion made by Professor Peckitt that the GDC had been critical of the GMC. The Committee concluded that an inference could properly be drawn that the GMC were misled by the inaccurate statements made by Professor Peckitt over a period of time, to the extent that they had to seek clarification about what, if anything, was actually said by the GDC. The Committee concluded that Professor Peckitt’s emails to the GMC led the GMC to believe that the GDC had been critical of the GMC and this shows that the GMC had in fact been misled by Professor Peckitt.</p> <p>Given all the above the Committee finds this charge proved.</p>
<p>4.</p>	<p>Your conduct in relation to each of allegations 2 (a) – (e) was dishonest in that you knew that the statements set out at paragraphs 2 (a) – (e) were untrue, or alternatively were deliberately closing your eyes to the fact that the statements were untrue.</p> <p><b>Found Proved</b></p> <p>The Committee was referred to the test as summarised in the case of <u>Kirschner v General Dental Council [2015] EWHC 1377 (admin)</u> in relation to dishonesty and the modified two part test which it must apply when reaching its decision on this charge in a case where the civil standard of proof applies. First is the objective test; whether according to the ordinary standards of reasonable and honest dentists what was done by Professor Peckitt was dishonest. If it was dishonest by those standards then secondly, the subjective test should be applied and the Committee had to consider whether it is more likely than not that Professor Peckitt realised that what he was doing was, by the above standards, dishonest.</p> <p>The Committee was of the view that the correspondence between Professor Peckitt and the GMC and Professor Peckitt and the GDC demonstrates that he has not been honest in his communications, and in particular the inaccurate statements detailed in charge 2. The Committee noted that none of the emails containing these inaccurate statements were copied to the GDC by Professor Peckitt, although he did copy in a number of other people and organisations into the emails. This explains why that the first time the</p>

GDC were made aware of these emails was when contacted by the GMC to query the accuracy of the statements. This was supported by his statement to the GMC in an email dated 19 March 2015 in which he stated *'Please note that Oral and Maxillofacial Surgery is a Dental Specialty and therefore comes under the regulation of the GDC as a specialty. Therefore the views of the GDC are relevant.'* In his correspondence to the GDC, dated 21 January 2016, he stated *'the GDC has no remit or authority to hear a case related to Maxillofacial Surgery which is a Medical Specialty and outside their jurisdiction...'* The Committee was of the view that the opinions expressed by Professor Peckitt alter dependent upon the recipient of his correspondence.

The Committee was referred to the judgment in the case of Twinsectra Ltd v Yardley and others [2002] UKHL 12 which outlined the principle of 'Nelsonian Dishonesty'. This principle is derived from when Lord Nelson at the battle of Copenhagen made a deliberate decision to place the telescope to his blind eye in order to avoid seeing what he knew he would see if he placed it to his good eye. As such the Committee was invited to consider whether Professor Peckitt 'turned a blind eye' to the inaccuracy of the statements that he made to the GMC. The Committee concluded that Professor Peckitt was aware that the statements he was making were untrue and as such did not consider that he simply turned a blind eye.

The Committee considered the case of Uddin v General Medical Council (GMC) [2012] EWHC 2669 (Admin) and considered whether Professor Peckitt's statements were innocent or even negligent mistakes in which case they would not have been dishonest. It concluded, based on all the evidence before it, that Professor Peckitt was aware of the untruthful nature of the statements that he made on multiple occasions and considered that these were not innocent or negligent statements. The Committee was of the view that the reasonable and honest dentist, in possession of all the facts of this case, would consider that Professor Peckitt's conduct was dishonest. The Committee also concluded that Professor Peckitt was aware that the statements that he was making had no basis in truth and therefore he was acting dishonestly. As such this charge is found proved."

On 22 January 2016 the Chairman announced the determination as follows:

"Having announced its finding on all the facts, the Committee heard submissions on the matters of misconduct, impairment and sanction.

Miss Power submitted that the facts found proved, at charges 2 to 4 do, individually and collectively, amount to misconduct. She outlined the specific issues identified in respect of the facts in line with the standards, which in her submission, have been breached.

Miss Power then moved on to the issue of current impairment in respect of any finding of misconduct and the MPTS determination. She addressed the Committee on the factors that it must consider. She also addressed the Committee on the need to have regard to protecting the public and the wider public interest. This included the need to declare and uphold proper standards and maintain public confidence in the profession and in the GDC as a regulatory body.

Miss Power addressed the Committee on the matter of sanction and invited the Committee to consider whether this is a case where nothing short of erasure would be appropriate. She referred the Committee to the specific matters for consideration as set out in the 'Guidance for the Practice Committees' as published by the GDC in October 2015.

The Committee fully considered all the evidence in this case as well as the submissions made by Miss Power and the written correspondence received from Professor Peckitt. It accepted the advice of the Legal Adviser, which included the factors relevant to the considerations of the Committee and relevant case law.

**Decision on whether the facts found proved amount to misconduct:**

When determining whether the facts found proved at charges 2 to 4 amount to misconduct the Committee had regard to the terms of the relevant professional standards in force at the time of the incidents. The Committee was referred to the case of Roylance v GMC (no. 2) [2000] 1 AC 311 which defines misconduct as 'a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances'. The Committee was also referred to the case of Johnson and Maggs v Nursing and Midwifery Council [2013] EWHC 2140 (Admin) as to whether there had been 'a serious departure from acceptable standards or deplorable conduct' and to the case of R (on the application of Remedy UK Ltd) v GMC [2010] EWHC 1245 (Admin) as to whether the facts proved demonstrated conduct which was 'disgraceful'.

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

The Committee has concluded that Professor Peckitt's conduct was in breach of each of the sections of the *Standards for the Dental Team* (2013) as set out below.

**Standard 9.1**

*You must ensure that your conduct, both at work and in your personal life, justifies patients' trust in you and the public's trust in the dental profession.*

**Standard 9.4**

*You must co-operate with any relevant formal or informal inquiry and give full and truthful information*

The Committee appreciated that the above breaches do not automatically result in a finding of misconduct. However, the Committee was of the view that the breaches in this case are serious and fundamental. The Committee concluded that Professor Peckitt's conduct was a significant departure from the standards expected of a registered dental professional. The Committee was of the view that Professor Peckitt's engagement with the GDC and the GMC has demonstrated an uncooperative approach intended to mislead. Professor Peckitt's flagrant disregard for the expectations and authority of his regulators is, in the view of the Committee, conduct that would be considered as deplorable by fellow professionals. Making false statements about his regulator in an attempt to mislead another regulator was egregious conduct that is unbecoming of a registered dentist.

The Committee considered that the Professor Peckitt's conduct as facts found proved at charges 2 to 4, individually and collectively, fell significantly below the standards expected of a registered dental professional and amounted to misconduct that is serious.

**Decision on impairment:**

The Committee proceeded to decide if, as a result of this misconduct and the determination of the MPTS, Professor Peckitt's fitness to practise is currently impaired.

Dental professionals occupy a position of privilege and trust in society and must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard the Committee considered the judgment of Mrs Justice Cox in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin). In paragraph 74 she said;

*74. In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant Committee should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.*

Mrs Justice Cox went on to say in Paragraph 76:

*76. I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for Committees considering impairment of a doctor's fitness to practise, but in my view the test would be equally applicable to other practitioners governed by different regulatory schemes.*

*"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

The Committee considered that the misconduct found by the MPTS had the potential to place patients at unwarranted risk of harm and that the MPTS was sufficiently concerned by its findings in respect of ongoing risk to patients as well as the public interest to remove him from the GMC register. The Committee was of the view that Professor Peckitt making false statements about his regulator to another of his regulators did bring the profession into disrepute. Further, the Committee concluded that, by acting dishonestly, Professor Peckitt did breach a fundamental tenet of the profession.

Regarding insight and remediation the Committee had no information from Professor Peckitt that he has taken any steps to remedy his conduct or any recognition that his conduct was inappropriate. Further, there appears to be no appreciation, by Professor Peckitt, of the seriousness of his blatant and wilful disregard of the standards placed upon him by his regulators. Additionally, his ongoing correspondence which states that he stands by his view

that the statements made by him regarding the criticisms levied by the GDC towards the GMC are correct and accurate gives rise to a real risk of repetition. The Committee was of the view that, the findings in this case of dishonest conduct, and disregard for the authority of his profession, is behaviour related to character and is difficult to remedy and hence the Committee cannot be satisfied that the risk of repetition is highly unlikely.

The Committee considered that the correspondence sent throughout this hearing from Professor Peckitt is demonstrative of his ongoing lack of insight and his lack of honesty in relation to his communications regarding the GDC and GMC processes. The Committee further considered that Professor Peckitt's correspondence throughout this hearing have been attempts to undermine the regulatory process.

The Committee was of the view that Professor Peckitt has demonstrated very poor professional judgement through his behaviour and it was concerned by his ongoing assertions that the GDC has no authority to consider the case against him. The Committee also considered that the ongoing correspondence from Professor Peckitt was indicative of a lack of insight through his persistently held view that he had done nothing wrong.

The Committee has borne in mind that its primary function is not only to protect patients but also to take account of the wider public interest, which includes maintaining confidence in the dental profession and the GDC as a regulator, and upholding proper standards and behaviour.

The misconduct identified in this case was, in the view of the Committee, sufficiently serious that it would be incompatible not to make a finding of impairment. Further, public confidence in the profession would be significantly undermined were the Committee not to make a finding of current impairment, which would effectively amount to a full acquittal.

The MPTS found that Professor Peckitt is unfit to practice as a doctor and erased his name from the medical register. The Committee agreed with the decision of the MPTS that Professor Peckitt's conduct placed patients at risk of harm and impacted on the public confidence in the professions. The public would, on all the facts of this case expect that Professor Peckitt's fitness to practise as a dentist is similarly impaired. The facts found proved by the MPTS included that Professor Peckitt punched a patient in the face in a manner unacceptable as medical treatment and that he had also left an outpatient clinic early without reasonable explanation.

The Committee noted the testimonials provided by Professor Peckitt and the information that prior to this there were no fitness to practise concerns raised against Professor Peckitt with the GDC.

Having regard to all of this the Committee has concluded that Professor Peckitt's fitness to practise is currently impaired by reason of misconduct and the determination of the MPTS.

### **Decision on sanction**

The Committee next considered what sanction, if any, to impose on Professor Peckitt's registration. It recognised that the purpose of a sanction is not to be punitive, although it may have that effect, but rather to protect patients and the wider public interest.

The Committee has taken into account the GDC's '*Guidance for the Practice Committees*'. The Committee applied the principle of proportionality, balancing the public interest with Professor Peckitt's interests. The Committee has considered the range of sanctions available to it, starting with the least serious.

In the light of the findings against him the Committee has determined that it would be wholly inappropriate and irresponsible to conclude this case without taking any action or with a reprimand, as neither would restrict Professor Peckitt's registration, address the complete lack of insight and the flagrant disregard for the expectations and authority of his regulator.

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 considered that, in order for conditions to be workable, there would need to be insight, a measure of positive engagement and co-operation from Professor Peckitt, all of which are noticeably absent in this case. In any event, the Committee determined that it would not be possible to formulate appropriate and practical conditions which would address the dishonesty in this case and the persistent wilful disregard of the requirements placed on his registration by his regulator. The Committee concluded that conditions would not be appropriate, workable or proportionate in this case.

The Committee then considered whether a suspension order would be proportionate and appropriate in this case. The Committee is in no doubt that Professor Peckitt's persistent dishonesty was wholly unacceptable and seriously damaging to the reputation of the profession and to the public's confidence in the dental profession. The Committee had nothing before it to show that Professor Peckitt has any insight into the seriousness of his actions, either his dishonest conduct or the findings of the MPTS, or the potential consequences. On the contrary the Committee had before it statements made by Professor Peckitt that demonstrated his ongoing assertions that the statements made by him are accurate and that the GDC has no authority or jurisdiction over this case.

The Committee considered the case of Parkinson v Nursing and Midwifery Council [2010] EWHC 1898 (Admin), which stipulated that 'a nurse found to have acted dishonestly is always going to be at severe risk of having his or her name erased from the register. A nurse who has acted dishonestly, who does not appear before the Committee to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, forfeits the small chance of persuading the Committee to adopt a lenient or merciful outcome and to suspend for a period rather than to direct erasure'. The Committee appreciated that the case of Parkinson was in respect of a nurse, however it was of the view that the principles outlined therein apply equally to a dentist. Professor Peckitt has not provided any evidence of remorse, insight or any undertaking that his dishonesty would not be repeated.

The Committee then considered whether the issues identified are fundamentally incompatible with Professor Peckitt remaining on the Register.

The Committee considered the guidance in relation to considering imposing a sanction of erasure. In particular:

*The ability to erase exists because certain behaviours are so damaging to a registrant's fitness to practise and to public confidence in the dental profession that removal of their professional status is the only appropriate outcome. Erasure is the most severe sanction that can be applied by the PCC and should be used only where there is no other means of protecting the public and/or maintaining confidence in the profession.*

*Erasure will be appropriate when the behaviour is fundamentally incompatible with being a dental professional: any of the following factors, or a combination of them, may point to such a conclusion:*

- *serious departure(s) from the relevant professional standards;*
- *where a continuing risk of serious harm to patients or other persons is identified;*
- *serious dishonesty, particularly where persistent or covered up;*
- *a persistent lack of insight into the seriousness of actions or their consequences.*

In all the circumstances of this case the Committee concluded that Professor Peckitt's behaviour is fundamentally incompatible with him being a registered dental professional. The Committee was of the view that the findings of the MPTS are so serious that it would be incompatible to allow Professor Peckitt to remain on the GDC register. Particularly given the seriousness of the findings and the patient harm identified, which the Committee considered translated into his work as a dentist. The Committee was of the view that Professor Peckitt's sustained and premeditated dishonesty was so serious that nothing short of erasure would be appropriate. The Committee concluded that the only proportionate sanction is that of erasure.

The Committee considered that this order is necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standards of conduct required of a registered dental professional at all times.

The Committee was aware that the effect of this order is that Professor Peckitt will be prevented from working as a registered dental professional using a GDC registration. This could result in financial hardship, though the Committee received no direct information about that matter. However, in applying the principle of proportionality, the Committee determined that Professor Peckitt's interests in this regard are outweighed by the need for public protection and protection of the wider public interest.

In accordance with the Dentist Act 1984 the interim order currently on Professor Peckitt's registration is hereby revoked.

**Immediate Order:**

Having directed that Professor Peckitt's name be erased from the register the Committee had to consider, in accordance with rule 22(2), whether to impose an immediate order to cover the appeal period, or until any appeal against the outcome is heard.

The Committee has considered the submissions made by Miss Power that an immediate order should be made on the grounds that it is necessary for the protection of the public, and otherwise in the public interest. She applied for this order to cover any possible appeal period and submitted that this would be compatible with the Committee's findings.

The Committee accepted the advice of the Legal Adviser.

The Committee was satisfied that an immediate order of suspension was necessary for the protection of the public and otherwise in the public interest. The Committee concluded that given its findings and reasons for the substantive order of erasure to direct otherwise would be wholly inconsistent.

If, at the end of the appeal period of 28 days, Professor Peckitt has not lodged an appeal, this immediate order will lapse and will be replaced by the substantive direction of erasure. If Professor Peckitt does lodge an appeal, this immediate order will continue in effect until that appeal is determined.

Unless Professor Peckitt exercises his right of appeal, his name will be erased from the register 28 days from the date when notice of this determination is deemed to have been served upon him.

That concludes this case.”