

HEARING PARTLY HEARD IN PRIVATE*

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

IVANOVA, Ivelina

Registration No: 116199

PROFESSIONAL CONDUCT COMMITTEE

DECEMBER 2019

Outcome: Suspension for 12 months with immediate suspension (with a review)

Ivelina IVANOVA, a dentist, DDM Plovdiv 1999, was summoned to appear before the Professional Conduct Committee on 9 December 2019 for an inquiry into the following charge:

Charge

“That, being registered as a dentist:

IN PRIVATE

1. [withheld];

2. [withheld];

a) [withheld];

b) [withheld].

IN PUBLIC

3. On 23 June 2017, you were convicted at Northern Derbyshire Magistrates of:
 - a) failing to stop after an accident on 10/11/16 contrary to the Road Traffic Act 1988 s.170(4);
 - b) driving a mechanically propelled vehicle on a road/ in a public place without due care and attention on 10/11/16 contrary to the Road Traffic Act 1988 s.3
4. You failed to inform the General Dental Council immediately and/or at all that:
 - a) You had been charged with the criminal offences at charge 3a) and/or 3b)
 - b) You had been convicted of the criminal offences at charge 3a) and/or 3b)
5. Your conduct in relation to charge 4 above, was:
 - a) Misleading;
 - b) Dishonest, in that you knew you were required to notify the General Dental Council of your convictions(s)
6. From 03 May 2018 until at least 06 August 2019 you failed to cooperate with an investigation by the General Dental Council.

AND that by reason of the facts alleged, your fitness to practise is impaired by reason of conviction and/or misconduct.”

On 10 December 2019 the Chairman made the following statement regarding the finding of facts:

“Ms Ivanova

You are participating in this hearing of the Professional Conduct Committee (PCC) by Skype. You are not represented. Mr Sam Thomas of Counsel, instructed by the GDC’s In-House Legal Presentation Service, appears for the Council.

Preliminary matters

At the start of the hearing Mr Thomas invited the Committee to hear part of the case in private given that there would be reference to your private and family life, as well as your health, during the course of the hearing. The application was made pursuant to Rule 53 of the General Dental Council (Fitness to Practise) Rules 2006 (‘the Rules’). You supported the application. The Committee accepted the advice of the Legal Adviser, and determined that it would be appropriate to hear those matters in private.

You tendered admissions to heads of charge 3 (a), 3 (b), 4 (a), 4 (b), 5 (a) and 6 as set out below. The Committee noted those admissions.

Background to the case and summary of allegations

The allegations giving rise to this case relate to three specific areas.

First, it is alleged that you have been convicted of two motoring offences. It is alleged that on 23 June 2017 you appeared before Northern Derbyshire Magistrates and having pleaded guilty you were convicted of an offence of failing to stop after an accident on 10 November 2016 and of driving a vehicle without due care and attention on that same date. You were ordered to pay a fine in the sum of £207.00, costs of £200.00, a victim surcharge of £30.00, and had your driving licence endorsed with seven penalty points.

The GDC further contends that you failed to inform the Council immediately, or at all, of the fact of you being charged with, and subsequently convicted of, those two offences. The Council also alleges that your failure to do so was misleading, and in respect of the convictions dishonest.

Second, it is alleged that, from 3 May 2018 until at least 6 August 2019, you failed to co-operate with a GDC investigation.

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Evidence

The Committee heard oral evidence from you.

The Committee has been provided with documentary material in relation to the allegations that you face, including a certified copy of the Memorandum of Conviction relating to your court appearance; your previous observations on the allegations referred to above; and the witness statements and documentary exhibits of the paralegal involved in the GDC’s investigation.

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Committee’s findings of fact

The Committee has taken into account all the evidence presented to it. The Committee has considered the submissions made by Mr Thomas on behalf of the GDC and those made by you.

The Committee has accepted the advice of the Legal Adviser. The Committee is mindful that the burden of proof lies with the GDC, and has considered the heads of charge against the civil standard of proof, that is to say, the balance of probabilities. The Committee has considered each head of charge separately, although some of its findings will be announced together.

The Committee found that it was difficult to place significant weight on the evidence that you gave. The Committee considered that you were vague and unclear in many instances, and in some cases you did not answer the questions that were put to you. The Committee therefore found that in some respects your evidence lacked credibility. The Committee did however consider that the evidence that you gave was broadly consistent with the accounts that you have previously given about these matters.

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

1.	IN PRIVATE [text omitted] Proved
	[text omitted]
2.	[text omitted]
2. (a)	[text omitted] Proved
	[text omitted]
2. (b)	[text omitted] Proved
	[text omitted]
3.	IN PUBLIC <i>On 23 June 2017, you were convicted at Northern Derbyshire Magistrates of:</i>
3. (a)	<i>failing to stop after an accident on 10/11/16 contrary to the Road Traffic Act 1988 s.170(4);</i> Admitted and proved
3. (b)	<i>driving a mechanically propelled vehicle on a road/ in a public place without due care and attention on 10/11/16 contrary to the Road Traffic Act 1988 s.3</i> Admitted and proved

	The Committee finds the facts alleged at heads of charge 3 (a) and 3 (b) proved on the basis of your admissions. The Committee also finds the facts alleged at the other heads of charge to which you have made admissions proved on the basis of those respective admissions.
4.	<i>You failed to inform the General Dental Council immediately and/or at all that:</i>
4. (a)	<i>You had been charged with the criminal offences at charge 3a) and/or 3b)</i> Admitted and proved
4. (b)	<i>You had been convicted of the criminal offences at charge 3a) and/or 3b)</i> Admitted and proved
5.	<i>Your conduct in relation to charge 4 above, was:</i>
5. (a)	<i>Misleading;</i> Admitted and proved
5. (b)	<i>Dishonest, in that you knew you were required to notify the General Dental Council of your convictions(s) [sic]</i> Not proved
	<p>The Committee finds the facts alleged at head of charge 5 (b) not proved.</p> <p>In approaching this head of charge the Committee applied the test set out in <i>Ivey v Genting Casinos (UK) Ltd. t/a Crockfords</i> [2017] UKSC 67. The test is that the Committee must decide subjectively the actual state of your knowledge or belief as to the facts, and must then apply the objective standards of ordinary and decent people to determine whether your conduct was dishonest by those standards.</p> <p>Your oral evidence to the Committee is that you did not at the time know that you were under a duty to inform the Council of the fact of your criminal conviction for the two offences referred to above. This oral evidence is consistent with the previous responses that you made to the Council. The Committee considers that the GDC has not demonstrated to the standard required that you knew at the time that you were under an obligation to inform the Council of your convictions. The Committee accepts that your actual state of knowledge and belief at that time was that you did not know that you were under a duty to inform the Council of the fact of your conviction for two motoring offences.</p> <p>The Committee therefore finds the facts alleged at head of charge 5 (b) not proved.</p>
6.	<i>From 03 May 2018 until at least 06 August 2019 you failed to cooperate with an investigation by the General Dental Council.</i> Admitted and proved

We move to stage two.”

On 10 December 2019 the Chairman announced the determination as follows:

“Proceedings at stage two

The Committee has considered all the evidence presented to it, both written and oral. It has taken into account the submissions made by Mr Thomas on behalf of the General Dental Council (GDC) and those made by you. In its deliberations the Committee has had regard to the GDC’s *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016). The Committee has accepted the advice of the Legal Adviser.

Fitness to practise history

Mr Thomas addressed the Committee in accordance with Rule 20 (1) (a) of the General Dental Council (Fitness to Practise) Rules 2006 (‘the Rules’). Mr Thomas submitted that you are currently subject to a substantive suspension order imposed by the Professional Conduct Committee (PCC) on 9 July 2014 for a period of 12 months in relation to misconduct arising out of your clinical practice.

The suspension was reviewed on 10 July 2015 and was extended for a further period of six months. The suspension was then reviewed on 29 January 2016 and was extended once more for a period of six months. The suspension was next reviewed on 22 July 2016 and was again extended for a period of six months. The suspension was reviewed once more on 20 January 2017 and was replaced with a direction of conditional registration for a period of 12 months. The direction of conditions was reviewed on 13 June 2018 and was replaced by a direction of suspension for 12 months. The suspension was reviewed on 2 May 2019 and was extended for 12 months. That suspension is therefore still in force.

Misconduct

The Committee first considered whether the facts that it has found proved at heads of charge 1, 2 (a), 2 (b), 4 (a), 4 (b), 5 (a) and 6 constitute misconduct. In considering this matter, the Committee has exercised its own independent judgement.

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

- 9.1 Ensure that your conduct, both at work and in your personal life, justifies patients’ trust in you and the public’s trust in the dental profession.
- 9.3 Inform the GDC if you are subject to criminal proceedings or a regulatory finding is made against you anywhere in the world.
- 9.4 Co-operate with any relevant formal or informal inquiry and give full and truthful information.

The Committee finds that the facts that it has found proved at heads of charge 1, 2 (a), 2 (b), 4 (a), 4 (b), 5 (a) and 6 amount to misconduct.

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The Committee also considers that your failure to inform the GDC of your criminal charges and resulting criminal convictions, and your failure to co-operate with a GDC investigation for a considerable period of time, was a serious departure from acceptable standards and was a

breach of a fundamental tenet of the profession, namely the need to co-operate with your regulator.

The Committee considers that each of the facts that it has found proved represent conduct which fell far short of the standards reasonably to be expected of a general dental practitioner. The Committee considers that your conduct would be considered by your fellow practitioners to be deplorable. The Committee therefore concludes that the facts that it has found proved at heads of charge 1, 2 (a), 2 (b), 4 (a), 4 (b), 5 (a) and 6 amount to misconduct.

Impairment

The Committee then went on to consider whether your fitness to practise is currently impaired by reason of your misconduct and your criminal convictions. In doing so, the Committee has again exercised its independent judgement. The Committee has heard that Mr Thomas on behalf of the GDC submits that your fitness to practise is currently impaired because of your lack of insight and in light of public interest considerations.

Throughout its deliberations, the Committee has borne in mind that its overarching objective is to protect the public, which includes the protection of patients and the wider public, the maintenance of public confidence in the profession and in the regulatory process, and the declaring and upholding of proper standards of conduct and behaviour.

MISCONDUCT

The Committee considers that your fitness to practise is impaired by reason of your misconduct.

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IN PUBLIC

The Committee considers that your failure to co-operate with and notify the GDC is remediable, and that you have demonstrated evidence of your insight into and reflections upon your particular failure to inform the Council of your criminal charges and criminal convictions. The Committee considers that in the circumstances it is unlikely that there will be a repeat of your failure to notify the GDC of future matters that you are required to declare. However, the Committee notes that there is evidence to suggest that there has been some continuation of your failure to co-operate with the GDC, notwithstanding your participation in this hearing. This suggests that you have not sufficiently remedied the misconduct that has been found in relation to that failure to co-operate.

The Committee considers that your lack of insight into, and remediation of, the misconduct arising from the facts found proved at heads of charge 1, 2 (a), 2 (b) and 6 means that it cannot be said that a repetition is highly unlikely. The Committee therefore considers that your fitness to practise is therefore currently impaired.

The Committee also considers that a finding of impairment is required to maintain public confidence in the profession and to declare and uphold proper professional standards of conduct and behaviour. The public's trust and confidence in the profession, and in the regulatory process, would be undermined if a finding of impairment was not made given the misconduct that the Committee has identified.

CONVICTION

The Committee then determined whether your fitness to practise is currently impaired by reason of your criminal convictions for an offence of failing to stop after an accident and for an offence of driving a car without due care and attention.

The Committee has again taken into account the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, updated May 2019). It has had particular regard to Appendix A of that document, which at paragraph 1 sets out that:

'The purpose of the fitness to practise process is not to punish the registrant a second time for the offence or offences of which they have been found guilty. The purpose is to consider whether the registrant's fitness to practise is impaired as a result of the criminal conduct and, if so, whether there is a need to impose a sanction which could restrict the registration of the individual in the public interest'.

The Committee has also had regard to the GDC's *Guidance for decision makers on the impact of criminal convictions and cautions* (May 2014).

The Committee has determined that your fitness to practise is currently impaired by reason of your convictions. The Committee is particularly concerned by your offence of failing to stop after an accident that you had caused. The Committee considers that in the circumstances a finding of impairment is required to maintain public confidence in the profession and to declare and uphold proper professional standards of conduct and behaviour. The public's trust and confidence in the profession, and in the regulatory process, would be undermined if a finding of impairment was not made given the serious nature of the criminal offences for which you were convicted.

For the reasons set out above, the Committee finds that your fitness to practise is currently impaired by reason of your misconduct and your criminal convictions.

Sanction

The Committee then determined what sanction, if any, is appropriate in light of the findings of fact, misconduct and impairment that it has made. The Committee recognises that the purpose of a sanction is not punitive, although it may have such an effect, but is instead imposed to protect patients and safeguard the wider public interests mentioned above.

In reaching its decision the Committee has again taken into account the GDC's *Guidance for the Practice Committees, including Indicative Sanctions Guidance* (October 2016, revised May 2019). The Committee has applied the principle of proportionality, balancing the public interest with your own interests. It has also had regard to the submissions made by Mr Thomas on behalf of the GDC that the Committee may wish to consider suspending your registration for a period of 12 months.

The Committee has paid careful regard to the mitigating and aggravating factors present in this case. In terms of mitigation, the Committee notes the difficult circumstances prevailing at the time of the facts found at heads of charge 1, 2 (a) and 2 (b). There is also no evidence of any repetition of the facts that the Committee has found, save for the shortcomings in your co-operation with the Council as noted above. There is no evidence of financial gain, and some time has passed since the events giving rise to these proceedings. There is some, albeit limited, evidence of remorse and insight into key aspects of your conduct.

In respect of the aggravating factors that are present, the Committee notes that your conduct in respect of heads of charge 3 (a) and 3 (b) placed the public at a risk of harm. Your misconduct was sustained, and you have demonstrated little insight into and remediation of your misconduct. Your conduct represents a blatant and wilful disregard for the regulatory role of the GDC, and the Committee has also taken into account your fitness to practise history as referred to above.

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IN PUBLIC

The Committee has considered the range of sanctions available to it, starting with the least serious. In the light of its findings, the Committee considers that it would not be appropriate to conclude this case with no action. The serious nature of your misconduct and criminal convictions means that some action must be taken. If the Committee were to take no action, public trust and confidence in the profession would be undermined.

The Committee next considered whether it would be appropriate to conclude the case with a reprimand. The Committee has similarly determined that it would not be proportionate or appropriate to conclude this case with a reprimand in light of the serious matters before it. Again, if it were to do so, the Committee considers that a reprimand would have the effect of undermining public trust and confidence in the profession.

The Committee next considered whether a period of conditional registration would be appropriate. The Committee considers that conditions cannot properly be formulated to be workable and be capable of being complied with. The Committee is in any event of the view that the nature and seriousness of the matters giving rise to its findings of fact, misconduct and impairment mean that conditional registration would not be sufficient to meet the public interest considerations relevant to this case.

The Committee then went on to consider whether to suspend your registration. The Committee considers that a period of suspended registration is a sufficient and proportionate sanction for the purposes of protecting the public, declaring and upholding proper professional standards, and maintaining public trust and confidence in the profession.

Having determined that a period of suspension is the appropriate sanction to impose, the Committee considered that to impose the higher sanction of erasure would be disproportionate. Whilst your conduct was a serious departure from acceptable standards, the Committee considers that the facts that it has found proved do not suggest a deep-seated attitudinal or behavioural problem which might make erasure necessary.

The Committee hereby directs that your registration be suspended for a period of 12 months, with a review hearing to take place prior to the end of that period of suspended registration. The Committee considers that this period of time is required because of the serious nature of the misconduct that it has found. Any lesser period of time would in the Committee's judgement be insufficient given the public interest considerations mentioned above.

Although the Committee in no way wishes to bind or fetter the reviewing Committee, that future Committee may be assisted by evidence of you having developed and demonstrated insight into your misconduct. That Committee may in particular be assisted by a reflective piece setting out your reflections on how and why you should have behaved differently and

what measures and steps you have put in place to prevent of repeat of conduct which is so damaging to your fitness to practise.

Immediate order

Having directed that your registration be suspended, the Committee now invites submissions as to whether it should impose an order for your immediate suspension in accordance with section 30 (1) of the Dentists Act 1984 (as amended).”

“Ms Ivanova

Determination on immediate order

Having directed that your registration be made subject to a period of suspension, the Committee has considered whether to impose an order for your immediate suspension in accordance with Section 30 of the Dentists Act 1984 (as amended).

The Committee has heard from Mr Thomas that an immediate order is necessary and proportionate. You made no submissions.

The Committee has accepted the advice of the Legal Adviser.

In all the circumstances, the Committee considers that an immediate order of suspension is required to protect the public and is otherwise in the public interest. The Committee has decided that, given the risks that it has identified, it would not be appropriate to permit you to practise before the substantive direction of suspension takes effect. The Committee considers that an immediate order for suspension is proportionate, and is consistent with the findings that it has set out in its determination.

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

That concludes this case.”