

**BEFORE THE FITNESS TO PRACTISE COMMITTEE
OF THE GENERAL OPTICAL COUNCIL**

GENERAL OPTICAL COUNCIL

F(25)34

AND

JAMES REES (D-14085)

**DETERMINATION OF A SUBSTANTIVE HEARING
2-3 MARCH 2026**

Committee Members:	Ms Sarah Hamilton (Chair/Lay) Ms Nicola Enston (Lay) Ms Asmita Naik (Lay) Ms Sue Deal (Dispensing Optician) Ms Nahid Sadr-Kazemi Bennett (Dispensing Optician)
Legal adviser:	Ms Jayne Wheat
GOC Presenting Officer:	Ms Holly Huxtable
Registrant present/represented:	No and not represented
Hearings Officer:	Ms Natasha Bance
Facts found proved:	1, 1a,1b,1c,1d, 1e,1f,1g,1h
Facts not found proved:	Not applicable
Misconduct:	Not applicable
Impairment:	Impaired by reason of conviction
Sanction:	Erasure
Immediate order:	Imposed

Proof of service

1. The Committee heard an application from Ms Huxtable for the General Optical Council ('the Council') for the matter to proceed in the Registrant's absence. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Act and Rule 61 of the Fitness to Practise Rules 2013. ('the Rules')
2. The Committee accepted the advice of the Legal Adviser in relation to the provisions of Rules 61, 28 and 34, which govern the appropriate address for the Notice to be sent, proof of service of the Notice, what information the Notice should contain and that the hearing should not take place earlier than 28 days after the date upon which it was served upon the Registrant.
3. The Committee is satisfied that the provisions for service of the Notice were met, and that all reasonable efforts have been made to notify the Registrant of the hearing.

Proceeding in the absence of the Registrant

4. The Committee then went on to consider whether it would be in the public interest to proceed in the Registrant's absence in accordance with Rule 22.
5. The Committee heard submissions from Ms Huxtable who invited the Committee to proceed in the Registrant's absence, in light of the serious nature of the convictions and that the Registrant had made it clear in writing that he did not wish to attend the hearing or be represented. She submitted it would be in the public interest to proceed.
6. The Committee accepted the advice of the Legal Adviser, who advised the Committee on the principles derived from the criminal cases of **R v Hayward & R v Jones** and the regulatory law cases of **General Medical Council v Adeogba; General Medical Council v Visvardis [2016] EWCA Civ 162**. In short, that the overall consideration was one of procedural fairness, and to exercise the discretion to proceed in the absence of the Registrant with caution. Regulatory proceedings must be guided by the context provided by the main statutory objective – in short, the protection of the public. The fair, economical, expeditious and efficient disposal of allegations made against practitioners is of very real importance.
7. The Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence. It took into account that the Registrant is currently serving a lengthy custodial sentence for serious matters including rapes and sexual assault. It had regard to the two letters from the Registrant, in which he confirms he will not be attending the hearing. The Committee considered that adjourning the case would not result in the Registrant's attendance. The Committee determined that in all of the circumstances it was fair to proceed in his absence.

ALLEGATION

The Council alleges that in relation to you, JAMES REES (D-14085), a registered dispensing optician:

1. On 6 September 2024, at Livingston High Court, you were convicted of:
 - a. Rape, contrary to Section 1 of the Sexual Offences (Scotland) Act 2009, the particulars being that on various occasions between 28 August 2015 and 31 July 2016, both dates inclusive, you assaulted [Person A], and did penetrate her vagina and anus with your penis and you did thus rape her;
 - b. Stalking, contrary to Section 39(1) of the Criminal Justice and Licensing (Scotland) Act 2010, the particulars being that between 28 August 2015 and 31 July 2016, both dates inclusive, you engaged in a course of conduct which caused [Person A], fear or alarm in that you did repeatedly telephone and text her, repeatedly monitor her whereabouts, repeatedly access her mobile phone;
 - c. Rape, contrary to Section 1 of the Sexual Offences (Scotland) Act 2009, the particulars being that on various occasions between 1 September 2016 and 31 January 2021, both dates inclusive, you assaulted [Person A], and you did expose your penis, pull her lower clothing down, and penetrate her vagina and anus with your penis and you did thus rape her;
 - d. Sexual assault, contrary to Sections 3 and 5 of the Sexual Offences (Scotland) Act 2009, the particulars being that on various occasions between 1 September 2016 and 31 January 2021, both dates inclusive, you sexually assaulted [Person A], intentionally engaged in a sexual activity in the presence of said [REDACTED] in that you did masturbate whilst lying in bed beside her;
 - e. Stalking, contrary to Section 39(1) of the Criminal Justice and Licensing (Scotland) Act 2010, the particulars being that between 1 September 2016 and 31 March 2019, both dates inclusive, you engaged in a course of conduct which caused [Person A], fear or alarm in that you did repeatedly telephone and text her, repeatedly monitor her whereabouts, repeatedly shout, swear and repeatedly utter derogatory comments to her;
 - f. Rape, contrary to Section 1 of the Sexual Offences (Scotland) Act 2009, the particulars being that on an occasion between 1 November 2017 and 18 December 2017, both dates inclusive, you, having penetrated the vagina of [Person A], with your penis with her consent, did assault, and did continue to penetrate her vagina with your penis whilst you did place your hands around her neck, squeeze her neck, restrict her breathing, and you did thus rape her;
 - g. Abusive behaviour, contrary to Section 1 of the Domestic Abuse (Scotland) Act 2018, the particulars being that between 1 April 2019 and 31 January 2021, both dates inclusive, you engaged in a course of behaviour which was abusive of [Person A] or [Person B] in that you did:
 - i. repeatedly telephone and text her;
 - ii. induce her to share her location with you;

- iii. access her mobile telephone without her permission;
- iv. lock her out of her home;
- v. send her images of you self-harming;
- vi. repeatedly push her on the body pull her across the ground and urinate on her;
- vii. shout, swear, utter derogatory comments to her and act in an aggressive manner; and
- viii. accuse her of cheating;
- h. Rape, contrary to Section 1 of the Sexual Offences (Scotland) Act 2009 the particulars being that on various occasions between 1 September 2020 and 31 January 2021, both dates inclusive, you assaulted [Person A], and you did penetrate her vagina your penis and you did thus rape her.

And by virtue of the facts set out above, your fitness to practise is impaired by reason of a conviction.

DETERMINATION

Background to the allegations

- 8. On 29 September 2024, the Council received an email notification highlighting that the Registrant had been involved in a recent court case.
- 9. The Council further received a referral from the Registrant's former employer, Vision Express ("the Practice"), on 8 October 2024, confirming that the Registrant had been convicted of a number of very serious offences. The Practice had been unaware of any criminal investigation/proceedings and found out about the Registrant's convictions through press articles on 24 September 2024.
- 10. The Council duly obtained an endorsed copy of the memorandum/certificate of conviction from the Edinburgh High Court. This document confirms that, on 6 September 2024, the Registrant was convicted of rape (x4), stalking (x2), sexual assault and abusive behaviour. It further confirms that, on 19 November 2024, the Court imposed a total sentence of 12 years comprising a custodial period of 9 years with an extension period of 3 years.
- 11. In light of this, the matter was referred directly to the Committee.

Preliminary Issues

- 12. The Committee, of its own motion, raised the issue of the potential for the 'jigsaw' identification of the complainants referred to in the extract of conviction, and in the Allegation. It invited submissions in relation to sitting in private or other methods of protecting the privacy of those individuals. The Committee bore in mind that the criminal convictions and sentence had been widely reported in the press.

13. On behalf of the Council, Ms Huxtable submitted that it was in the public interest that the case should be heard in public given its very serious nature, involving convictions for rape, sexual assault, stalking and abusive behaviour, occurring outside of the Registrant's professional practice. She suggested that a less onerous measure may be to refer to the individuals as 'Person A' and 'Person B' in both the hearing and in any subsequent determination.
14. The Committee accepted the advice of the Legal Adviser, who reminded the Committee that the starting point for hearings is that they should be heard in public, as set out in Rule 25, but that the Committee has a discretion to sit in private for all or part of the hearing where considered to be appropriate in the circumstances. The Legal Adviser advised that any derogation from the principle of open justice should be necessary and proportionate and not merely desirable.
15. The Committee determined that it would hear the case in public, as this was necessary in the public interest, given the nature and seriousness of the convictions, which related to behaviour occurring outside of the Registrant's professional practice. However, to protect the privacy of the complainants, it would refer to them as 'Person A and Person B', making necessary redactions to the written determinations produced. In addition, if the Committee considered it necessary, it would go into private session if and when the complainants' details were referenced in the hearing.

Findings in relation to proof of conviction

16. The Committee heard submissions from Ms Huxtable on behalf of the Council. She submitted that the extract of conviction obtained from Edinburgh High Court in relation to the Registrant's conviction and sentence on 6 September 2024 and 19 November 2024 respectively, at Livingstone High Court, was conclusive evidence of the offences committed.
17. The Committee accepted the advice of the Legal Adviser who advised that pursuant to Rule 40 (3) and (5) of the Fitness to Practice Rule 2013, production of a certificate of conviction shall be conclusive evidence of the offence committed:
'40(3) Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed.

40(5) The only evidence which may be adduced by the person referred to in paragraphs (3) and(4) in rebuttal of a conviction or determination certified in the manner specified in those paragraphs is evidence for the purpose of proving that the person is not the person referred to in the certificate or extract.'
18. The Committee was satisfied by the extract of conviction produced and, therefore, in accordance with Rule 40(3), found Allegation 1 proved in its entirety.
19. The Committee was next required to consider whether the Registrant's fitness to practise is impaired by virtue of the criminal convictions.

20. The Committee heard submissions from Ms Huxtable on behalf of the Council. Ms Huxtable referred the Committee to the Council's written skeleton argument prepared for these proceedings, which referenced the cases of **CHRE v (1) NMC and (2) Grant [2011] EWHC 927 (Admin)** and **Cohen v General Medical Council [2008] EWHC 581 (Admin)** amongst others.
21. In summary, she submitted that the Registrant had, in the past and was liable in the future to act so as to put patients and the public at risk of harm. She said that the Registrant has shown a propensity to commit sexual and violent offences, particularly against women and that his conduct was deep seated and attitudinal. She submitted that the conduct is difficult to remediate, that the Registrant has shown no insight or remorse and continues to deny the offences for which he has been convicted. There is, she submitted, therefore, a risk of repetition.
22. Ms Huxtable went on to submit that the convictions are so serious that the Registrant has clearly brought the profession into disrepute and breached a fundamental tenet of it. She submitted that the Committee must have regard to public interest considerations and that a finding of impairment is required to meet the wider public interest, notably to uphold proper professional standards and maintain public confidence in the profession.
23. The Committee accepted the advice of the Legal Adviser, who reminded the Committee of the principles derived from the above cases of **Grant** and **Cohen**. In addition, the legal adviser advised that the case of **Yeoung v GMC 2009 EWHC 1923 (Admin)** comments on the need for a firm declaration of professional standards so as to promote public confidence, and that what was required to vindicate the public interest must reflect the views of an informed and reasonable member of the public. (**Giele v GMC [2005] EWHC 2143 (Admin)**).

Findings regarding impairment

24. The Committee considered that the Registrant's convictions for four matters of rape, sexual assault, stalking and abusive behaviour were of the most serious and extreme acts of sexual violence. The offences were committed against two females and took place in a domestic setting, with the conduct spanning a number of years.
25. The Committee considered that, in the past, the Registrant has therefore caused significant harm to those individuals. The acts for which he is convicted very clearly brought the reputation of the profession into disrepute and breached fundamental tenets of the profession in an egregious manner.
26. The Committee considered that offending of this nature reflected deep seated attitudinal issues towards women which were not easily remediable. The Committee noted that the Registrant, in his written communications, continues to deny the criminal behaviour for which he is convicted. The Committee has no evidence before it of any remorse or attempts at remediation. There is no evidence of the Registrant displaying insight into his actions or their consequences for the complainants or the reputation of the profession. The Committee concluded in these circumstances, without evidence of the conduct having been remedied, that the risk of significant harm to the public and patients remained high.

27. Therefore, the Committee determined that a finding of impairment was necessary to protect the public.
28. Further, the Committee considered that in the absence of any remediation, insight or remorse, it was likely that the Registrant could act in the future so as to bring the reputation of the profession into disrepute and to breach its fundamental tenets.
29. In its consideration of the wider public interest, the Committee concluded that reasonable and well-informed members of the public would expect a finding of impairment to declare and uphold proper professional standards and maintain public confidence in the profession.
30. The Registrant's convictions for serious sexual offences were such that public confidence would be undermined if a finding of impairment were not made.
31. Therefore, the Committee found that the Registrant's fitness to practise was impaired on wider public interest grounds.
32. The Committee determined that the fitness of the Registrant to practise as a dispensing optician is therefore currently impaired.

Sanction

33. Having determined that the Registrant's fitness to practise is currently impaired, the Committee went on to consider what, if any sanction to impose.
34. The Committee heard submissions from Ms Huxtable on behalf of the Council, who referred the Committee to the skeleton argument provided for this hearing. In summary, she submitted that sanctions are not primarily punitive but may have a punitive effect given public protection is the first concern and the impact on the Registrant is secondary to that. Ms Huxtable reminded the Committee to have regard to the principle of proportionality. She said that the Council had not identified any mitigating features, but that there were a number of aggravating features present. These included the seriousness of the offences, and that the Registrant's behaviour was repetitive, deliberate and sustained. She submitted that the Registrant sexually violated the complainants subjecting them to violence, fear and degradation.
35. In relation to the appropriate sanction, Ms Huxtable submitted that the nature and extent of the criminal offending was such that to take no action, impose a fine or a period of conditional registration would not reflect the seriousness of the convictions, and these sanctions would be inappropriate. In relation to a period of suspension, Ms Huxtable submitted that the Council considers this not sufficient to protect the public, nor would suspension be in the public interest. The extent of the Registrant's propensity to commit violent, sexual offences shows deep seated attitudinal issues, and his complete lack of remediation and insight suggests a significant risk of repetition. She submitted that when the Hearings and Indicative Sanctions Guidance ('HISG') is considered, erasure is likely to be appropriate when behaviour is fundamentally incompatible with continued registration as a professional.

36. The Committee accepted the advice of the Legal Adviser, who drew the Committee's attention to the relevant sections of the HISG, namely, section 14 dealing with aggravating and mitigating factors, section 21, available sanctions following a finding of impairment and section 22, types of cases and indicative sanction, in particular, sexual misconduct at 22.1. The Legal Adviser reminded the Committee that sanctions are not meant to be punitive but may have a punitive effect in achieving the overarching objective of public protection. The legal adviser further advised the Committee to weigh and balance any aggravating and mitigating factors it found present when considering in ascending order the sanctions available to it, until the Committee reached a sanction which was no more than necessary and proportionate.

Decision on Sanction

37. The Committee identified the following aggravating factors:

- The Registrant is convicted of a number of the most serious sexual offences, including four counts of rape, and is serving a lengthy custodial sentence.
- The sexual offending took place in a domestic context, involved abusive sexual behaviour and stalking.
- The complainants would have been caused significant harm as they were violated, degraded and stalked.
- The criminal behaviour was repeated against two complainants and sustained over a number of years.
- There is no evidence of insight, remorse or remediation.

38. The Committee did not identify any mitigating factors in this case.

39. The Committee took into account the aggravating factors as set out, in considering the sanctions available to it from the least necessary to the most severe.

40. The Committee considered that there were no exceptional circumstances in this case which would indicate that taking no action was appropriate. The grave and serious nature of the criminal convictions is such that to take no action would be wholly inappropriate and would not meet the requirements of protection of the public, nor would it uphold standards for the profession or maintain public confidence.

41. Similarly, when considering the aggravating factors identified in this case, to impose a financial penalty would be an inadequate response to the nature and seriousness of the convictions.

42. The Committee next considered a conditions of practice order. However, not only were there no conditions available which could in any way address the deep-seated attitudinal issues in this case, but also, the nature and seriousness of the offending behaviour required a more severe regulatory response. It would be disproportionate and inappropriate to conclude this case with conditional

registration. The public would not be protected, and the public interest would not be met.

43. The Committee went on to consider a period of suspended registration, and had particular regard for the factors set out at paragraph 21.29 of the HISG:

'This sanction may be appropriate when some, or all, of the following factors are apparent (this list is not exhaustive):

a. A serious instance of misconduct where a lesser sanction is not sufficient.

b. No evidence of harmful deep-seated personality or attitudinal problems.

c. No evidence of repetition of behaviour since incident.

d. The Committee is satisfied the registrant has insight and does not pose a

significant risk of repeating behaviour.'

e. ...

44. The Committee was of the view that in this case, any lesser sanction was not sufficient. It has identified deep-seated attitudinal problems which remain unaddressed. Whilst the Committee did not have information regarding any repetition since the matters for which the Registrant was convicted and sentenced, it has found that the criminal, sexual behaviour occurred over a number of years and was sustained and repeated. In addition, the Committee has had no evidence of any insight from the Registrant. The Committee has already concluded that there remains a high risk of repeating behaviour.

45. In all the circumstances, and when taking into account the aggravating factors identified, the Committee determined that to impose a period of suspension was not appropriate or proportionate. Suspension would not adequately address the risk to the public, nor would it be sufficient to promote and maintain public confidence and uphold standards in the profession. The Registrant is currently serving a lengthy custodial sentence which is likely to exceed any period of suspension that could be imposed by this Committee, which would not be sufficient to maintain public confidence in the profession if the Registrant's practice was unrestricted whilst he was still in prison.

46. Therefore, the Committee went on to consider a sanction of erasure, and the guidance at 21.35 of the HISG. It considered several of the factors outlined therein to be relevant to this case:

'Erasure is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered professional and involves any of the following (this list is not exhaustive):

a. Serious departure from the relevant professional standards as set out in the Standards of Practice for registrants and the Code of Conduct for business registrants; [whilst this was not a misconduct case where particular standards were identified, the Committee has found that fundamental tenets of the profession were breached in the commission of these serious, sustained sexual offences]

- b. Creating or contributing to a risk of harm to individuals (patients or otherwise) either deliberately, recklessly... and particularly where there is a continuing risk of harm to patients; [the Committee has identified a risk of harm to the public]*
- c. ... violation of the rights of patients; [The committee acknowledge the criminal behaviour did not violate patient's rights, but nonetheless it violated the rights of the complainants]*
- d. Offences of a sexual nature...*
- e. Offences involving violence [of a sexual nature]*
- f. ...*
- g. ...*
- h. Persistent lack of insight into seriousness of actions or consequences'*

47. The Committee again gave consideration to the aggravating factors it has identified in determining that many of the indicators for erasure being the appropriate and proportionate sanction are present. The Committee concluded that such violent, sustained sexual offending behaviour was fundamentally incompatible with remaining on the register. Only a sanction of erasure from the register would protect the public and maintain confidence in the profession. Reasonable and informed members of the public would expect that a registrant convicted of these offences would be removed from the register and no longer allowed to practise, so that standards in the profession are maintained and upheld.
48. Therefore, the Committee determined to impose upon the Registrant, the sanction of erasure from the register.

Immediate order

49. Having determined to direct erasure, the Committee went on to consider whether it was necessary for the protection of members of the public or otherwise in the public interest, or in the interests of the Registrant to impose an immediate order. The substantive direction for erasure from the register will not take effect until after the appeal period and not until any appeal has been heard.
50. The Committee invited submissions on this matter from Ms Huxtable, for the Council. She submitted that the Council sought an immediate order, taking into account the seriousness of the matter and that the Registrant is serving a lengthy custodial sentence. She said that whilst there is no current risk to the public, due to the custodial sentence, an order was most certainly required on public interest grounds.
51. The Committee accepted the advice of the legal adviser who set out the test, emphasising that an order should be *necessary* to protect the public, not merely desirable, and that an order on public interest grounds should only be made if serious damage to the reputation of the profession would be caused if no order were made, which was essentially a high bar, tantamount to necessity. The legal adviser reminded the Committee to consider the findings it has just made in the substantive decision, and specifically the risks it identified to the protection of the

public. An order was more likely to be necessary where a risk to public safety had been identified.

Decision on Immediate Order

52. The Committee considered its findings at impairment and sanction; that there was a real risk to the public if the Registrant was to be allowed to return to unrestricted practice, and that reasonable and informed members of the public would expect his registration to be erased due to the serious nature of his criminal offending. It determined that it was therefore necessary, in all the circumstances of this case, to make an immediate order to protect the public. The Committee also determined that serious damage to the reputation of the profession would be caused if an order in the public interest was not made.

53. Therefore, it determined to make an Immediate Order of suspension.

Revocation of interim order

54. The Committee hereby revokes the interim order for suspension that was imposed on 18 November 2024.

55. That concludes this case.

Chair of the Committee: Sarah Hamilton

Signature



Date: 3 March 2026

Registrant: James Rees

Signature *Registrant not present, copies sent*

Date: 3 March 2026

FURTHER INFORMATION
Transcript
A full transcript of the hearing will be made available for purchase in due course.
Appeal
Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period. The relevant court is shown at section 23G(4)(a)-(c) of the Opticians Act 1989 (as amended).
Professional Standards Authority
<p>This decision will be reported to the Professional Standards Authority (PSA) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. PSA may refer this case to the High Court of Justice in England and Wales, the Court of Session in Scotland or the High Court of Justice in Northern Ireland as appropriate if they decide that a decision has been insufficient to protect the public and/or should not have been made, and if they consider that referral is desirable for the protection of the public.</p> <p>Where a registrant can appeal against a decision, the Authority has 40 days beginning with the day which is the last day in which you can appeal. Where a registrant cannot appeal against the outcome of a hearing, the Authority's appeal period is 56 days beginning with the day in which notification of the decision was served on you. PSA will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless PSA has been notified by the GOC of a change of address).</p> <p>Further information about the PSA can be obtained from its website at www.professionalstandards.org.uk or by telephone on 020 7389 8030.</p>
Effect of orders for suspension or erasure
To practise or carry on business as an optometrist or dispensing optician, to take or use a description which implies registration or entitlement to undertake any activity which the law restricts to a registered person, may amount to a criminal offence once an entry in the register has been suspended or erased.
Contact
If you require any further information, please contact the Council's Hearings Manager at Level 29, One Canada Square, London, E14 5AA or by telephone, on 020 7580 3898.