NHS Resolution

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18 September 2026

FILE REF: **APL-4481 (LEGACY REF: 27035)**

DECISION MAKING BODY: **NHS SOMERSET INTEGRATED CARE BOARD ("THE COMMISSIONER")**

GDS CONTRACTOR: **[redacted]**

DISPUTE RESOLUTION: **NATIONAL HEALTH SERVICE (GENERAL DENTAL SERVICES CONTRACTS) REGULATIONS 2005**

RE: **TERMINATION OF CONTRACT**

1 Outcome

1.1 I determine that the Commissioner was entitled to terminate the Contract pursuant to clauses 323 and 324.2 and that the Termination Notice dated 30 April 2026 was valid and is upheld.

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RE: **TERMINATION OF CONTRACT**

1 INTRODUCTION

1.1 The Contractor has referred the dispute in relation to its General Dental Services ("GDS") contract for dispute resolution under the provisions of Paragraph 54 of Schedule 3 of the National Health Service (General Dental Services Contracts) Regulations 2005 (the "Regulations").

1.2 The Secretary of State for Health and Social Care has directed that NHS Resolution exercise the functions of dispute resolution on their behalf. I, as an authorised officer of NHS Resolution, have made this determination.

2 APPLICATION FOR DISPUTE RESOLUTION

2.1 By letter dated 28 May 2026 the Contractor, through its representative DR Solicitors, applied to NHS Resolution for dispute resolution.

2.2 I have had regard to the following documents made available to me in consideration of this matter to ensure the just, expeditious, economical and final determination of this dispute: -

2.2.1 Application for dispute resolution dated 28 May 2026;

2.2.2 Commissioner's representations dated 13 July 2026;

2.2.3 Contractor's representations dated 20 July 2026;

2.2.4 Commissioner's observations dated 5 August 2026; and

2.2.5 Contractor's observations dated 6 August 2026.

3 PARTIES SUBMISSIONS

The Contractor's application

3.1 "**General Dental Services Contract 1514160001 (01 April 2006) Practitioner: [redacted] – [redacted]**

Appeal Against Termination notice of General Dental Services Contract Number: 1514610001, dated 01 April 2006

1) We act for [redacted].

2) This is [redacted] formal request to NHS Resolution for dispute resolution in respect of the decision made by NHS Somerset Integrated Care Board (the "ICB") to terminate the contract as between them (i.e. as between the Commissioner and the Contractor to that contract).

3) This referral to NHS Resolution is made under provisions of Paragraph 55 Schedule 3 of the National Health Service (General Dental Services Contracts) Regulations 2005 (the "Regulations") and also the relevant terms of GDS contract.

4) We provide the following information at this stage.

The Parties

5) The parties in this matter are;

Commissioner

NHS Somerset Integrated Care Board
Wynford House
Lufton Way
Lufton
Yeovil
Somerset
BA22 8HR

Contractor

[redacted]

Enclosures and Contract

6) We enclose with this letter the following documents

a) Termination Notice dated 1 April 2026

b) Response to Termination Notice from [redacted] dated 5 May 2026

c) Letter of Response to [redacted] from ICB Solicitors Bevan Brittan dated 18 May 2026

d) Copy Public GDC PCC Determination

7) We are unable to provide the signed copy of the contract at this time (Contract 1514160001 (01 April 2006) so reference should be made to the Standard General Contract for now. Standard general dental services contract and personal dental services agreement - GOV.UK

8) We understand the terms material to this dispute to be the same.

Exhaustion of Local Remedies

9) We confirm that [redacted] has attempted to engage in Local Dispute Resolution Procedure as evidenced by documents a to c that are enclosed. Those documents confirm the local procedure has been exhausted, see in particular para 5.23 of the Bevan Brittan letter, item c.

10) In addition, the writer of this letter, having only very recently received instructions to act, requested an extension of time before Termination of the contract to explore if Local Resolution was possible, but the ICB Solicitors confirmed by email on 28 May 2026 that this request was refused. That further confirms the exhaustion of local procedures.

Summary of Dispute

11) [redacted] was suspended by the Professional Conduct Committee of the GDC for one month, with the decision being handed down on 27 February 2026. The decision is enclosed as item d.

12) The ICB maintain that this makes [redacted] unsuitable to hold the Contract, and therefore they exercise their discretion to Terminate the contract.

13) In short, [redacted] maintains that he is suitable to hold such a contract, and the ICB have erred in seeking to Terminate.

14) [redacted]'s arguments are also laid out in his response dated 5 May, enclosed and adopted. We would supplement that briefly.

15) The PCC suspended [redacted] for 1 month, an unusual result in its self [sic] we suggest, but more noteworthy is that this sanction was made on grounds of public interest impairment alone. i.e. [redacted] himself was not found to be personally impaired.

16) Explicitly, and by definition, this means that the PCC did not find that he was a danger to patients, staff or anyone else.

17) The ICB do not explain precisely how impairment on public interest grounds alone makes one unsuitable to hold a contract. This is significant, because the PCC finding appears to be the sole reason to seek Termination.

18) The ICB also do not take into account many relevant factors in reaching their decision, not least the crucial finding that [redacted]'s behaviour was not sexually motivated.

19) These arguments and others will be developed in due course, but ultimately [redacted] seeks withdrawal of the Termination Notice dated 1 April 2026 and to continue to provide services under the contract.

20) In the meantime, formal request is made that he [sic] ICB suspend the termination process and agrees to maintain the Contract pending completion of the formal dispute process."

Representations

NHS England's representations

3.2 "We act for NHS Somerset Integrated Care Board ("the ICB"). We refer to your letter dated 15 June 2025, and the application for dispute resolution made by DR Solicitors on behalf of [redacted] ("the Contractor") on 28 May 2026 ("the Application").

We write to provide the ICB's representations in response to the Application. These representations should be read in conjunction with our letter to the Contractor dated 18 May 2026 at page [B7] of the Bundle.

1 THE PARTIES

1.1 The commissioner in this matter is the ICB of Wynford House, Lufton Way, Yeovil, Somerset BA22 8HR. Please note that any documents and/or other correspondence in relation to this matter for the attention of the ICB should be sent to:

FAO [redacted]

Bevan Brittan LLP
Fleet Place House
Fleet Place
Holborn Viaduct
London
EC4M 7RF

Ref: SP\141623\67

Email: [redacted]

1.2 The Contractor in this matter is [redacted] who is an individual dental practitioner operating from [redacted] ("the Practice").

1.3 The Practice was most recently inspected by the Care Quality Commission ("the CQC") on 6 January 2026. A copy of the assessment report is at pages [C1]-[C25] of the Bundle. The CQC found that the Practice met the regulatory requirements in the effective, caring and responsive domains, but did not meet regulatory requirements in the safe and well-led domains. The CQC concluded that whilst staff provided care and treatment in line with current guidance, there was a lack of effective leadership, and not all risks associated with the undertaking of regulated activities had been suitable [sic] identified and mitigated.

2 ENCLOSURES

2.1 We enclose with these representations a paginated bundle of documents relied on by the ICB in its defence of the Application. Cross-references in the form [XX] are to page numbering within that bundle.

3 THE CONTRACT

3.1 A partnership under the name of [redacted] entered into a contract with Somerset Coast Primary Care Trust ("the PCT") commencing on 1 April 2006 [A6]-[A119]. The rights and liabilities of the PCT under the Contract were transferred to NHS England with effect from 1 April 2013. NHS England then delegated its functions in respect of primary dental services to the ICB by way of a Delegation Agreement commencing on 1 April 2022 ("the Delegation Agreement"). The following functions have been delegated to the ICB under the Delegation Agreement:

> 3.1.1 "to manage the Dental Services Contracts and perform all of NHS England's obligations under each of the Dental Services Contracts in accordance with the terms of the Dental Services Contracts as if it were named in the contract in place of NHS England" (Clause 2.4.1 of Schedule 2B) (Page [C46] of the Bundle).
>
> 3.1.2 "working with other organisations, including the NHS Business Services Authority and the NHS England specialised commissioning team as appropriate, actively manage the performance of the Dental Services Provider in order to secure the needs of people who use the services, improve the quality of services and improve efficiency in the provision of the services including by taking timely action to enforce contractual breaches, serve notices or provide discretionary support." (Clause 2.4.2 of Schedule 2B) (Page [C46] of the Bundle).
>
> 3.1.3 "conducting review meetings and undertaking contract management including the issuing of contract queries and agreeing any remedial action plan or related contract management processes" (Clause 2.5.9 of Schedule 2B) (Page [C47] of the Bundle).

3.2 The ICB issued a variation notice dated 4 May 2018 to reflect the change in the contract holder's status from a partnership to individual practitioner with effect from 1 September 2013. The ICB and the Contractor have been operating on the basis that the variation notice is effective, and the contract is held with the Contractor as an individual practitioner. However, the ICB does not hold a signed copy of the variation notice (an unsigned copy is at pages [C72]-[C76] of the Bundle). As such, the ICB is agreeable to the dispute being considered by reference to the Standard General Dental Services contract dated May 2025 ("the Contract") [C77]-[C236] which was in force throughout the period in which the ICB took steps to terminate the Contract. The ICB notes the Contractor is also agreeable to this course of action (paragraph 7 of the Application).

3.3 Insofar as the Application is concerned the relevant provisions of the Contract (as varied from time to time) are as follows (Page [C202] – [C206] of the Bundle):

> *323. The Commissioner may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if –*
>
> > *323.1. in the case of a contract with a dental practitioner, that dental practitioner;*
>
> *falls within clause 324 during the existence of the Contract or, if later, on or after the date on which a notice in respect of his compliance with the conditions in regulation 4 or 5 of the Regulations was given under clause 232.*

324. A person falls within this clause if—

324.2. subject to clause 325, he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any licensing body anywhere in the world;

325. The Commissioner shall not terminate the Contract pursuant to clause 324.2 where the Commissioner is satisfied that the disqualification or suspension imposed by a licensing body outside the United Kingdom does not make the person unsuitable to be—

325.1. a contractor;

A "licensing body" is defined in the Contract as any body that licenses or regulates any profession. (Page [C88] of the Bundle)

4 CIRCUMSTANCES GIVING RISE TO THE DISPUTE

4.1 The Contractor has been providing primary dental services at the Practice under the Contract since 2018.

4.2 A complaint was submitted to the General Dental Council ("GDC") on 31 December 2020 following an incident that occurred on 11 December 2020 involving the Contractor and one of his colleagues. The matter was referred to the police and the Contractor was subsequently charged with sexual assault. Court proceedings were commenced but the trial was aborted due to concerns relating to witness conduct, and the prosecution subsequently offered no evidence. The Contractor was acquitted of all criminal charges on 22 September 2023.

4.3 However, notwithstanding this, the GDC considered it appropriate to pursue fitness to practice [sic] proceedings in relation to the Contractor. A hearing took place between 23 February 2026 and 6 March 2026. The GDC's Professional Conduct Committee ("PCC") considered the following charges against the Contractor (Public Determination, Page [A121] of the Bundle)

"1. On or around 11 December 2020, you:

a. Said that Colleague A had to undress, including by removing her underwear, so you could give her a massage;

b. Touched Colleague A's buttocks, and/or legs and/or back;

c. Touched Colleague A's breasts, and/or public area and/or thighs;

d. Continued to touch Colleague A despite Colleague B asking you to stop;

e. Were aware that Colleague A may be vulnerable [Private].

2. Your actions at 1a to 1d above were done:

a. Without Colleague A's consent;

b. Without a reasonable belief that Colleague A was consenting.

3. Your conduct at 1 and/or 2 above, was:

a. Inappropriate;

b. Unprofessional;

c. An abuse of the position of trust and/or authority you held as a senior colleague of Colleague A;

d. Sexually motivated."

4.4 The PCC's findings are set out in their Public Determination of the Professional Conduct Committee ("Public Determination") at pages [A120]-[A137] of the Bundle. In summary:

4.4.1 The Contractor admitted that he had touched Colleague A's legs and/or back, and that he was aware that she may be vulnerable. The PCC found this charge proved. The remainder of charges 1 and 2 were not admitted and not found proved.

4.4.2 The PCC found that the Contractor's conduct was inappropriate and unprofessional in relation to the touching of Colleague A's legs and/or back. However, the PCC did not find that his conduct was sexually motivated or that it amounted to an abuse of the position of trust and/or authority.

4.4.3 The PCC considered an aggravating feature was that the Contractor was aware that Colleague A may be vulnerable (Paragraph 51 Public Determination, page [A134] of the Bundle).

4.4.4 As such, the PCC found that the Contractor's fitness to practice [sic] was impaired by reason of misconduct and suspended the Contractor from the dentists register for a period of one month, subject to the Contractor remaining on the dentists register for a period of 28 days during which he could appeal the PCC's determination. The Contractor did not appeal the PCC's determination and the suspension accordingly commenced on 3 April 2026 and ended on 2 May 2026.

4.5 As of 3 April 2026, the Contractor has been mandatorily removed from the dental performers list maintained by NHS England as a consequence of his suspension. To date, the Contractor has not been reinstated on the dental performers list.

4.6 In light of the PCC's determination, the ICB gave consideration as to whether to take steps to terminate the Contract. The matter was considered by the Executive Management Board of the ICB on 7 April 2026 (a copy of the Board paper dated 7 April 2026 is at pages [A1]-[A5] of the Bundle) and a decision was made to take steps to commence termination of the Contract (Minutes of the Executive Management Board meeting at page [A138] of the Bundle - a full copy of the minutes has not been supplied as those minutes deal with a range of matters unrelated to the present case. However the extract contained in the Bundle includes the relevant parts of the minutes). Therefore, on 8 April 2026 the ICB wrote to the Contractor to inform him that it was minded to terminate the Contract under clauses 323 and 324.2 of the Contract and, if he disagreed, invited him to make representations within 7 days as to why he considered the Contract should not be terminated. The ICB explained that his representations would be taken into account by the ICB before making its final

decision on termination. He was also informed that if no response was received within the 7-day timeframe, the ICB would make its final decision on the information it had available. A copy of this correspondence is at page [A176] of the Bundle.

4.7 The Contractor emailed the following response to the ICB on 9 April 2026 with his representations, a copy of which is at page [A181] of the Bundle:

> *"Hello There*
>
> *I am sorry to hear about the termination of the contract.*
>
> *In the last few years I have taken over 6100 New NHS patients.*
>
> *I believe I am the only practice in Somerset accepting NHS patients.*
>
> *I have added 3 more treatment rooms along with all the facilities to treat more patients.*
>
> *I have invested over have [sic] a million pounds to support NHS patients.*
>
> *I would be happy if the NHS could give more support in continuing the NHS Contract.*
>
> *Kind Regards*
>
> [redacted]*."*

4.8 On 23 April 2026 the Strategic Commissioning Committee of the ICB's Board thereafter considered whether to proceed with issuing a termination notice, including taking account of the representations the Contractor submitted on 9 April 2026. The Committee also had regard to the factors that the ICB is required to consider under chapter 11.4 of the Policy Book for Primary Dental Service ("Policy Book"). Having taken into account all relevant considerations, the ICB made a final decision to issue a termination notice under clause 323 and 324.2. A copy of the Strategic Commissioning Committee paper dated 23 April 2026 is at pages [A139]-[A175] and an extract of the minutes of the meeting on 23 April 2026 is at page [A184] of the Bundle.

4.9 By way of emails dated between 13 April 2026 and 20 April 2026, the ICB consulted with the Local Dental Committee ("the LDC"). The LDC noted the issue and confirmed it would be available to assist if required. A copy of the emails between the ICB and the LDC is at page [A178] of the Bundle.

4.10 The termination notice was served by recorded delivery and email on 30 April 2026, in accordance with the requirements of clause 379 and 380 of the Contract (the "the Termination Notice"). A copy of the Termination Notice is at page [B1] of the Bundle, and a copy of Chapter 11 of the Policy Book is at pages [C26]-[C36] of the Bundle.

4.11 The Termination Notice informed the Contractor of his right to appeal the termination decision.

4.12 On 5 May 2026 the Contractor wrote to the ICB challenging the decision to terminate the Contract. The ICB responded by way of letter dated 18 May 2026.

Copies of these correspondences are at pages [B4] and [B7] of the Bundle respectively.

4.13 The ICB agrees that the local dispute resolution procedure has been exhausted. Both parties have set out their position in correspondence and the ICB does not consider that a meeting to discuss the dispute would be proportionate in the circumstances as it is unlikely to resolve matters.

5 THE ICB'S RESPONSE TO THE APPLICATION

5.1 The Contractor's case as set out in his Application is that he is not unsuitable to hold the Contract and the ICB has erred in seeking to terminate the Contract. He adopts the arguments set out in his letter of 5 May 2026 (Page [B4] of the Bundle) and supplements these with the following additional arguments:

5.1.1 The PCC suspended the Contractor for a period of one month only, which the Contractor suggests is unusual.

5.1.2 The PCC issued the sanction of suspension on the ground of public interest impairment alone and the Contractor was not found to be personally impaired. The PCC therefore did not consider him to be a danger to patients, staff or anyone else.

5.1.3 The ICB have not explained how impairment on public interest grounds alone makes the Contractor unsuitable to hold a contract.

5.1.4 The ICB have not taken into account relevant factors in reaching their decision, including the fact that the Contractor's behaviour was not sexually motivated.

5.2 The Contractor notes that his arguments and others will be developed in due course. The ICB therefore reserves the right to respond to any further representations submitted by the Contractor.

5.3 The ICB adopts the arguments set out in its letter of 18 May 2026 (Page [B7] of the Bundle), and supplements these arguments as follows.

Contractual position

5.4 The ICB's role is to commission NHS dental services, acting under delegated authority from NHS England. As part of its commissioning role, the ICB is required to actively manage the performance of contractors, secure the needs of people who use the services, and improve the quality of services, including by taking timely action to enforce contractual breaches and serve notices. (Clause 2.4.2 of Schedule 2B to the NHS England Primary Care Delegation Agreement, page [C46] of the Bundle.)

5.5 Clauses 323 and 324.2 of the Contract give the ICB the power to terminate the Contract where the Contractor has been suspended from practicing by a decision of a licensing body (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health). However, clause 325 prevents the ICB from terminating the Contract on this ground if it is satisfied that the suspension does not make the Contractor unsuitable to hold the Contract.

5.6 The Termination Notice was issued on 30 April 2026, when the Contractor was still subject to suspension (with his suspension ending on 2 May 2026).

5.7 A 'licensing body' is defined in the Contract as a regulatory body. The GDC is the regulatory body for dentists and is a licensing body for the purposes of clause 324.2.

5.8 Accordingly, the contractual requirements of clause 323 and 324.2 were clearly made out:

> 5.8.1 at the time the Termination Notice was sent, the Contractor was subject to a suspension order issued by a licencing body, in this case the GDC, and it was not an interim suspension order; and
>
> 5.8.2 the ICB was not satisfied that the suspension did not make the Contractor unsuitable to hold the Contract

5.9 The ICB considers that it acted reasonably in deciding that the Contractor was unsuitable to hold the Contract and therefore did not err in making a decision to issue the Termination Notice.

Supplementary grounds – public interest

5.10 The Contractor's position is that the ICB erred in finding that the Contractor was unsuitable to hold a contract given that the Contractor had been suspended on public interest grounds and only for a one-month period.

5.11 The ICB accepts that the PCC did not consider the Contractor to be a danger to staff or patients, and that the sanction was issued on grounds of public interest rather than public protection. However, the fact that the PCC did not consider the Contractor to pose a threat to the safety of patients or staff, does not mean that the Contractor was automatically suitable to hold the Contract.

5.12 When considering whether the Contractor was unsuitable to hold a Contract and determining what action to take to manage the Contract and meet the needs of service users, including whether to exercise its discretion to terminate, the ICB was reasonably entitled to take into account the actions and findings of the GDC whose role as a regulator is to protect patient safety and maintain public confidence in dental professions. The PCC found:

> 5.12.1 *that the Contractor's "acts fell far short of the standards reasonably expected of a general dental practitioner and can properly be described as deplorable by dental professionals.* (Paragraph 53 of the Public Determination, page [A135] of the Bundle)
>
> 5.12.2 that "the public interest is engaged in this case and that a finding of current impairment is required in the interests of maintaining public confidence and promoting proper professional standards." (Paragraph 63 of the Public Determination, page [A136] of the Bundle)
>
> 5.12.3 that the Contractor's conduct amounted to a serious breach of the Standards for the Dental Team (Page [C56] of the Bundle) ("Professional Standards") involving a vulnerable employee that was sufficiently serious to warrant a one-month suspension. In particular, the PCC found the Contractor had breached the following Professional Standards:

"Standard 6.1.2 You must treat colleagues fairly and with respect, in all situations and all forms of interaction and communication…

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 9.1.1 You must treat all team members, other colleagues and members of the public fairly, with dignity …" (Paragraph 52 of the Public Determination, page [A134] of the Bundle)

5.12.4 The PCC gave consideration to the Contractor's mitigating factors (including his good conduct since the incident, remorse shown, that he showed full insight and remediation and that it appeared to be a single incident (Paragraph 65 of the Public Determination, page [A136] of the Bundle)). However, the PCC nevertheless considered it appropriate to issue a sanction of suspension.

5.12.5 The PCC gave consideration to whether a lesser sanction than suspension would be appropriate (such as no action, a reprimand or conditional registration). However, the PCC considered that these lesser sanctions would not *"adequately address the seriousness of its findings"* and were not *"workable or relevant in order to adequately address the public interest in this case"*. Ultimately the PCC considered that *"a lesser sanction would be insufficient to meet the public interest"* (Paragraphs 67 to 69 of the Public Determination, pages [A136]-[A137] of the Bundle)

5.13 The fact that the PCC considered any sanction less than suspension to not be capable of addressing the conduct, evidences the seriousness of the Contractor's conduct and the need to address the public interest. The ICB reasonably took this into account, along with the fact he had breached the Professional Standards. Of particular note is the PCC's finding that the Contractor had breached Professional Standard 9.1 which required him to ensure his conduct justified patients' trust in him and in the dental profession.

5.14 As such, in accordance with its functions of managing the performance of contractors and taking contractual action with a view to securing the needs of people who use the services and improving the quality of services, the ICB reasonably considered that the requirements of clause 325 of the Contract were not made out, that the Contractor was unsuitable to hold the Contract, and accordingly that the Contract should be terminated.

5.15 The Contractor asserts that the mere fact the suspension was only issued for a period of one-month suggests that the PCC did not consider the conduct sufficiently serious. The ICB does not agree. The fact that the PCC issued a sanction of suspension at all, rather than a lesser sanction, demonstrates the extent to which it considered the Contractor's conduct to be serious.

5.16 Supplementary grounds – relevant factors, including sexual motivation

5.17 To the extent that the Contractor alleges that the ICB made the decision to terminate the Contract on the basis of the Contractor's underlying conduct having been sexually motivated, this is denied.

5.18 The ICB accepts that that (i) the PCC did not find that the Contractor's conduct was sexually motivated, and (ii) the Contractor admitted that he had touched Colleague A's legs and/or back, and that he was aware that she may be vulnerable, and this amounted to inappropriate and unprofessional conduct.

5.19 The ICB Strategic Commissioning Committee paper dated 23 April 2026 and the Board paper dated 7 April 2026 made reference to the allegation of sexual misconduct when providing the background to the matter, however it was clearly specified in both papers that:

"The GDC Professional Conduct Committee ultimately determined that [redacted]*'s fitness to practise was impaired by reason of misconduct. In reaching this conclusion, they found that the Registrant's actions constituted a serious breach of professional boundaries. A sanction of suspension for a period of one month was imposed, commencing 03 April 2026 until 02 May 2026."* (Paragraph 2.4 of Board paper dated 7 April 2026 at pages [A1]-[A5] of the Bundle and paragraph 3.16 of Strategic Commissioning Committee paper dated 23 April 2026 at pages [A139]-[A175] of the Bundle)

5.20 The Strategic Commissioning Committee paper dated 23 April 2026 also included the following:

"This suspension from the GDC register means that [redacted] *is legally prohibited from practising dentistry in the UK for the duration of the suspension period. He must not provide clinical treatment, diagnosis, or dental advice, and cannot lawfully hold himself out as a dentist. A suspension reflects serious regulatory concern about the dentist's fitness to practise and removes their active registration for the period of suspension."* (Paragraph 3.17 of Strategic Commissioning Committee paper dated 23 April 2026 at pages [A139]-[A175] of the Bundle)

5.21 When making the decision to terminate the ICB reasonably took into account the background events relating to the PCC's findings, including the charge of sexual misconduct, but it is denied that the ICB gave the allegation of sexual misconduct undue weight when reaching its decision to terminate. The PCC's findings were clearly and correctly understood by the ICB and, as demonstrated in the Strategic Commissioning Committee and Board papers, the ICB's decision to terminate was based on the fact of the suspension that had been issued by the PCC and their reasons for having done so, in accordance with clause 323 and 324.2 of the Contract. The decision to terminate was not based on the basis of the Contractor's conduct being sexually motivated.

5.22 To the extent the Contractor alleges the ICB has failed to take into account relevant factors when reaching its decision, the ICB notes that the Contractor has not specified the particular factors which he considers the ICB should or should not have taken into account. Notwithstanding this, the ICB maintains it has taken into account appropriate information when making its decision to issue the Termination Notice.

5.23 When determining whether the Contract should be terminated under clauses 323 and 324.2 due to the Contractor's suspension, the Board paper of 7 April 2026 and the Strategic Commissioning Committee paper of 23 April 2026 demonstrate that the ICB reasonably took into account of the following factors:

5.23.1 the findings of the PCC, including the charges that were and were not proved, and the finding that the Contractor had engaged in unprofessional and inappropriate conduct;

5.23.2 the findings of the PCC in relation to the Contractor having breached Professional Standard 9.1 regarding abusing his position of trust;

5.23.3 the finding of misconduct, the sanction imposed by the PCC, and the reasons for the sanction, in particular the PCC's views as to the seriousness of the misconduct;

5.23.4 the representations submitted by the Contractor on 9 April 2026 (Page [A181] of the Bundle);

5.23.5 the factors it is required to consider prior to termination under chapter 11.4 of the Policy Book (A copy of chapter 11.4 of the Policy Book is at page [C30] of the Bundle);

5.23.6 the ICB's responsibilities as a commissioner of NHS dental services;

5.23.7 Continuity of service provision, patient safety and safeguarding;

5.23.8 Financial considerations; and

5.23.9 5.23.9 Key risks and mitigations.

5.24 In addition, and whilst not the reason for the decision to terminate the Contract, the ICB noted the findings of the Practice's most recent CQC inspection that took place on 6 January 2026 (A copy of the CQC report is at pages [C1]-[C25] of the Bundle), which found the found [sic] that the Practice had not met all regulations. The report concluded that the Practice did not meet all key criteria within the 'Safe' and 'Well-led' categories"

5.25 Additionally, areas for improvement at the Practice had been identified through routine ICB quality oversight, including infection prevention and control, health and safety, and safeguarding.

5.26 The PCC's Public Determination, on which the ICB relied, considered it appropriate to limit the Contractor's suspension to a one-month period taking into account mitigating factors, including his conduct since the underlying incident, remorse shown, his insight and remediation, that it appears to have been a single incident, and his admission of the charges. However, despite these mitigating factors the PCC still considered it appropriate to issue a suspension order, and suspension by the GDC reflects serious regulatory concerns. As such the ICB was not satisfied that the suspension ordered by the GDC did not mean that the Contractor was unsuitable to hold the Contract.

6 SUMMARY

6.1 The ICB maintains it acted reasonably, proportionately and lawfully in terminating the Contract under Clause 323 and 324.2 in light of the findings of the PCC and the regulatory action taken by the GDC to suspend the Contractor. The ICB terminated the Contract during the period in which the Contractor was suspended and therefore fell within clause 324.2 and reasonably considered that

clause 325 was not engaged. The ICB was therefore entitled to exercise its right to terminate the Contract, in accordance with its function of securing the needs of people who use the services, and improving the quality of services, and acted reasonably in doing so.

6.2 The ICB followed a fair process in making its decision, including inviting representations from the Contractor prior to making a final decision to terminate the Contract, and consulting with the LDC.

6.3 The Application does not give rise to any reasons on which the Termination Notice can be impugned. The ICB therefore invites the Adjudicator to refuse the Contractor's appeal and permit the termination of the Contract to proceed."

The Contractor's representations

3.3 "**Introductory Remarks**

1. These representations are made on behalf of [redacted] following the written request for same from NHS Resolution, emailed to his solicitor [redacted], and dated 6 June 2026.

2. Please note that we are unable to provide the signed copy of the contract at this time (Contract 1514160001) so reference should be made to the Standard General Contract for now.

3. Our arguments in respect of this matter relate to general duties that we say are incumbent on the ICB in making their decision to terminate the Contract with the Contractor, and that they have failed inn [sic] those, so the issue of arguing over specific clauses as material does not arise.

4. We should also clarify that at the time of writing we have not seen any further communications from the ICB or their solicitors Bevan Brittan other than two documents which we enclose in our bundle ("the Bundle"). These documents, comprising the Notice of Termination and a letter from Bevan Brittan formed part of our initial request for adjudication to NHS Resolution and are from page 2 and page 8 of our Bundle respectively.

5. Our complete initial request to NHS Resolution is enclosed in our bundle ("the Bundle") at Page along with various other new documents which will be referred to in the course of these representations.

6. We suggest that this matter is relatively straightforward in that the history is not extensive, nor are the main factual issues particularly complex.

7. Put shortly, [redacted] was suspended in February of this year, for one month, by the Professional Conduct Committee of the GDC (the "PCC decision"), please find this enclosed at page of our Bundle.

8. The suspension related to a single incident over five and a half years ago, where [redacted] gave a member of staff a massage to alleviate pain, whilst in the presence of another staff member.

9. The massage, although found not to not sexually motivated, was found to be inappropriate in the circumstances and [redacted] was found impaired due to

misconduct on public interest grounds alonme [sic]. By way of sanction he was suspended for one month.

10. The ICB maintain that this PCC decision makes [redacted] an unsuitable person to hold a GDS contract ("the Contract") and they therefore seek to exercise their discretionary right to terminate the contract.

11. We maintain that the ICB decision is wrong, and in appeal terminology, it is wrong in fact and also wrong in law.

12. Firstly it is wrong in fact, because the PCC decision does not of itself, nor the underlying circumstances of it, justify a decision that [redacted] is unsuitable to hold a contract.

13. Secondly the decision it is wrong in law and cannot fairly be supported, principally because insufficient reasons are given to justify it, but also because it is in part based on irrelevant considerations, and it emphasises or relies upon material supportive of it, yet ignores or minimises anything that would conflict with it, so much so that it cannot therefore be viewed as fair.

14. As an extension of the legal arguments, whilst we do not question that any Contract holder must be suitable, we question if in this specific instance, if the ICB can legitimately take what is a different view to the PCC, as they decided that [redacted] was suitable to continue to practice as a dentist.

15. On one view therefore, the ICB are inconsistent with the PCC, as they have decided - on the same facts, and apparently those facts alone – that [redacted] is unsuitable to practice, or at least within their locality. (Either that, or their position is that any suspension makes a dentist unsuitable, regardless of circumstances)

16. Of course, we do not suggest the ICB are formally bound by a PCC decision, but crucially the ICB do not explain why they are able to distinguish the PCC decision i.e. why [redacted] is suitable to work as a dentist, but not suitable to hold this particular Contract.

17. We suggest this is a very significant omission and supports our contention that the ICB decision is not sufficiently reasoned but instead has the hallmarks more of an instinctive reaction to allegations of admittedly salacious and highly inappropriate behaviour.

18. These two appeal points (fact and law) are interlinked in our submission, as the legal failures to justify the decision are not simply technical errors (e.g. not explaining the decision in sufficient detail), rather they are a direct and understandable consequence of their not being sufficient factual basis to make a discretionary decision of such consequence in the first place.

19. We will deal with these two areas in turn and conclude by asking NHS Resolution to find the Termination Notice dated 20 April 2026 invalid, for the reasons given in these representations.

20. However, before considering those grounds of this appeal, it is important to understand the Notice itself and what it states - or doesn't state - as on the basis of the Notice as written, it can be argued that the appeal points detailed above may be premature or surplus to requirements.

The Termination Notice

21. Firstly, we ask that NHS Resolution consider the Notice as it is written, and if we do so and do not apply any element of interpretation or speculation to it, we would be entitled to respond to it by suggesting it is inadequate as a standalone document.

22. However, in the spirit of seeking constructive resolution we do not do so, and instead this response is partly based in anticipation of what the ICBs underlying position is, or what will be advanced, rather than anything that can be gleaned from the Notice itself.

23. The reason we lay this out will become clear when the Notice itself is considered.

24. We suggest the critical sentence in the two page Notice is in the last paragraph on the first page where the ICB explain the reason for the termination. It reads *inter alia* as follows;

> *"(The ICB) was satisfied that it is appropriate to terminate the contract on grounds of suitability as you have been made subject to a one month suspension order…"*

25. When you strip away the surrounding text dealing with procedural / contractual matters, that is basically all the reasoning it provides. Accordingly, the Notice states that reason for the termination is only that [redacted] has been suspended. We understand that no further written information was provided with the notice meaning this is the only reason given.

26. The ICB argue that they are entitled to do this, but we submit that is to ignore that this is a discretionary power they seek to exercise and not a strict liability matter as the wording quoted above might appear to imply.

27. As a public body, exercising a discretionary power (via a claimed contractual right in this case) the ICB must exercise that power in a fair, transparent and justifiable manner. In our view, the ICB effectively stating in their Notice that *'you have been suspended, therefore we terminate your contract'*, is quite patently not meeting those requirements.

28. When challenged by [redacted] on this point in his letter found at page of our bundle, the ICB via their lawyers appear to accept this, as they have sought to justify this Notice and at page 11 of the bundle we read the following excerpts from Bevan Brittans letter,

> *"The Contract does not specify the information that must be contained in a termination notice…*
>
> *The Termination Notice complied with the requirements of the Policy Book. It specified the clauses and the wording of the clauses which give rise to termination…*
>
> *The Termination Notice set out the reason for termination, namely that the ICB had considered the PCC's findings and the regulatory action taken…*

The grounds for termination were explained in sufficient detail for you to understand the contractual provisions relied on and the basis on which the ICB was terminating the Contract."

29. These responses only deal with what the contract stipulates is required. They take no account of what administrative or public law requires, as laid out above and throughout this submission.

30. However, we freely accept the Bevan Brittan letter does touch upon these broader matters at Bundle pages 9 to 11 under the section dealing with "Disproportionality and irrationality" and we shall deal with those points in time.

31. This letter was issued after the Notice and we therefore have a situation where the Notice itself is totally inadequate as it stands in terms of being fair, transparent and justifiable, but we have further communications from the ICB which does provide more rationale, although as we will argue, still insufficient.

32. We have no desire to unnecessarily delay matters by making representations limited to the sufficiency of the Notice alone, when we do have a deeper knowledge of the ICBs position and we would likely be asked to comment on that in due course.

33. What follows is therefore a fuller consideration of the two grounds of appeal noted previously as the ICB have provided further information via their solicitors, and also to be fair to them and the ICB we can to an extent discern the ICBs likely position given the nature of the incident giving rise to this matter which we have touched upon earlier.

34. Even so, our primary position remains that the decision to terminate is not factually justifiable, sufficiently reasoned, nor explained, and this is notwithstanding the further comments made in Bevan Brittans letter of 18 May 2026. What follows is the therefore our *esto* position if the Adjudicator is not with us on this primary position concerning the inadequacy of the notice.

The Decision is wrong in fact

35. It is disputed that the facts found proven by the PCC, and their decision amount to sufficient basis for [redacted] being unsuitable to hold a contract. In our submission that decision is factually wrong as it is not justified by the matters found proven by the PCC.

36. Before considering those, [redacted] accepts that his behaviour was inappropriate and ill advised and he is deeply regretful of the upset that he caused to those involved. He apologised then and he restates that apology now.

37. The circumstances of the matter are unusual certainly, and [redacted] does not seek to excuse himself other than to say his motivations were only to assist a colleague.

38. Crucially in our submission, the PCC agreed, and also found that [redacted]'s behaviour was not sexually motivated. We should add here that it should it be noted [redacted] has not been found guilty of any criminal offence.

39. The ICB do not spend time outlining why those two matters insignificant, but neither do they advance to any extent a clear, positive argument explaining precisely why [redacted] is not a suitable individual to hold a contract.

40. Whilst they highlight the aggravating features of the case, at no point do they actually seek to link the specific behaviour which was admitted by [redacted] to his suitability. This is not mere legal semantics, because without performing that exercise what the ICB are asking us to do, is take an inductive leap from a known factual position to their desired outcome, without joining those dots.

41. In considering this aspect, and the matter as a whole, we ask that NHS Resolution have regard to the following paragraphs of the PCC decision found at page 16 of the PCC document

> *"58. The Committee has considered carefully the reports from your chaperones, which cover the period from November 2024 onwards, when your registration was subject to an interim order of conditions. The chaperones set out that they objectively observed your interactions with patients and colleagues and confirmed that you maintained appropriate boundaries as well as displaying professionalism and respect in your interactions with female colleagues and female patients.*
>
> *59. In the Committee's judgement, the evidence before it demonstrates that you have addressed the concerns that were identified in this case, that you have complied fully with the interim orders on your registration without any reported concerns, since the events in question, some five years ago. The Committee has had regard to the supportive testimonials from dental colleagues, as well as the oral evidence of two dental colleagues, who attest as to your professional behaviour towards female colleagues.*
>
> *60. Further, it was clear from your evidence throughout the course of these proceedings that you reflected on your conduct and you have implemented positive changes to your practice and maintaining professional boundaries with colleagues.*
>
> *61. The Committee is satisfied that you have demonstrated significant insight and genuine remorse and you have remediated your misconduct. It is of the view that, having considered all the information before it, there is a low risk of repetition. Therefore, a finding of impairment is not necessary on the ground of public protection."*

42. We suggest that last paragraph is of great significance as the PCC find that [redacted] is not likely to repeat this behaviour, and that as such the short suspension order that follows is not for the purpose of protecting the public.

43. Rather, the order that was made (a one month suspension) was made on the ground of public interest, which can be taken as the PCC marking the seriousness of the matter.

44. [redacted] does not deny the matter was serious, but NHS Resolution will doubtless be aware a one month suspension is at the lower end of the 'serious bracket' as it were, and matters that involve these type of allegations can more often than not result in the dentist being struck from the register if the worst aspects of the behaviour are proven.

45. We suggest that although the matter was undoubtably serious, so much that it attracted a short suspension, it does not automatically follow that [redacted] is unsuitable to hold a contract, particularly as the impairment finding was on public interest grounds only.

46. Rather, given the facts of this particular case, we submit that the suitability for holding a contact can be considered as equitable to suitability to remain on the register. If it is not, then the ICB are arguably holding [redacted] to a higher standard than his own professional regulator.

47. This incident aside, [redacted] has demonstrated over the years that he is suitable to hold a contract and he has consistently provided a valuable service to patent for many years now (a large proportion of which are NHS) and has no previous sanction form the regulator.

48. We suggest that NHS Resolution can take this as a given, as [redacted]'s clinical practice is not a factor in the Notice, nor the subject of comment from the ICB's lawyers.

49. As advised, we do not seek to lengthen these submissions with extraneous material, so we say no more on that aspect, other than to draw attention to [redacted]'s testimonials in our bundle which speak to his high standard of clinical practice. CPD and further information can of course be provided if thought relevant.

50. Given his standard of practice, and the fact has been found to have remediated his conduct and there is low risk of a repeat, we maintain that [redacted] remains a suitable person to hold a contract, just as the PCC found himself suitable to remain on the register.

51. We respectfully suggest there is no valid reason why, some five years after the event, [redacted] is unsuitable in light of him having completed reflection, boundaries training and showing insight as the PCC note with approval.

52. The failure of the ICB to explain in any sort of substance why [redacted] is unsuitable is significant and will be dealt with in the next section.

53. In addition, we note that in their letter of 18 May 2026, paragraph 5.11 the ICB themselves describe their role as follows;

> *"The ICB's role is to manage the performance of contractors, secure the needs of people who use the services, and improve the quality of services."*

54. We suggest that the facts of the matter and the PCC decision does not conflict with or present a barrier to those aims, and therefore the decision is not one that can be supported as achieving or legitimately engaging with those aims, particularly as there was no suggestion of an ongoing risk to patients or staff. We leave this point in the facts section although it equally applies to the section below, if not more so.

The decision is wrong in law

55. There exists on the ICB as a public body certain duties when making decision of this nature, and we suggest those are heightened when the decision has such serious consequences as this one. Those duties are to act reasonably and

rationally as per Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1948) and the general principals of public and administrative law.

56. The ICB must act in a manner that is fair, and it is accepted that what is considered fair depends on facts and circumstances. Components of ensuring fairness includes a duty on the decision maker to give reasons, to avoid irrationality in decision making, to consider and base decision on all relevant evidence and similarly not to exclude relevant evidence. These duties are long established principals of administrative and public law and we do not rehearse the legal basis here as NHS Resolution will doubtless be aware of these principals and we wish to keep these representations succinct as stated.

57. However, we can address NHS Resolution on these matters in detail should they wish, and we would be happy to do so.

58. Perhaps the primary legal duty we say is not complied with, is that to give reasons for the decision.

59. The Adjudicator will note that much of the correspondence from their solicitors (quite properly) deals with the form of the decision and how the ICB is, by virtue of certain contractual and regulatory provisions, in a legally sound position to make such a decision. However, we suggest but they do not clearly or with sufficient detail, explain why on the specific facts of this matter why [redacted] is actually unsuitable.

60. So whilst it may be legitimate to be in a position to make such a decision, a good reason for it and/or the justification is lacking. We state again that it appears almost as if the ICB are treating this as a strict liability offence, which if that was the case, then the legislation would provide that – and it does not.

61. There is no link in other words, and where the ICB do seek to justify this with refence to the PCC decision (from paragraph 5.1 of the Bevan Brittan letter) a coherent or convincing argument is not developed to explain precisely <u>why</u> the suspension makes [redacted] unsuitable to hold a contract.

62. We have termed this above a strict liability approach, which maybe overstates matters in light of the Bevan Brittan letter and perhaps we are more in the realms of a res ipsa loquitur approach by the ICB, where certain facts (i.e. the allegations and subsequent suspension) are deemed of sufficient nature and import to ‘speak for themselves’ such that no further explanation is necessary

63. However, that jump that the ICB ask us to make, is we argue not one that can be readily justified or inferred by a court if it were to look at the facts in the absence of the ICB laying out their reasoning. In other words, this is not a situation where a decision is unexplained by the ICB, but a court would have no difficulty in finding valid reasons to justify it on the facts available to the ICB, (even if the ICB do not enunciate those in their decision (The cases of Byrne v GMC [2021] and English v Emery Reimbold and Strick [2002] can therefore be distinguished.)).

64. We suggest the ICB approach in this particular matter is wrong, and may stem from what may at first appear very concerning behaviour indeed, such as to also and amount to criminal conduct i.e. the original GDC allegations.

65. But that ignores what PCC found had actually happened, and here we are concerned to note the number of times the ICB raise the allegations in their letter – not what was found proven, but allegations, and this distinction is very important indeed.

66. The Adjudicator will read at paragraph 5.4 of the Bevan Brittan letter of 18 May 2026;

> *5.4 Considering the **nature of the charges** brought by the GDC and the regulatory action taken, the ICB maintains it acted reasonably, proportionately and lawfully when exercising its discretion to terminate the Contract under clause 324.2. On 11 December 2020 an incident occurred at the Practice involving your actions towards one of your employees. The GDC decided to pursue fitness to practice proceedings against you and **brought charges of sexually inappropriate and unprofessional conduct**, alongside a **charge of abusing your position of trust**. These were grave allegations of misconduct involving an employee at your Practice to whom you owed a duty of care. The PCC upheld **two charges** of inappropriate and unprofessional conduct involving physical touch and found that your fitness to practice was impaired by reason of misconduct. Accordingly, the PCC issued a sanction of suspension for one month.* (emphasis added)

67. It should go without saying that allegations are just that, unproven charges, and in this case, the ICB solicitors concentrate more on them than they do the actual PCC findings, which is inappropriate and a major flaw in the decision. Indeed, we are on dangerous ground if the test for termination of a contract is (to any extent whatsoever) based on what GDC allegations are made, not what allegations are found proven.

68. In addition, the ICB raise the number of findings of fact against [redacted], but those relate to admissions he made about where he touched the person concerned whilst giving her a massage. The ICB largely ignore, or do not deal with exculpatory matters to any significant and we say sufficient extent.

69. We respectfully suggest Paragraph 5.4 of the ICB letter quoted above takes on a very different light when it is understood that the PCC found as facts that [redacted];

a. **Did not** ask colleague A to undress and remove her underwear.

b. **Did not** find he had touched her buttocks.

c. **Did not** find [redacted] “continued to touch Colleague A despite Colleague B asking him to stop”

d. **Did not** abuse the position of trust and/or authority he held as a senior colleague of Colleague A,

e. **Did not** find his behaviour Sexually motivated.

70. Therefore, the most serious of allegations that the ICB refer to specifically in paragraph 5.4 to justify their decision (i.e. abuse of trust and sexually motivated behaviour) were found not to be proven.

71. Accordingly, for the ICB to use unproven allegations as rationale for the decision they have taken is wholly inappropriate and very concerning.

72. We stress, the allegations noted above are unproven not because they have not been tested or examined. They are unproven because after an evidential hearing, the PCC decided the behaviour complained of did not happen.

73. The inappropriateness of using alleged behaviour, found factually not to actually have happened, as a reason for a decision of this nature should not require further emphasis by us, suffice it to say that we do not consider it fair, just or reasonable for the ICB to rely upon factually unproven allegations to justify a serious decision of this nature.

Concluding Remarks

74. The ICBs approach to this matter and subsequent justifications raises a legitimate, serious concern, namely that the ICB decision is based more on the emotive aspects of the case, and the nature of allegations, rather than the facts found proven. If that is not the case, then at the least the consideration of this matter appears cursory.

75. Alternatively, the ICB is proceeding as if a suspension is an automatic reason for termination with no further reasoning required. This is also inappropriate, which the ICB would appear to accept given they have advanced justifications for their decision. (justifications that we say do not stand up to scrutiny).

76. These comments are reinforced when one notes the total lack of any detailed justification for equating a one month PCC suspension as unsuitability to hold a contract.

77. Finally, the ICB may wish to use the public interest to justify their decision. If so we would submit that the public interest was dealt with by the PCC decision.

78. In addition, any public interested [sic] argument is predicated on the hypothetical public knowing all the facts of the matter.

79. The public would therefore know the allegations, but they would know how many were actually found proven, and crucially which ones. They would know [redacted]'s reflection, insight and that he has been assessed as posing no risk to patients or the public as a whole. They would know the positive comments made by the PCC noted by us at paragraph 37 above. They would know the long and dedicated service provided by [redacted] to his patients. In light of this, and the ICB failure to justify a decision with such serious consequences for the public themselves, we suggest a public interest is not sufficient to justify a termination of the contract.

80. Given the above, we respectfully ask that the Notice issued by the ICB is declared invalid, as it is so flawed, factually and legally, that it cannot be considered rational, justifiable or fair in all the circumstances of the matter."

Observations

<u>NHS England's observations</u>

3.4 "We act for NHS Somerset Integrated Care Board ("**the ICB**"). We refer to your letter dated 22 July 2026, and the representations submitted by DR Solicitors on behalf of [redacted] ("**the Contractor**") dated 20 July 2026 ("**the Contractor's Representations**").

References in [xx] are references to the enclosure bundle filed with the ICB's representations dated 13 July 2026.

The ICB's position has been set out extensively in our correspondence of 18 May 2026 [**B7 – B15**] and the ICB's Representations dated 13 July 2026. However, we write to provide the following observations in respect of the Contractor's Representations.

1 THE ROLE OF THE PCC

1.1 The position set out in the Contractor's Representations misunderstands the role of the Professional Conduct Committee ("**PCC**"). For example, we note the following references in the Contractor's Representations:

1.1.1 Paragraph 15 states: "the ICB are inconsistent with the PCC, as they have decided – on the same facts, and apparently those facts alone – that [redacted] is unsuitable to practice".

1.1.2 Paragraph 16 states that the ICB has been unable to explain "why [redacted] is suitable to work as a dentist but not suitable to hold this particular Contract".

1.1.3 Paragraph 46 states: "we submit that the suitability for holding a contact can be considered as equitable to suitability to remain on the register".

1.1.4 Paragraph 50 states "we maintain that [redacted] remains a suitable person to hold a contract, just as the PCC found himself suitable to remain on the register".

1.2 The Contractor's Representations argue that suitability to hold a contract is equal to suitability to remain on the register, and that the ICB has decided that the Contractor is unsuitable to practice. This position is fundamentally incorrect.

1.3 The PCC is a committee of the General Dental Council ("**GDC**") whose role is to regulate the dental profession and register dental professionals. The PCC's role was to review the allegations made against the Contractor and determine the appropriate regulatory action, including whether or not he should remain on the dental register and therefore be allowed to continue practicing as a dentist. The PCC have no role in determining who is suitable to hold a dental contract.

1.4 The ICB's role on the other hand is to determine who is suitable to hold a contract for the provision of dental services (this is addressed at paragraphs 5.4 and 5.5 of the ICB's Representations). The ICB's role is not to decide who should remain on the register and be allowed to practice. The fact that the ICB do not consider that the Contractor is suitable to hold a contract has no bearing on whether or not he can or should remain on the register and work as a dentist.

2 GROUNDS – FACTS

2.1 We refer to paragraphs 35 to 54 of the Contractor's Representations which set out grounds to argue the ICB's decision to terminate is wrong in fact.

2.2 Paragraph 35 states "It is disputed that the facts found proven by the PCC, and their decision amount to sufficient basis for [redacted] being unsuitable to hold a contract. In our submission that decision is factually wrong as it is not justified by the matters found proven by the PCC".

2.3 We make no comment as to the facts of the fitness to practice [sic] proceedings and the underlying conduct. The only pertinent fact in this case is that the Contractor was suspended by a regulatory body, and that suspension triggered the contractual right to terminate under clause 323 and 342.2 of the Contract (this is addressed paragraphs 5.5 to 5.8 of the ICB's Representations).

2.4 In relation to the remainder of paragraphs 36 to 54 of the Contractor's Representations, the Contractor avers:

> 2.4.1 The ICB has not considered the mitigating factors identified by the PCC (as described at paragraph 41 of the Contractor's Representations); and
>
> 2.4.2 The conduct was not sufficiently serious to warrant termination, as the finding of impairment was made on public interest grounds only, rather than for the purposes of protecting the public (paragraphs 42 to 45 of the Contractor's Representations).

2.5 The ICB has addressed its position in relation to both of these points at paragraphs 5.10 to 5.15 and 5.23 of the ICB's Representations.

2.6 We further note that the Contractor's Representations seek to argue that the Contractor's conduct was not serious as the PCC made a finding of impairment on public interest grounds, rather than public protection grounds. While it is accepted that the PCC's finding of impairment was made on public interest grounds, the overall role of the GDC, and therefore the PCC, is to protect the public and to take action to protect the public where a dental professional falls short of the Standards for the Dental Team [**C56 – C71**]. The finding of impairment and subsequent suspension order must be considered in this context; it does not suggest that the conduct in question was in any way not serious.

3 GROUNDS – LAW

3.1 We refer to paragraphs 55 to 73 of Contractor's Representations which set out grounds to argue the decision is wrong in law.

3.2 Throughout the Contractor's Representations they argue a breach of public law principles and seek to treat this appeal as a judicial review. For example, paragraph 55 makes reference to duties "*to act reasonably and rationally as per Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1948) and the general principals of public and administrative law".*

3.3 However, this appeal is not a judicial review. The question under this appeal is whether the ICB complied with its contractual duties to act in accordance with the Contract and to act reasonably and in good faith, when terminating the Contract. NHS Resolution's role is to consider the terms of the contract and whether the ICB

has acted in accordance with those terms, whether it has done so in a manner that is reasonable and in good faith. We maintain the ICB has.

3.4 We refer to paragraphs 5.4 to 5.9 and 5.23 of the ICB's Representations. In summary, clause 323 and 324.2 of the Contract gave the ICB the power to terminate the Contract upon the Contractor having been suspended by the GDC. The ICB acted reasonably and in good faith, and adopted a fair procedure, in terminating the Contract. In particular, the ICB acted in accordance with the terms of Policy Book [**C26 – C23**], afforded the Contractor the opportunity to submit representations on the issue of termination of the contract, took those representations into account when deciding whether to terminate (along with the PCC determination and other factors required under the Policy Book), and issued the Termination Notice in accordance with the terms of the contract.

3.5 Paragraph 58 of the Contractor's Representations seeks to advance a reasons based challenge under public law principles and states "*the primary legal duty we say is not complied with, is that to give reasons for the decision*". Paragraphs 21 to 34 of the Contractor's Representations also seek to argue that the Termination Notice does not provide sufficient reasons for the decision to terminate.

3.6 However, the Contractor's Representations do not reflect the requirements of the Contract and, in any event, there is no general common law duty to give reasons for a decision. To the extent needed to ensure fairness, the ICB made clear to the Contractor the basis on which it was terminating the Contract. This is addressed at paragraphs 5.12 to 5.15 of the ICB's letter dated 18 May 2026 [**B7 – B15**]. In summary, the Termination Notice explained the contractual basis for the decision, citing clauses 323 and 324.2. The Termination Notice explained that the ICB had considered the PCC determination, the Contractor's representations, and the considerations required under the Policy Book, and was satisfied it was appropriate to terminate the Contract on grounds of suitability as the Contractor fell within the remit of clause 324.2 by virtue of his suspension.

3.7 As such, the Contractor has been under no uncertainty as to the reasons for the ICB's decision to terminate the Contract. The Termination Notice complied with contractual requirements and provided sufficient information to enable the Contractor to understand the basis on which the Contract was being terminated.

3.8 Accordingly, the ICB requests this appeal is denied."

<u>The Contractor's observations</u>

3.5 "1. These are the Contractor [redacted]'s response to the representations made by Bevan Brittain, solicitors for NHS Somerset Integrated Care Board ("the ICB") dated 13 July 2026.

2. Bevan Brittan have now provided two letters seeking to explain or justify the decision by the ICB to terminate [redacted]'s contract, and why that decision should withstand our appeal.

3. The first letter they provided is dated 189 [sic] May 2026, and we shall refer to that letter as the First Letter, and the most recent July letter as the Second Letter.

4. The Second Letter, as per Bevan Britans [sic] para 5.3, "*adopts the arguments set out in its letter of 18 May 2026, and supplements these arguments…"*

5. With respect, we suggest that the Second letter does not however supplement the arguments of the First to any great extent or at least not sufficiently to justify the ICB decision.

6. The supplementary arguments in the Second letter can be summed up as

a. [redacted] was found to have breached Standard 9.1 of the Standards for the Dental Team (para 5.13)

b. The ICB deny that they made the decision to terminate the Contract on the basis of the Contractor's underlying conduct having been sexually motivated (para 5.17)

c. *"the ICB's decision to terminate was based on the fact of the suspension that had been issued by the PCC and their reasons for having done so"* (para 5.21)

d. *"In addition, and whilst not the reason for the decision to terminate the Contract, the ICB noted the findings of the Practice's most recent CQC inspection that took place on 6 January 202622, which found the found that the Practice had not met all regulations. The report concluded that the Practice did not meet all key criteria within the 'Safe' and 'Well-led' categories"* (para 5.24)

Preliminary Remarks

7. Before turning to these specific points, in our respectful submission, the Second Letter does nothing at all to address the fundamental criticisms made in our own first Representations, namely that no solid basis is advanced to any extent by the ICB as to why the underlying facts of this matter makes one unsuitable to hold a contract - quite the opposite in fact, as the Second Letter now seems to accept it is the suspension alone that gives rise to their decision as per point 'c' above (i.e. a strict liability position as we have termed it in our previous representations.

8. The Second Letter also does not explain in any more detail than the First the actual reasons for such a serious decision, so much so that the decision is not transparent, justifiable, rational and hence legal.

9. The above comments are supported when we examine points a - d that we have noted above.

a. Breach of Standard 9.1

10. The Second Letter notes that the PCC found that [redacted] breached Standard 9.1. For full context, the PCC found this breach in relation to a single incident, that occurred five years ago, in relation to a single member of staff.

11. The ICB do not explain how this makes [redacted] unsuitable to hold a contract now, given that the PCC have found this behaviour was indeed a one off and is highly unlikely to be repeated.

12. The Adjudicator can examine at great length all the documentation provided by the ICB in this matter in an attempt to identify the rationale behind the ICB decision, but regrettably that would be a fruitless exercise.

13. The ICB position is, and remains, that [redacted] was suspended and therefore his contract is suitable for termination, with no further explanation apparently needed.

14. As such, our position also remains that the ICB decision is wrong in fact and law.

b. Sexual Motivation

15. The Second Letter is at pains to point out that the ICB decision is not based to any extent on the sexual nature of the allegations.

16. This is objectively incorrect, and flatly contradicts the ICB solicitors First Letter, where we read at paragraph 5.4

> *5.4 Considering the **nature of the charges** brought by the GDC and the regulatory action taken, the ICB maintains it acted reasonably, proportionately and lawfully when exercising its discretion to terminate the Contract under clause 324.2.*

17. It could therefore not be clearer that the ICB based their decision on the sexual nature of the allegations.

18. In attempting to resile from this position, so much so that they now contradict their own previous letter, the ICB Solicitors further undermine any claims that this is a fair and balanced process with a just result.

c. Termination based on Suspension

19. The ICB argue that it is not the simple fact of suspension that has resulted in termination but the underlying reasons for that suspension that go to suitability.

20. If that was the case then the ICB would have no difficulty explaining those reasons and how they make [redacted] unsuitable, yet they do not.

21. Instead, (as only one of the many examples we can find), we read the following at Para 2.1 of the ICB Strategic Commissioning Committee consideration (page A141 of the ICB Bundle)

> *"The consideration of termination does not arise from issues of service delivery or contractual compliance, but from regulatory action taken by the General Dental Council."*

d. CQC Matters

22. The quote above also brings us to a most troubling matter, namely that the ICB in their Second Letter now appear to introduce factors that have played into their decision making that have not been stated as relevant before – namely CQC Inspections.

23. We read at para 5.24 of the Second Bevan Brittan letter

> *"In addition, and whilst not the reason for the decision to terminate the Contract, the ICB noted the findings of the Practice's most recent CQC*

inspection that took place on 6 January 202622, which found the found that the Practice had not met all regulations.

The report concluded that the Practice did not meet all key criteria within the 'Safe' and 'Well-led' categories"

24. If, as Bevan Brittan suggest, this is not part of the reason for the decision then why raise this at all in a formal letter as they do?

25. There are two rather unwelcome possibilities.

26. Firstly, it was actually part of the decision making process, but only now is being ventilated as such, after the decision has been made, regardless of denials to the contrary.

27. The second is equally troubling, that CQC matters were not part of the decision as Bevan Brittan maintain, but are instead raised entirely for prejudicial effect as against [redacted] now.

28. It is difficult to see what other reasons there could be for including this information now, outside those two explanations, neither of which would sit well with an Appeal court we imagine.

Concluding Remarks

29. Indeed, we suggest there are many aspects to this matter that a court would find troubling and it is difficult to have faith in a process where decisions are neither transparent nor justifiable, the ICB lawyers maintain contradictory positions, they rely on irrelevant factors and they seek to introduce irrelevant and prejudicial material as *post facto* justification for a decision of this nature.

30. Finally, we are interested to note the ICB comments about their decision being in the public interest. We have commented on how the public interest is considered in our initial representations and do not repeat those remarks here.

31. We would however add, that from the ICB bundle, it appears that [redacted]'s dental surgery would not continue nor be replaced were this termination to proceed.

32. In other words, the patients served by his surgery would have to look to other existing practices for dental treatment, no doubt causing increased workloads to staff and patient delays at those surgeries.

33. We strongly suspect that [redacted]'s existing patients, and the patients and staff of the other practices which will see increased pressure on their services, would not see the ICB decision to be in their interests.

34. This begs the question which "public" are the ICB referring to?"

4 CONSIDERATION

4.1 I have first considered whether the parties have exhausted the local dispute resolution process. The Contractor states that the local process has concluded, and I have been provided with copies of the preceding correspondence between the parties. Having considered that correspondence, I am satisfied that the parties have engaged in local

dispute resolution and that no further purpose would be served by requiring the parties to engage further in that process.

4.2 Since 1 April 2023, integrated care boards have held delegated responsibility for the commissioning of primary dental services.

4.3 As part of my consideration of the application for NHS dispute resolution, it was necessary to identify the contract by which the dispute is governed. Neither party has provided a signed copy of the contract or of the relevant variation notice. The Commissioner has instead provided an unsigned copy of the variation notice and the Standard General Dental Services Contract dated May 2025 which was in force throughout the period in which it took steps to terminate the contract.

4.4 I note that the parties are agreed that this dispute should be determined by reference to that Standard General Dental Services Contract. I consider that the absence of a signed copy does not prevent me from doing so where the existence of the contractual relationship, the terms applicable during the relevant period and the use of those terms for the purposes of this dispute are not contested. I have therefore proceeded upon that agreed basis.

4.5 I now turn to the contractual provisions upon which the Commissioner relied in relation to the termination:

> *323. The Commissioner may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if –*
>
> *323.1. in the case of a contract with a dental practitioner, that dental practitioner;*
>
> *[…]*
>
> *falls within clause 324 during the existence of the Contract or, if later, on or after the date on which a notice in respect of his compliance with the conditions in regulation 4 or 5 of the Regulations was given under clause 232.*
>
> *324. A person falls within this clause if—*
>
> *[…]*
>
> *324.2. subject to clause 325, he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any licensing body anywhere in the world;*
>
> *[…]*
>
> *325. The Commissioner shall not terminate the Contract pursuant to clause 324.2 where the Commissioner is satisfied that the disqualification or suspension imposed by a licensing body outside the United Kingdom does not make the person unsuitable to be—*
>
> *325.1. a contractor;*
>
> *[…]*

A "licensing body" is defined in the Contract as any body that licenses or regulates any profession.

4.6 It is not disputed that the Professional Conduct Committee (the "**PCC**") of the General Dental Council determined that the Contractor's fitness to practise was impaired by reason of misconduct and suspended his registration for a period of one month. The Contractor did not appeal that determination and was removed from the Dental Performers List in consequence of the suspension.

4.7 I note that the suspension was substantive. It was not an interim suspension pending investigation and it was not imposed on grounds of ill health. I therefore consider that the Contractor fell within clause 324.2 and that the power of termination conferred upon the Commissioner by clause 323 was engaged.

4.8 Both parties have addressed at some length whether the Contractor was rendered unsuitable to hold a GDS contract. The Contractor states that the PCC did not determine that he was permanently unsuitable to remain a contractor and that its decision to impose a suspension for one month cannot properly sustain such a conclusion. The Commissioner has likewise referred to the suitability of the Contractor when explaining its decision.

4.9 Having reviewed the relevant contractual clauses, clause 325 concerns only a disqualification or suspension imposed by a licensing body outside the United Kingdom. The Contractor's suspension was imposed by the General Dental Council within the United Kingdom and, as such, clause 325 did not require the Commissioner to determine whether the Contractor was unsuitable to hold the Contract. I therefore do not consider that unsuitability to be a contractor and clause 325 formed part of the test which fell to be applied in the present circumstances.

4.10 Had it been intended that the Commissioner must determine whether a practitioner was unsuitable to be a contractor following every suspension imposed by a licensing body, clause 325 would not have been confined in express terms to a licensing body outside the United Kingdom. Therefore, the suitability test upon which the Contractor places reliance has no application to the decision of the General Dental Council in this matter.

4.11 I consequently consider that the parties have applied, and made representations in relation to, a test which the Contract does not require. The absence of a determination by the PCC that the Contractor was permanently unsuitable to hold a GDS contract did not prevent clause 324.2 from applying. The relevant contractual fact was simply that the Contractor had been suspended from practising by the General Dental Council and that none of the express exclusions within clause 324.2 applied.

4.12 The Contractor's representatives place considerable weight upon the basis upon which the PCC imposed the suspension. They state that the suspension was imposed in the public interest and that the PCC did not determine that the Contractor presented an ongoing risk to patients or was otherwise incapable of practising safely. They further rely upon the PCC's findings that the conduct was a single incident and was unlikely to be repeated. They state that the fact that the conduct occurred several years previously and fell at the lower end of the serious 'bracket' should also be taken into account.

4.13 I have had regard to those matters. I consider that they formed part of the circumstances which the Commissioner was entitled to consider when deciding

whether to exercise the contractual power of termination. They do not, however, alter the application of clause 324.2. That clause does not distinguish between the several bases upon which the General Dental Council may impose a substantive suspension. Nor does it require the suspension to have been imposed by reason of an ongoing clinical impairment. The public-interest basis of the regulatory sanction did not deprive it of its contractual consequence.

4.14 That conclusion does not mean that termination followed as an inevitable consequence of the suspension. I consider that the use of the word "*may*" in clause 323 is material in relation to this matter. Once clause 324.2 was engaged, the Commissioner acquired a discretion whether to terminate the Contract. It remained necessary for the Commissioner to consider whether that power should be exercised in the circumstances before it, rather than terminating the Contract merely in consequence of the suspension.

4.15 I consider that the discretion conferred by clause 323 is broad. The Contract does not prescribe any further condition which must be satisfied before termination may follow, nor does it set out an exhaustive list of factors to which the Commissioner must have regard. The discretion must nevertheless be exercised reasonably and in accordance with the Contract. The Commissioner must recognise that it has a choice and consider those matters which properly bear upon that choice.

4.16 The NHS dispute resolution process is concerned with the parties' contractual rights and obligations. It does not constitute an application for judicial review of the Commissioner's decision. I therefore agree with the Commissioner that my consideration should be directed as to whether the Commissioner possessed the contractual power to terminate and whether it exercised that power both fairly and reasonably, having regard to the material circumstances before it.

4.17 I note the parties' references to the Policy Book. I have therefore considered said document and note that the Policy Book describes termination as a significant act carrying financial and service-continuity consequences for both parties. It requires the Commissioner to maintain proper records, undertake the necessary investigation and communication, consider relevant matters affecting continuity of service and demonstrate that it has followed the appropriate process before terminating a contract. The corresponding termination flowchart requires the Commissioner to establish the right to terminate, consult the Local Dental Committee where reasonably practicable, consider continuity and patient-list arrangements, prepare a notice containing the required information and obtain appropriate approval.

4.18 On 8 April 2026, the Commissioner wrote to the Contractor stating that it was considering termination following consideration of the matter by the Commissioner's Executive Management Board. The Contractor was afforded an opportunity to provide representations as to why termination should not proceed. I note that the response made was brief and did not identify any particular contractual impediment to termination or set out in detail why the discretion conferred by clause 323 should not have been exercised.

4.19 The matter was thereafter considered by the Commissioner's Strategic Commissioning Committee on 23 April 2026. The Commissioner states that it had regard to the General Dental Council proceedings, the findings made by the PCC , the terms of the Contract, the Policy Book and the responses received on behalf of the Contractor. The Termination Notice followed on 30 April 2026.

4.20 The PCC found that the Contractor's conduct towards an employee was inappropriate and unprofessional and that it fell far short of the standards reasonably expected of a general dental practitioner. It described the conduct as "*deplorable*". The PCC did not find that the conduct was sexually motivated, but it considered the circumstances of the colleague concerned, including that she might be vulnerable. It determined that the Contractor's fitness to practise was impaired by reason of misconduct and that a one-month suspension was required.

4.21 I note the Contractor's representatives' repeated concern that the Commissioner treated the conduct as sexually motivated notwithstanding the finding of the PCC. I do not consider that the Commissioner's decision was founded upon a separate conclusion that sexual motivation had been established. I note the Contractor's representatives' specific reference to the Commissioner's use of the phrase "*nature of the charges*". However, I consider that this language must be read in the context of the decision as a whole. Properly construed, it encompasses the inappropriate physical contact, the relationship between the Contractor and the employee, the circumstances in which the employee was considered vulnerable, the breach of professional standards and the regulatory findings which followed.

4.22 I do not consider that this phrase demonstrates that the Commissioner assigned sexual motivation to conduct which the PCC had determined otherwise. The Commissioner expressly stated that it had not afforded undue weight to the allegation of sexual motivation. From the material before me, the reasons were directed to the findings which had been made and the seriousness which both the PCC and the Commissioner attributed to them.

4.23 The PCC's determination that a lesser regulatory sanction would not adequately address the seriousness of its findings was a matter which the Commissioner was entitled to take into account. It did not bind the Commissioner to terminate the Contract, but neither was the Commissioner required to disregard it. The PCC had considered the age of the incident, its singular nature, the Contractor's subsequent conduct, the steps taken in relation to professional practice and the prospect of repetition before determining that suspension was nevertheless necessary.

4.24 The Contractor states that the Commissioner has adopted a position contrary to that of the PCC because the PCC permitted him to return to practice following a one-month suspension, while the Commissioner brought the Contract to an end. I do not consider that the two decisions are inconsistent in the manner stated.

4.25 The PCC and the Commissioner were exercising different powers for different purposes. The PCC was required to determine the appropriate regulatory response under the professional disciplinary regime. The Commissioner was required to decide whether to continue a contractual relationship for the provision of NHS dental services after clause 324.2 had been engaged. The fact that the Committee considered a one-month suspension sufficient for its regulatory purpose did not require the Commissioner to preserve the Contract once the contractual power of termination had arisen.

4.26 I note that such a line of reasoning would directly contradict the inclusion of suspension as a ground for termination in 324.2. Whilst the nature of the suspension requires consideration, it merely being a suspension does not render a termination contradictory.

4.27 I now turn to the alternative courses considered by the Commissioner. The Contractor's representatives state that termination was unnecessary and disproportionate, particularly having regard to the temporary nature of the suspension and the remedial steps already undertaken.

4.28 I note that the ordinary remedial and breach notice provisions concern breaches falling outside clauses 322 to 328. The Commissioner's entitlement to terminate in this matter arose under clauses 323 and 324.2. I do not therefore consider that it was required to serve a remedial or breach notice before exercising the power conferred by clause 323. The contractual scheme expressly distinguishes those circumstances from breaches which must first be addressed under the ordinary remedial process.

4.29 Clause 342 provides that, where the Commissioner is entitled to terminate under clauses 322 to 328, it may instead impose a contract sanction if reasonably satisfied that the sanction is appropriate and proportionate to the circumstances giving rise to the entitlement to terminate. The availability of that course did not oblige the Commissioner to adopt it. It required the Commissioner to consider whether a lesser contractual response would be sufficient.

4.30 The Commissioner states that it considered that a contract sanction would not adequately address the seriousness of the misconduct found by the PCC. It also states that it considered whether additional professional support would provide a sufficient response. In that regard, it took account of the steps already undertaken by the Contractor and the fact that those steps had been considered by the PCC before it determined that the misconduct remained such as to require suspension.

4.31 I do not consider that the Commissioner failed to consider the available alternatives. The Contractor's representatives have not explained why any of those alternatives would have provided an adequate response to the matters considered by the Commissioner. The Commissioner determined that none provided an adequate response to the conduct found, the breach of professional standards or its own responsibilities as commissioner of NHS dental services. The fact that the Contractor would have preferred one of those courses does not establish that the Commissioner was required to choose it.

4.32 I have also considered the significance which the Commissioner placed upon its commissioning responsibilities. The Commissioner referred to the need to secure services which meet the needs of those who use them, to safeguard patients and staff, and to maintain and improve the quality of commissioned services. It was entitled to consider those responsibilities when deciding whether the contractual relationship should continue.

4.33 The Contractor's representatives have not identified any particular consideration relevant to that exercise which the Commissioner failed to take into account. Their disagreement is principally with the weight attributed to the PCC's findings and with the conclusion drawn from the one-month suspension. The fact that the same matters might have been weighed differently does not establish that the Commissioner's decision fell outside the discretion afforded by the Contract.

4.34 The Contractor's representatives further state that insufficient consideration was given to the temporary nature of the suspension. I do not consider that this is so. The duration and basis of the sanction were before the Commissioner and were addressed in the material considered. The Commissioner was aware that the suspension was for one month and that the PCC considered the conduct unlikely to

be repeated. It nevertheless regarded the findings as sufficiently serious to warrant termination.

4.35 Clause 324.2 does not prescribe a minimum period of suspension before the contractual power may arise and no such condition can otherwise be found within the Contract. The one-month duration was a relevant matter for the Commissioner's discretion, but it did not diminish or otherwise qualify its entitlement to act under clause 323.

4.36 I have also considered the Contractor's concerns regarding the contents of the Termination Notice. The Policy Book requires the notice to identify the contractual right relied upon, the reason for termination, the date upon which termination will take effect and the Contractor's dispute resolution rights. The Termination Notice identified clause 323 read with clause 324.2, recorded the General Dental Council suspension and the Commissioner's reliance upon it, specified the effective date and notified the Contractor of his right to invoke the NHS dispute resolution procedure.

4.37 I therefore consider that the Termination Notice contained the information required by the Policy Book. The Contractor was also warned beforehand that termination was under consideration and was afforded an opportunity to state why it should not proceed. His representatives made use of that opportunity. I do not consider that the process was rendered defective merely because the response did not alter the Commissioner's conclusion.

4.38 The Contractor's representatives state that the Commissioner's reasons were insufficiently transparent and that the progression from the regulatory findings to termination involved an unexplained inductive leap. I do not consider that this accurately reflects the correspondence when read as a whole. The initial notice identified the contractual basis and the central reason for the decision. The Commissioner's subsequent letter explained in greater detail the matters taken into account, the significance attributed to the PCC's findings and the reasons for rejecting the alternative courses proposed.

4.39 It would have been preferable for the fullest reasoning to have been contained within the Termination Notice itself. I do not consider, however, that the Contractor was left unable to understand why the Contract had been terminated or why a lesser course had not been adopted. The application for dispute resolution and the extensive further response made on his behalf demonstrate that the contractual basis and the reasoning relied upon were understood and capable of being challenged.

4.40 I have considered the Contractor's reference to the Equality Act 2010. No particular provision of that Act has been identified, nor has it been explained how the Commissioner's decision amounted to unlawful discrimination. The mere fact that the decision had serious professional and financial consequences for the Contractor does not establish that it was discriminatory. I have not been directed to any proper basis upon which the Equality Act 2010 prevented the Commissioner from exercising a contractual power arising from the General Dental Council suspension or how this might relate to the powers to determine this dispute.

4.41 The Contractor also relies upon the potential effect of termination upon continuity of patient care and the availability of NHS dental services in the locality. These were proper matters for the Commissioner to consider when determining the practical consequences of termination and the arrangements required thereafter.

4.42 The Commissioner states that it has a robust transition plan and has engaged with the Local Dental Committee to support the transition. It has further stated that it is taking steps to minimise disruption and maintain access to NHS dental services should termination proceed. The later correspondence provides helpful background to the Contractor's concerns regarding continuity, but it does not form the basis upon which I have determined whether the Commissioner was entitled to terminate. That question must stand upon the contractual provisions and the decision made at the relevant time. The later correspondence records that the Commissioner was actively considering arrangements to minimise disruption and preserve access if termination proceeded.

4.43 I have considered the recent CQC material raised by the Commissioner. It provides further background as to the regulation of the practice, but it did not form part of the original decision to terminate and is not required to establish the contractual gateway under clauses 323 and 324.2. I have therefore placed no material weight upon it when considering whether the Termination Notice was valid.

4.44 The Contractor has characterised the Commissioner's approach as one of strict liability, by which the mere fact of suspension led inexorably to termination. I do not consider that this is borne out by the decision-making record or the representations before me. The General Dental Council suspension engaged the contractual power. The Commissioner thereafter considered the findings which gave rise to that suspension, the nature of the professional standards breached, the age and singular nature of the incident, the steps taken by the Contractor, the period of suspension, the likelihood of repetition, its commissioning and safeguarding responsibilities, and the possible alternatives to termination.

4.45 The Commissioner was not required to accept the Contractor's characterisation of the suspension as temporary and therefore insufficiently serious. Nor was it required to adopt the PCC's regulatory assessment as though it determined the proper contractual outcome. It was entitled to reach its own decision within the sphere of the Contract, provided that it recognised the discretion afforded to it and exercised that discretion in good faith and reasonably.

4.46 I note the statement made on behalf of the Contractor that there are many aspects of the process which a court might find troubling and that the Commissioner's reasoning was contradictory, insufficiently transparent and supported by irrelevant or prejudicial material. Those are grave assertions. They require a clear foundation in the contractual process and in the documents before me.

4.47 I have been unable to identify such a foundation. The Commissioner possessed an express power to terminate once the Contractor fell within clause 324.2. It gave notice that termination was being considered, afforded the Contractor an opportunity to respond, placed the matter before the appropriate decision-making body, considered the Policy Book and the General Dental Council findings, addressed the alternatives to termination, and issued a notice identifying the contractual right, the reasons for its decision and the Contractor's dispute rights.

4.48 The parties' repeated reliance upon whether the Contractor was unsuitable to hold a GDS contract has obscured the question which the Contract in fact requires to be determined. Clause 325 does not impose a general suitability test following a suspension by the General Dental Council. The contractual gateway was satisfied by the substantive suspension itself. The remaining question is whether the Commissioner properly exercised the discretion which thereupon arose.

4.49 When properly considered, the arguments advanced by the Contractor's representatives resolve in a somewhat circular fashion. Once the question of unsuitability under clause 325 is put aside, much of their reasoning amounts to the proposition that, because the PCC did not terminate the Contractor's ability to practise permanently, the Commissioner ought not to have terminated the Contract. I have already explained why that proposition is incorrect. The PCC and the Commissioner exercised different powers for different purposes. The Contractor does not dispute the findings of misconduct made against him, including that his conduct towards an employee was inappropriate and unprofessional, fell far short of the standards reasonably expected of a general dental practitioner, and occurred in circumstances where the PCC considered that the employee might be vulnerable. Those were serious matters which fell properly within the Commissioner's consideration. The Contractor's representatives have identified no provision of the Contract, nor any failing in the process followed, which prevented the Commissioner from determining that conduct of that nature, having resulted in suspension, warranted termination. What remains is a disagreement with the weight attributed to those matters and with the decision which followed. I do not consider that such disagreement renders the exercise of the Commissioner's discretion improper or the Termination Notice invalid.

4.50 Having considered the decision and the material which preceded it, I do not consider that the Commissioner treated termination as mandatory or failed to undertake the evaluative exercise required by clause 323. It considered the relevant circumstances, including matters which weighed in the Contractor's favour, and gave reasons for concluding that taking no action, providing further support or imposing a lesser contractual sanction would not provide an adequate response to the seriousness of the conduct found.

4.51 I have not been directed to any material consideration which the Commissioner failed to take into account. Nor do I consider that its decision was founded upon an irrelevant finding that the conduct was sexually motivated, upon the later CQC material, or upon an erroneous conclusion that the PCC had permanently disqualified the Contractor from practice.

4.52 For the reasons previously stated, I consider that the Commissioner was entitled to terminate the Contract pursuant to clauses 323 and 324.2. I further consider that the discretion conferred upon it was exercised in good faith and reasonably. The Contractor's representatives have not identified any contractual or procedural defect which causes the Termination Notice to be invalid.

5 DECISION

5.1 I determine that the Commissioner was entitled to terminate the Contract pursuant to clauses 323 and 324.2 and that the Termination Notice dated 30 April 2026 was valid and is upheld.

Head of Appeals
NHS Resolution