File No. CN / .

IN THE DENTISTS DISCIPLINARY TRIBUNAL

IN THE MATTER	of the Dental Act 1988
AND	
IN THE MATTER	of a complaint by the **Health and Disability Commissioner** against **Michael Molloy** of Christchurch, Dentist.
TRIBUNAL	Dr P A C Coote (Chair) Dr C A Casswell Ms W Davis Ms W Davis
LEGAL ASSESSOR	Ms K P McDonald QC
TRIBUNALS OFFICER	Mrs S D'Ath
COUNSEL	Ms T Baker (for Director of Proceedings) Mr H Waalkens (for Dr Molloy)
DATE OF HEARING	11 to 13 November 2002
DATE OF DECISION	February 2003

DECISION OF THE TRIBUNAL

CHARGES

1. These proceedings involve a charge against **Michael Molloy**, Dentist of Christchurch. The charge was brought by the Director of Proceedings established under s15 of the Health and Disability Commissioner Act 1994, acting in accordance with s47 of the Health and Disability Commissioner Act 1994 and the powers contained in s68E of the Dental Act 1988. The Director of Proceedings formed a view that these proceedings should be taken against Dr Molloy before the Tribunal and that grounds exist for the Tribunal to exercise its powers under s54(1)(b) and (c) of the Dental Act 1988. Dr Molloy was notified of the following particulars of that charge:

1. On or about 30 July 1996 when he placed a 2 surface Cerec restoration in Martin Wilkie's tooth 14 he failed to:

1.1 Detect and/or record an open contact between tooth 14 and tooth 15; and/or

1.2 Adequately inform Mr Wilkie about this open contact and adequately discuss management options with him.

2. On or about 12 August 1996 when he placed a multi-surface Cerec restoration in Mr Wilkie's tooth 46 he failed to:

2.1 Detect and/or record open contacts between tooth 46 and 47; and/or

2.2 Adequately inform Mr Wilkie about these open contacts and adequately discuss management options with him.

3. On or about 3 December 1996 when he placed a 3 surface Cerec restoration in Mr Wilkie's tooth 24 he failed to:

3.1 Detect and/or record open contacts between teeth 24 and 25; and/or

3.2 Adequately inform Mr Wilkie about these open contacts and adequately discuss management options with him.

4. On or about 26 January 1999 during a clinical consultation with Mr Wilkie, he failed to:

4.1 Detect and/or record open contacts between Mr Wilkie's teeth 24 and 25, 46 and 47 and 14 and 15; and/or

4.2 Adequately inform Mr Wilkie about the open contacts and adequately discuss management options with him; and/or

4.3 Detect and/or record defective crown margins in Mr Wilkie's tooth 26; and/or

4.4 Adequately inform Mr Wilkie about the defective crown margins in tooth 26 and/or adequately discuss treatment options with him; and/or

4.5 Detect an overhanging margin on Martin Wilkie's tooth 46; and/or

4.6 Adequately inform Mr Wilkie of the overhanging margin and/or adequately discuss treatment options with him;

4.7 Adequately inform Martin Wilkie about the defective crown margins on tooth 16 and/or adequately discuss treatment options with him.

2. During the course of the Tribunal's deliberations it became apparent that particular 3 referred incorrectly to work done by Dr Molloy on 3 December 1996, when in fact the work was done on 3 December 1997. Submissions were sought as to whether the particular could be amended. Counsel for the Director of Proceedings submitted that the charge should be amended on the basis that it was merely a typographical error and Dr Molloy was not prejudiced by the amendment. Counsel for Dr Molloy objected to the amendment but did not identify any particular prejudice to Dr Molloy from the amendment sought.

3. After consideration the Tribunal's decision is that the particular should be amended to include the correct date. The Tribunal has taken into account the lateness of the request to amend, given that the evidence and closing submissions were concluded before the error was noted and the Tribunal was deliberating when the issue arose. Nevertheless the Tribunal notes that the case was dealt with on the basis that the correct date was 3 December 1997 not 1996. The Tribunal considers that the amendment is of a minor or technical nature, that Dr Molloy is not prejudiced by the amendment and that no unfairness arises.

EVIDENCE

4. The Tribunal received evidence from:

- Mr Martin Wilkie, the complainant
- Dr Ross Lewisham, dentist
- Dr Richard Meredith, dentist
- Dr Jeffrey Booth, dentist
- Dr Karl Lyons, prosthodontist and senior lecturer
- Dr Michael Molloy, dentist

BACKGROUND

5. Martin Wilkie, the complainant, first consulted Dr Molloy in 1996. Mr Wilkie had previously had a number of amalgam fillings replaced in 1991, and a root canal

filling of tooth 26 completed in January 1994. This work was done by another dentist. Mr Wilkie had concerns about the potential health risks of amalgam and the possibility that a sensitivity to mercury could be the cause of a severe stomach and intestinal disorder he had suffered from since 1991.

6. Mr Wilkie's first appointment with Dr Molloy was on 25 May 1996. Dr Molloy took bite-wing x-rays and discussed with Mr Wilkie options for treatment of his dental problems, including the replacement of his amalgam fillings. Dr Molloy subsequently sent Mr Wilkie a detailed suggested treatment plan.

7. Between 4 June and 22 October 1996 Dr Molloy carried out extensive dental work on Mr Wilkie's teeth. This included porcelain fused to metal (PFM) crowns of teeth 16 and 26, several composite fillings and Cerec inlays/onlays of several posterior teeth. Cerec restorations were bonded into teeth 15, 14, 25, 27, 37, 36, 46 and 47. The Cerec restoration of tooth 14 was done on 30 July 1996 and the restoration of tooth 46 on 12 August 1996. The PFM crown of tooth 16 was fitted on 26 June 1996 and the crown of tooth 26 was fitted on 19 August 1996.

8. On 24 November 1997 Dr Molloy re-examined Mr Wilkie, taking bite-wing radiographs. He also carried out a scale and polish. Cerec restorations were completed for tooth 24 on 3 December 1997 and tooth 45 on 18 December 1997.

9. In 1998 Mr Wilkie developed a pulpitis under a Cerec inlay in tooth 37 requiring a root canal treatment and attended 3 appointments with Dr Molloy to complete the root canal treatment of this tooth.

10. On 26 January 1999 Mr Wilkie consulted Dr Molloy for a general check-up, bite-wing x-rays, and a scale and polish. Dr Molloy did not inform Mr Wilkie that there were any problems or potential problems with his teeth, although he recorded in his notes: "16 crn margins?? C/X ?? crn dislodged/not seated/core probl. Check nxt." The total cost of Dr Molloy's treatment of Mr Wilkie between 25 May 1996 and 26 January 1999 was $9,440.

11. In April 1999 Mr Wilkie began to experience further problems with tooth 37 and tooth 36. He consulted Dr Ross Lewisham rather than Dr Molloy because he felt that 3 extensive procedures on the same tooth (37) in 3 years was unsatisfactory. The first appointment with Dr Lewisham was on 14 April 1999 when Dr Lewisham carried out a clinical examination and took x-rays. Dr Lewisham noted extensive caries of tooth 16 and caries of teeth 47 and 15. He also observed open contacts between teeth 14 and 15, teeth 24 and 25, teeth 45 and 46 and teeth 46 and 47. Following this initial consultation there were 6 appointments with Dr Lewisham between 14 April and 19 May 1999 and a further 7 appointments from 8 June to 1 November 1999. Work done during this period included replacement of the crowns on teeth 16 and 26 with core build-ups and new PFM crowns. The total cost of Dr Lewisham's work was $7,771.

12. On 30 April 1999 Mr Wilkie wrote to Dr Molloy complaining about his treatment and Dr Molloy responded in a letter dated 17 May 1999. In his letter Dr Molloy invited Mr Wilkie to visit him so that Dr Molloy could examine his teeth. Mr Wilkie did not agree to this because he had lost confidence in Dr Molloy. He found Dr Molloy's response unsatisfactory and sought a second opinion from Dr

Meredith, a general dental practitioner in Christchurch. On 3 June 1999 Mr Wilkie was examined by Dr Meredith who took bite-wing radiographs. At this time Mr Wilkie was midway through remedial dental treatment with Dr Lewisham. Among his observations Dr Meredith noted defective margins of the crown on tooth 26 and associated caries distopalatally and distobuccally. He also noted defective contact points between teeth 46 and 47, teeth 45 and 46 and teeth 24 and 25, with resultant food impaction problems in each instance, and an overhang on tooth 46.

13. On 8 July 1999 through his solicitor Mr Wilkie complained to the Health and Disability Commissioner and also lodged a claim with ACC. In the course of having his ACC claim dealt with Mr Wilkie approached Dr Booth, a general dental practitioner of Wellington, for his opinion on the x-rays.

14. At the hearing before the Tribunal there was evidence about the peer review process (which did not go ahead) and Mr Wilkie's ACC claim. Neither of those matters is relevant to the Tribunal's consideration of the charge against Dr Molloy and in making its decision the Tribunal has not taken into account any evidence about those processes or outcomes. In making its decision the Tribunal has relied solely on the evidence placed before it at the hearing on 11 – 13 November 2002.

FINDINGS

15. In making its findings the Tribunal has applied the civil standard of proof on the balance of probabilities but at a level commensurate with the seriousness of the charges against Dr Molloy and the gravity of the allegations. The charges and the allegation are serious.

Defective crown margins on tooth 16 and tooth 26 – particulars 4.3, 4.4 and 4.7

16. The Tribunal finds that the crown margins of Martin Wilkie's teeth 16 and 26 were defective in that there was an unacceptable gap between the crown margins and the prepared shoulders of the teeth. Dr Lewisham in his clinical examination of Mr Wilkie on 14 April 1999 estimated that the gap was approximately 1mm on tooth 16 and observed that the crown on tooth 26 also had very deficient margins. This was supported by the evidence of Dr Booth who found gaps of 1mm on both teeth based on his examination of the radiographs of 25 January 1999 and April 1999. By 3 June 1999 when Dr Meredith examined Mr Wilkie, Dr Lewisham had already treated and replaced the defective crown on tooth 16, but Dr Meredith also noted the deficient margins on tooth 26 and confirmed deficiencies on both teeth 16 and 26 when he examined the bitewing radiographs taken by Dr Lewisham (before his treatment of Mr Wilkie) on 14 April 1999.

17. In his brief of evidence Dr Molloy accepted that the crown margins on teeth 16 and 26 were inadequate. He did not detect any defect in the crown margins of tooth 26 on examination on 24 November 1997 or 26 January 1999. He did not detect any defect in the crown margin of tooth 16 on examination on 24 November 1997. He did, on 26 January 1999, detect a possible problem with tooth 16 and recorded this in his notes. In his brief of evidence Dr Molloy said: "However, on examination I felt no caries, no decay, there were no apparent gingival problems and I considered it a possibility that there was in fact no problem but simply a radiographic

anomaly." In his letter to Mr Wilkie dated 17 May 1999 Dr Molloy stated that "… as I write, I have in front of me radiographs taken in January and examination of these under magnification does not show any of the extreme problems you cite. There is no decay, no fractures and no problems obvious."

18. Under cross-examination Dr Molloy said to the best of his recollection it was not until May 1999, when Mr Wilkie's letter of complaint arrived, that he looked at the x-rays he took of Mr Wilkie's teeth in January 1999. Despite indicating in his 17 May 1999 letter to Mr Wilkie that the radiographs did not show any obvious problems, under cross-examination he agreed that the radiographs did show the marginal deficiencies in both tooth 16 and tooth 26.

19. The Tribunal finds that the defective crown margins were obvious by 26 January 1999, when Dr Molloy last examined Mr Wilkie. They were also obvious on the x-rays taken by Dr Molloy on 24 November 1997. Dr Lyons gave evidence that these marginal deficiencies were apparent on x-rays taken in November 1997 and April 1999. Dr Lewisham and Dr Lyons expressed the view that the defective margins should have been noticed at the time the crowns were initially fitted in 1996 during the "dry fit" before a crown is cemented. The luting placed to cement the crowns to the teeth may have masked the gaps initially, but the luting would have washed out over a period of time.

20. In relation to particulars 4.3 and 4.4, the failure by Dr Molloy on 26 January 1999 to detect and/or record the defective crown margins in Mr Wilkie's tooth 26, and the failure to adequately inform him about this problem and discuss treatment options with him, the Tribunal finds these particulars of the charge established.

21. Dr Molloy did detect and record the defective crown margin of tooth 16 on 26 January 1999. However he did not adequately inform Mr Wilkie about that problem nor adequately discuss treatment options with him. In his evidence Dr Molloy stated that he did not treat this as an urgent problem. He said it was a problem he would have checked had Mr Wilkie returned to him, although Mr Wilkie's evidence was that the purpose of his January 1999 appointment with Dr Molloy was "basically a set up appointment for the next six months or a year. I don't recall if there was a specific statement made that this will set you up for the next six months or a year, but it was definitely to put a line under what had gone before and make sure that everything was okay for an extended period."

22. Dr Lyons' evidence was that Mr Wilkie should have been informed about the defective margins of tooth 16. He said that it is standard practice for a dentist to discuss clinical findings and treatment options with their patients when providing care. Specifically in relation to tooth 16 Dr Lyons said that it was a gross error not to state that there was a deficiency and said that it needs to be discussed with the patient. The Tribunal accepts Dr Lyons' evidence on these points and finds particular 4.7 established.

23. Defective crown margins are almost certain to cause decay. Dr Booth's evidence was that "decay after a short period would be an inevitable result of such gaps." This is accepted by the Tribunal. Dr Lyons gave evidence that there is a risk of decay if the space between the restoration and the tooth is too large and cement breakdown occurs. Dr Lewisham found extensive and very deep caries on Mr

Wilkie's tooth 16 extending up underneath the crown and the Tribunal finds on the balance of probabilities that the defective margins contributed to this caries. Dr Lewisham said that the most diligent person could not remove plaque from the margins of teeth 16 and 26. Dr Lyons' opinion was that it does not matter what the patient's oral hygiene is like, a patient would not be able to clean the area around the marginal deficiencies. This is accepted by the Tribunal. It was put to Dr Molloy in cross examination that the defective crown margins created a problem because the patient would not be able to get floss in to remove unwanted food. Dr Molloy did not accept this. However the Tribunal finds on the balance of probabilities that the marginal defects meant that Mr Wilkie was not able to adequately clean teeth 16 and 26.

24. Mr Wilkie's evidence was that he took particular care to keep his teeth clean after the extensive work done by Dr Molloy and flossed twice a day. He said that Dr Molloy commented that his home care was really good and that Dr Molloy was pleased about how well Mr Wilkie was looking after things. This evidence was not challenged and the Tribunal accepts this evidence.

25. The Tribunal finds that Dr Molloy's failures in relation to the defective crown margins were detrimental to Mr Wilkie's welfare and could have caused further detriment. The defective crown margins caused extensive and deep caries in tooth 16 and deterioration of tooth 26, with associated caries. The defective margins of both teeth 16 and 26 meant that Mr Wilkie could not adequately clean these teeth no matter how diligent he was. In addition the failures to inform Mr Wilkie about these deficiencies and to discuss treatment options were detrimental to Mr Wilkie's welfare in that he was unaware of the risk of decay and was unable to make informed decisions about his dental care. The evidence was that it was particularly important to inform Mr Wilkie about these deficiencies because in such situations a patient may not have discomfort at an early stage to alert him or her to problems which may be developing.

Open contacts

Particulars 1.1, 2.1, 3.1 and 4.1

26. The Tribunal heard evidence from Drs Lyons, Lewisham, Meredith and Booth that the bite-wing radiographs taken by Dr Molloy on 26 January 1999 and by Dr Lewisham on 14 April 1999 showed evidence of open contacts between Mr Wilkie's teeth 14 and 15, and 24 and 25. These open contacts were confirmed clinically by Drs Lewisham and Meredith.

27. Before the Tribunal Dr Molloy agreed that the x-rays showed that there were open contacts between teeth 24 and 25 and 14 and 15, but not between teeth 46 and 47. Drs Lewisham, Meredith and Lyons found radiographic evidence of open contact between Mr Wilkie's teeth 46 and 47. Drs Lewisham and Meredith also found clinical evidence of open contact between tooth 46 and tooth 47. Although Dr Booth did not find radiographic evidence of open contact between those teeth, he did not clinically examine Mr Wilkie.

28. The Tribunal finds that as at 26 January 1999 there were open contacts between teeth 14 and 15, 24 and 25 and 46 and 47.

29. Dr Lyons' evidence was that it is necessary to record an open contact if restoration does not close the gap. The dentist should check with the patient to see if they are having problems with food impaction. Dr Lyons also said that the dentist's notes may affect how often the dentist sees the patient and takes radiographs and instructs the patient how to take precautions with oral hygiene. Dr Lyons' evidence was also that the other management option is to replace a defective Cerec restoration in order to close the open contact.

30. The charge against Dr Molloy includes particulars that he failed to detect and/or record the open contacts (14/15, 24/25, 46/47) when he did restorations in 1996 and 1997 on teeth 14, 46 and 24. The Tribunal has found that these open contacts existed in January 1999. It follows that these open contacts must also have been present after the 1996/1997 restorations unless there was significant tooth movement between 1996/1997 and January 1999. Dr Lyons gave evidence that contacts between teeth do not open up unless the restorations fail. In cross-examination Dr Molloy accepted that there was nothing in Mr Wilkie's case to indicate that the teeth had moved and other evidence indicated that such movement would be unlikely.

31. The Tribunal therefore finds that the open contacts did exist since placement of the Cerec inlays in teeth 14, 24 and 46 on the relevant dates in 1996 and 1997.

32. Dr Molloy noted a small open contact between teeth 14 and 15 prior to treatment in 1996 but his evidence was that the gap was no longer present following treatment. He therefore did not detect this open contact in either 1996 or 1999. Dr Molloy did not accept that there was an open contact at any stage between teeth 46 and 47 and therefore did not detect this open contact. In his brief of evidence he does not accept that there was an open contact between teeth 24 and 25 at the time of the restoration in 1997 or later in 1999. He said that the gap apparent on the x-ray was caused by a radiographic translucency of the Cerec porcelain. Dr Lyons' evidence was that even with this very translucent porcelain it is still possible to see the outline where the Cerec restoration finishes. This is accepted by the Tribunal.

33. The Tribunal finds that Dr Molloy did not detect or record any of the open contacts during the period Mr Wilkie was his patient and particulars 1.1, 2.1, 3.1 and 4.1 of the charge are therefore established.

Particulars 1.2, 2.2, 3.2 and 4.2

34. The evidence was clear that Dr Molloy did not inform Mr Wilkie about any open contacts, did not tell him about the problems which may arise from open contacts and did not discuss with him management options. Particulars 1.2, 2.2, 3.2 and 4.2 are therefore also established.

35. In his evidence Dr Molloy did not accept that there was an onus on a dentist to avoid an open contact when placing a restoration. He did accept that open contacts should usually be avoided. Drs Lyons and Meredith gave evidence about the

problems which are likely to arise from open contacts. Dr Lyons gave evidence that research has shown that a natural open contact of 2mm or more between teeth can be self cleansing. However a gap of 1.5mm or less creates food packing problems. Dr Lyons noted that food accumulation can occur in these areas, increasing the risk of decay developing and gingivitis, periodontal problems and subsequent bone loss.

36. Dr Meredith noted that the dentist should try to remove the gaps and that if there is food impaction there will be clinically observed changes in the tissue health, particularly the soft tissue health. There may be food, plaque, build up of food debris and odour. The patient may or may not be aware of the problem. Dr Meredith's evidence was that not every open contact will be a problem and that it is highly individual. It would be discussed with the patient but if there were unlikely to be consequences and the patient was flossing and controlling the problem Dr Meredith said he would probably not take any action.

37. In Mr Wilkie's case on examination Dr Meredith was concerned about the soft tissue health. Dr Meredith's evidence was that even though Mr Wilkie was quite religious with his hygiene, he considered there was a problem. Dr Meredith's records show that he noted actual food impaction problems between Mr Wilkie's teeth 24 and 25 and teeth 46 and 47.

38. The Tribunal therefore finds that Dr Molloy's failure to detect and record the open contacts between Mr Wilkie's teeth, to inform Mr Wilkie about these open contacts and to discuss treatment options with him could have been detrimental to Mr Wilkie's welfare and, in the case of the open contacts between teeth 24 and 25 and teeth 46 and 47, were actually detrimental to Mr Wilkie's welfare.

Overhanging margin

39. Conflicting evidence was presented to the Tribunal regarding an overhanging margin on tooth 46. Drs Lyons and Meredith considered that there was an overhanging margin while Drs Lewisham, Molloy and Booth did not. In the light of this conflicting evidence the Tribunal does not find it proven that there was an overhanging margin on tooth 46.

CONCLUSION

40. In relation to particulars 1.1, 1.2, 2.1, 2.2, 3.1 and 3.2 the Tribunal has found that Dr Molloy did fail to detect and/or record open contacts on the relevant dates in 1996 and 1997 between teeth 14 and 15, 46 and 47, and 24 and 25 and also failed to adequately inform Mr Wilkie about these open contacts and discuss management options with him. These failures were significant. However the Tribunal does not find that these failures were such that, taken individually, disciplinary sanction should follow in respect of any one of these particulars under either s54(1) (b) or s 54(1)(c) of the Act.

41. In relation to the Tribunal's findings that Dr Molloy failed during the clinical consultation on 26 January 1999 to detect and/or record the open contacts specified in particulars 4.1 and 4.2, to inform Mr Wilkie about those and discuss management

options with him, the Tribunal also considers these failures to be significant but taken individually they do not warrant disciplinary sanction.

42. The Tribunal has found that Dr Molloy failed to detect and or record defective crown margins in tooth 26 and failed to adequately inform Mr Wilkie about the defective crown margins in teeth 26 and 16 and/or adequately discuss treatment options with him. These findings relate to particulars 4.3, 4.4 and 4.7. The Tribunal considers that these failures were significant and serious but looked at separately do not warrant disciplinary sanction.

43. Taken cumulatively, however, the Tribunal's decision is that the failures relating to the 2 defective crown margins and the 3 open contacts amount to omissions in the course of dentistry which were or could have been detrimental to the welfare of Mr Wilkie and the charge is therefore established under s 54(1)(b) of the Act.

44. In reaching its conclusion the Tribunal notes that Dr Molloy provided an ongoing course of treatment to Mr Wilkie involving several consultations over nearly 3 years. The treatment was specifically designed to address Mr Wilkie's dental problems in a comprehensive way over a period of time. However the care provided by Dr Molloy to Mr Wilkie caused detriment to Mr Wilkie, had the potential to cause further serious detriment and was significantly substandard overall.

45. The open contacts caused food impaction problems noted by Dr Meredith between teeth 24 and 25, and 46 and 47, with the associated risks of gingivitis and decay. The evidence from Dr Booth was that the open contact between teeth 14 and 15 would be expected to trap food and promote decay. By April 1999 decay was already apparent in teeth 15 and 47. Dr Lyons' evidence was that the open contacts should have been dealt with at the time the restorations were done in 1996 and 1997 and were relatively straightforward to close by ensuring the Cerec restorations were well contoured with tight contact points to the adjacent teeth. He said that that if such treatment is not successful, the dentist has an obligation to correct the problem, including replacing the defective restorations, bearing in mind the cause of the failure.

46. By April 1999, when he consulted Dr Lewisham, Mr Wilkie was having severe pain in teeth 16, 26 and 37 (no charges were laid in respect of tooth 37). The defective crown margins had caused extensive decay in tooth 16 and deterioration of tooth 26, which had caries distopalatally and distobucally. The PFM crowns for teeth 16 and 26 both had to be remade within 3 years because of the marginal deficiencies. Dr Lyons' evidence was that the elimination of marginal deficiencies is not a specialist skill but a basic expectation of a dentist and this is accepted by the Tribunal.

47. Dr Lyons' evidence was that it was unreasonable that the defective crown margin on tooth 26 had not been detected on a clinical examination and that this was also a basic expectation of a dentist, not a specialist skill. Again this is accepted by the Tribunal. The marginal deficiencies were obvious on a clinical examination by probe and radiographically.

48. Keeping adequate records, informing a patient of potential problems, and discussing treatment options with a patient are also a fundamental requirement of basic dental

care. The Tribunal refers to its findings in paragraph 22 in this regard. Because Dr Molloy did not tell Mr Wilkie about the any of the open contacts, or discuss management options with him, Mr Wilkie was unaware of the potential problems with the open contacts. The same applies to the defective margins. Of particular concern is the failure by Dr Molloy to tell Mr Wilkie about the marginal deficiency he detected in tooth 16. Mr Wilkie should have been told about this at the earliest possible opportunity. Dr Lyons described this failure as a gross error and the Tribunal accepts this view. As it turned out the defects caused serious problems for Mr Wilkie so that he had to have much of the work done by Dr Molloy redone, and at significant additional cost.

49. The failures relating to the defective crown margins and the open contacts amount cumulatively to a failure by Dr Molloy to provide Mr Wilkie with dental care of a standard reasonably required of a general dentist. These failures overall constituted a significant departure from acceptable professional standards.

PENALTY

50. The Tribunal seeks submissions from counsel on penalty, costs and name suppression as follows:

- The Director of Proceedings to file and serve submissions within 14 days of receiving this decision.

- Counsel for Dr Molloy to file and serve submissions within 14 days of being served with submissions from the Director of Proceedings.

- The Legal Assessor to file and serve directions within 10 days of being served with submissions from counsel for Dr Molloy.

Service of the submissions is to be effected by fax sent to the respective counsel.

APPEAL

Attached to, and forming part of this order, is the sheet headed "Notes", which states the Practitioner's right to appeal against the orders made, and the time within which notice of such appeal must be given.

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Phillip Coote
(Chairperson of the
Dentists Disciplinary Tribunal)