

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

GENERAL OPTICAL COUNCIL

F(24)44

AND

ABDUL KHAN (01-30126)

**DETERMINATION OF A SUBSTANTIVE HEARING
27-30 MAY & 19-20 NOVEMBER 2025 & 11-13 FEBRUARY 2026**

Committee Members:	Mr Gerry Wareham (Chair/Lay) Mr John Vaughan (Lay) (27-30 May 2025) Ms Audrey McFarlane (Lay) Ms Kalpana Theophilus (Optometrist) (27-30 May and 19-21 November 2025) Ms Philippa Shaw (Optometrist) (27-30 May 2025) Ms Jasheen Mangat (11-13 February 2026)
Legal adviser:	Ms Aminah Khan (27, 29 and 30 May 2025) Mr Christopher Hamlet (28 May 2025) Ms Unyime Davies (19-21 November 2025) Dr Francis Graydon (11-13 February 2026)
GOC Presenting Officer:	Ms Nutan Fatania (27-30 May 2025) Mr Adam Kirke (19-20 November 2025) Mr Mark Robinson (11-13 February 2026)
Registrant present/represented:	Yes and not represented (27-30 May, 19-21 November 2025 and 11-13 February 2026)
Hearings Officer:	Ms Latanya Gordon (27-30 May 2025) Ms Natasha Bance (19-21 November 2025) Ms Arjeta Shabani (11-13 February 2026)
Facts found proved:	All particulars of the Allegation were admitted by the Registrant apart from particulars 1(h) and 2(b), which were found proved at the end of the fact stage.
Facts not found proved:	None
Misconduct:	Found
Impairment:	Impaired

Sanction:	12-month suspension (With Review)
Immediate order:	Yes

Application for an adjournment

1. At the outset of the hearing the Registrant indicated that he wished to apply for an adjournment, primarily in order that he could obtain legal representation and also due to outstanding disclosure requests and his [redacted] issues, which he considered were preventing his full participation in these proceedings.
2. The Registrant provided the Committee with written submissions setting out the history regarding his efforts to obtain legal representation following the AOP indicating in January 2025 that they had withdrawn their representation for him, which was due to differences in approach to these proceedings. These efforts included the Registrant contacting solicitors, as set out in a bundle of relevant communications provided by the General Optical Council ('the Council').
3. The Registrant had wished to instruct a specific barrister who had advised him privately on the Registrant's data protection concerns, regarding the covert recording that had been made by Specsavers. However, this barrister was not currently instructed, and was also not available for the hearing today and was out of the country for two months. The Registrant had also obtained a fee estimate from a regulatory solicitor, however that quoted fee was higher than the Registrant had budgeted for legal fees, therefore the Registrant did not proceed to instruct that firm and he was currently unrepresented.
4. The Registrant explained in his written submissions that he had been constrained in securing legal representation by working 200 miles from home, the pressures of ongoing NHS investigations and the need to maintain employment due to financial obligations. He stated that any delay was not due to neglect and he had done the best he could in the time he had available. He had also appealed against the AOP's cessation of representation and requested that they resume acting for him. The outcome of this appeal remained outstanding.
5. The Registrant additionally raised [redacted] considerations. The Committee was advised that there was a presumption to sit in private when considering the [redacted] of the Registrant (Rule 25 of the General Optical Council (Fitness to Practise) Rules 2013 ('the Rules')). The Committee agreed to sit in private to hear representations from the Registrant on his [redacted], which was not objected to by Ms Fatania, on behalf of the Council. The Registrant provided the Committee with a record of a recent [redacted] on 23 May 2025, where he was [redacted] [redacted]. The Registrant submitted that these conditions have considerably impacted his capacity to effectively represent himself without professional legal support, reinforcing the need for an adjournment.
6. In relation to the legal argument that the Registrant wished to pursue, the Registrant indicated that he had wanted to instruct his own barrister, rather than use a barrister from the AOP panel, because he wished to pursue legal arguments regarding the admissibility of the covert recording. To this end the Registrant had made a disclosure request to Specsavers, which included a request for details of any Data Protection Impact Assessment (DPIA) which had been conducted, either by Head Office or Specsavers [redacted] and relevant policies regarding the use of covert monitoring of employees. That disclosure request had been

acknowledged and one document provided (a locum contract), but not yet been fully responded to. The Registrant submitted that further time was required to obtain the outstanding disclosure material and to finalise his legal argument, with the assistance of legal advice.

7. Ms Fatania, on behalf of the Council, opposed the application to adjourn. Ms Fatania stated that the Council had only been placed on written notice of the application on 15 May 2025. Ms Fatania referred the Committee to the bundle of correspondence produced by the Council, which was relevant to the background to the application to adjourn. She highlighted that the Registrant had been aware of the mystery shopper footage since August 2024 and the AOP, who represented the Registrant at that time, made no representations on the case to the Case Examiners in September 2024. The Registrant had indicated that there was delay in completing the hearings questionnaire in December 2024 because he was seeking alternative representation. The AOP then withdrew in January 2025.
8. Ms Fatania highlighted the AOP's response dated 7 May 2025, to the Registrant's complaint, which explained the issues and why they considered the Registrant's choice of barrister to be unsuitable. Further, this response confirms the AOP's advice that the footage would be admissible evidence. Ms Fatania submitted that if an adjournment was granted and the Registrant sought to be represented by the AOP again, it would appear that they would maintain that position.
9. Ms Fatania took the Committee through the factors relevant to considering an adjournment from the case of *CPS v Picton* [2006] EWHC 1108 (Admin). These included the need for expedition of proceedings, the necessary scrutiny of the reason for the application, whether the applicant would be able to fully present their defence if the case was not adjourned, the consequences adjourning including the likely length of any adjournment, the history of the case, reason for the adjournment application and whether there was any fault on any party.
10. Ms Fatania referred the Committee to the case of *Hayat v GMC* [2017] EWHC 1899 (Admin), which considered, amongst other matters, the issue of seeking representation and sufficient time to prepare for a hearing. Ms Fatania highlighted that in that case, the High Court found that the Tribunal was entitled to refuse the application to adjourn, stating that the Appellant had been given four months' notice of the hearing in which to arrange representation, which was considered a reasonable period to do so.
11. Ms Fatania submitted that the Registrant has had sufficient time to secure representation and any delay in having done so has come about due to decisions that he has made in how he wishes to be represented. She submitted that it appears that the Registrant's specific views about how he wished to be represented had brought about the instability in his representation with the AOP. Ms Fatania submitted that where a party making an application to adjourn is at fault, this is a factor against granting an adjournment. Here, the Registrant has had the benefit of representation and advice from the AOP.
12. In relation to the admissibility of the covert recording issue, Ms Fatania confirmed that the Council's position is that it is admissible. She highlighted that under Rule 40(1) the Committee may admit any evidence that it considers "*fair and relevant*

to the case before it, whether or not such evidence would be admissible in a court of law.” Ms Fatana submitted that the Council’s position is that the footage was clearly admissible and any issue as to its admissibility is capable of being dealt with during the substantive hearing.

13. Furthermore, Ms Fatania highlighted that there was a case management hearing in April 2025 when the Registrant did not raise any issue regarding the admissibility of the recording. Although the Registrant had sought a two month adjournment, Ms Fatania submitted that as the barrister instructed would need to receive and review the disclosure and prepare the case, realistically it would require a longer adjournment than two months. Ms Fatania stated that the outstanding disclosure could be expedited during the hearing, if the Committee considered it significant, but in any event, the Council considered that the recording was admissible.
14. In relation to the [redacted] issues raised, Ms Fatania acknowledged that these proceedings were stressful and not an easy process for Registrants. However, she submitted that the [redacted] relied upon was not sufficient to show that the Registrant was unable to engage effectively in these proceedings on [redacted].
15. Ms Fatania invited the Committee to refuse the application to adjourn, submitting that as the Allegation dated back to July 2023, a timely resolution to these proceedings was required to uphold the integrity of and public confidence in the proceedings.
16. The Committee accepted the advice of the Legal Adviser which was, in summary, that it had a discretion to adjourn at any stage of the proceedings, following an application of a party, or of its own motion (Rules 35 and 36). The Legal Adviser advised the Committee to have in mind the balance that needs to be struck between the need to ensure that no injustice is caused to the parties and the public interest in the expeditious disposal of regulatory proceedings.
17. In relation to the [redacted] issues raised by the Registrant, the Legal Adviser referred the Committee to the case of *GMC v Hayat* [2018] EWCA Civ 2796, which held that evidence of being certified as [redacted] does not automatically mean that a person is unfit to participate in a tribunal hearing.
18. The Legal Adviser referred the Committee to the case of *Nabili v GMC* [2018] EWHC 3331 (Admin), which held that a practitioner is not automatically entitled to an adjournment to obtain legal representation, even where it is their first adjournment application. Granting such adjournments in the absence of compelling reasons can adversely affect public confidence in regulation of the profession. Relevant factors to consider are: the history of the proceedings; how long the practitioner has had to arrange representation; the adequacy of any explanation given for the lateness in arranging representation; whether there is evidence that the lack of representation has arisen through no fault of the practitioner; and whether the tribunal has confidence that an adjournment would result in the practitioner being represented and/or attending and participating in the hearing.

19. The Legal Adviser referred the Committee to the case of *Ramaswamy v GMC* [2021] EWHC 1619 (Admin), which reiterated that when an adjournment was requested due to a legal representative's unavailability, a relevant consideration is the complexity of the case and the extent of the representative's prior involvement.

The Committee's decision on the adjournment

20. The Committee considered the Registrant's reasons for seeking the adjournment, which was essentially two-fold. Firstly, the [redacted] issues raised by the Registrant, which he considered impacted his ability to participate in these proceedings and secondly for the Registrant to secure legal representation and prepare his argument.
21. In relation to the first ground, the [redacted] issues, the Committee considered the Registrant's submissions on this point and the evidence that had been provided in support of the application to adjourn, namely a record of a [redacted] dated 23 May 2025, the last working day prior to the hearing, in which the Registrant was [redacted].
22. The Committee noted that whilst there was evidence of the Registrant's [redacted] issues, the [redacted] did not state that the Registrant was [redacted] to participate in these proceedings. The Committee acknowledged that the Registrant had stated that he had found it difficult to concentrate and prepare for these proceedings, but he had been able to prepare written submissions.
23. Additionally, it noted that the Registrant had been continuing to practise and the [redacted] issues did not appear to be severe or long-standing. The evidence supported that the Registrant was [redacted], which the Committee considered was understandable given that fitness to practise proceedings can be stressful for Registrants. However, the Committee was not satisfied that the evidence was such that it showed that the Registrant was unable to participate effectively in these proceedings. The Committee was not satisfied that the [redacted] issues would justify an adjournment of the proceedings.
24. In relation to the second ground, relating to his legal representation, the Committee noted the steps that the Registrant had already taken to seek legal representation, which had not yet been successful. The Committee was mindful that the Registrant had had notice of this hearing for a considerable period, with the AOP first becoming involved in assisting the Registrant in March 2024. The Registrant had referred to the fact that he may need to change representation from the AOP in December 2024, and knew that the AOP were withdrawing from acting for him in January 2025. Whilst the Registrant has appealed the decision of the AOP, this was only recently on 19 May 2025. The Committee considered that the Registrant had produced evidence of making enquiries with other legal representatives, although many of the Registrant's enquiries were relatively recent despite the Registrant being aware of the need for new representation for several months. The Committee concluded that the Registrant had had a sufficient opportunity to secure representation in this case and had not provided an adequate explanation for his inability to do so.

25. The Registrant had previously had legal representation from the AOP and that ended because of the Registrant's insistence that a non-panel barrister be instructed to argue a legal point that the AOP did not agree had merit. Whilst the Registrant had explored various other avenues open to him to obtain legal representation, the outcome of these enquiries was not particularly reassuring. The Committee noted that the Registrant's intention in respect of securing legal representation was to instruct a specific barrister, who would support his case on the legal arguments and this barrister was unavailable for the next two months. There was no guarantee that the barrister would be available and willing to act for the Registrant if the case was adjourned for a two month period and in reality, a longer adjournment would likely be required. The Committee was not satisfied that the Registrant would have in place legal representation within a reasonable period if the case was adjourned.
26. In relation to the outstanding disclosure requests, the Committee noted that the Registrant had been considering raising objections to the covert recording footage from at least January 2025, yet the disclosure requests were only made relatively recently. When the Registrant had the opportunity, in the case management hearing in April 2025, to raise that he was objecting to this evidence and why, he did not do so. If this had been raised as a relevant issue earlier, the disclosure could have been sought sooner.
27. On balance, the Committee was satisfied that the Registrant would be able to participate in the proceedings unrepresented fully and fairly. The Committee considered that none of the grounds upon which the application to adjourn was made were a sufficient reason to adjourn, either in isolation, or when taken together. Further, any potential unfairness to the Registrant in proceeding today would in the Committee's view be outweighed by the need to dispose of these proceedings, which concerned alleged events from 2023, expeditiously.
28. The Committee concluded that it was in the interest of justice for the hearing to proceed today and the Registrant's application to adjourn was refused.

Other preliminary issues

29. It was raised by the Chair that both Optometrist members of the Committee had indicated that they had professional connections with the expert witness in the case, Dr Anna Kwartz. Ms Shaw in particular had declared that she knew Dr Kwartz on a professional level from them both being College of Optometrists examiners and assessors. However, Ms Shaw stated that she had only met Dr Quartz briefly on a few occasions. Similarly, Ms Theophilus was aware of Dr Kwartz in a professional capacity.
30. Neither Optometrist members considered that these connections were sufficient to impact upon their ability to hear this case fairly and impartially. Both parties confirmed that there was no objection to either member continuing to hear this case. The Committee was satisfied that there was no basis for any member of the Committee to recuse themselves from the case.

Registrant's application to exclude evidence

31. A further preliminary issue was raised by the Registrant regarding the admissibility of the covertly recorded footage of the Registrant's eye examination of the mystery shopper, which the Council relied upon in support of its case. The evidence was obtained as part of Specsavers' mystery shopper programme whereby an unannounced visit is made to a store by an individual, wearing a covert camera and posing as a member of the public, in order to review the customer service standards of the practice.
32. The Registrant provided the Committee with written submissions setting out his objections to the admissibility of this evidence, which in summary, included:
 - i) Breach of Article 8 ECHR (i.e. breach of privacy in the use of covert video in the workplace without notice);
 - ii) Breach of UK GDPR – unlawful and unfair processing of personal data. Specifically, that
 - a) the original purpose of the recordings is entirely different to the use to which it is put now, in breach of the purpose limitation principle;
 - b) that there was no lawful basis for the processing, as the Registrant had not consented to the processing of his personal data in this manner, nor was any other lawful basis established;
 - c) that the processing of the Registrant's personal data was not fair nor transparent, primarily as he had never been put on notice of it;
 - d) failure to conduct a Data Protection Impact Assessment (DPIA), as required by the Information Commissioner's Office (ICO) Employment Practices Guidance on the monitoring of employees and that the monitoring was not targeted or proportionate.
33. The Registrant acknowledged in his written submissions that covert surveillance for the purposes of the investigation of criminal or regulatory breaches can be justified, if used proportionately, and further, it was accepted that the Committee had a broad discretion to admit evidence. However, it was submitted by the Registrant that due to issues identified above, it would be unfair for the footage to be relied upon in these proceedings, especially as he considered that the issues captured in the video had been addressed at a local level.
34. The Registrant further suggested that the referral to the Council, which was some months after the event, was the product of a "personal grudge" and a "tool of retaliation" by those running the store in question and that this is a factor to take into account in determining the overall fairness of its admission.
35. In response to the application to exclude the evidence, the Council produced a written response and a 50-page supplementary bundle, which included template locum contracts, which made specific reference to the mystery shopper programme and its potential use in disciplinary proceedings. Though the Registrant's own locum contract has not been located, the Council relied on a supplementary statement from Ms A, Ophthalmic Director of Specsavers, [redacted], which asserted that all locums are obliged to sign such a contract

before working at the store and that the Registrant himself was aware of the mystery shopper programme.

36. In summary, the Council's position in response was that the footage was highly relevant evidence and that it ought to be admitted in this case despite the objections raised by the Registrant. Ms Fatania highlighted the Committee's wide powers to admit evidence under Rule 40(1), which it considers fair and relevant. Ms Fatania referred the Committee to the cases of *Idenburg v GMC* [2000] 55 BMLR 101, as regards the admissibility of evidence in disciplinary proceedings that has been obtained illegally and *R v Khan (Sultan)* [1997] AC 558, [1996] 7 WLUK 26, regarding the reliance in criminal proceedings of evidence obtained by illegal means. Ms Fatania submitted that the principles that emerged from the Court of Appeal's consideration of the case was whether such evidence was a) relevant and b) whether the invasion of privacy was outweighed by the public interest in the detection of crime.
37. Additionally, Ms Fatania referenced the case of *Lopez Ribalda and others v Spain* [2019] 6 WLUK 852, regarding the use of surveillance in the workplace for the purposes of identifying theft by employees. The High Court ruled that reliance on such footage was fair and noted that no dispute had been raised in respect of the authenticity or accuracy of those recordings. Further, in the case of *Saluja (CHRE v GMC and Saluja)* [2007] EWHC 2784 (Admin) a recording by an undercover journalist of fraudulent misconduct by a doctor was deemed by the High Court to be admissible notwithstanding the suggestion of entrapment.
38. In conclusion the Council submitted that:
 - i) the Registrant's expressed expectation that this footage would remain within the store for internal review only is irrelevant;
 - ii) the store's motivation in referring the matter to the Council is irrelevant;
 - iii) the Council has a statutory responsibility for setting standards and there is no requirement that crime, fraud or malicious behaviour must take place for proceedings to be brought;
 - iv) admission of this material in these proceedings is not dependent on considerations under either the ECHR or UK GDPR;
 - v) the use of the mystery shopper programme by Specsavers and its compliance, or otherwise, with ICO guidance and data protection legislation, is not for this committee to determine.
39. The Committee heard and accepted the advice from the Legal Adviser that it had a wide discretion to admit evidence, in any form, under Rule 40(1) and (2). Whilst the Committee will have full regard to the points raised by the Registrant and the Council in response, the key consideration for the Committee in these proceedings is whether the admission of this evidence is necessary and appropriate to discharge the Council's role in maintaining standards in the profession by bringing these proceedings and the Committee's role in determining the allegations, and whether to do so would be fair in all the circumstances.
40. The Legal Adviser advised that the Committee may consider that the recording was plainly relevant to the issues in the case, as it was the sole and decisive evidence in support of the Allegation. The footage also potentially indicates

serious concerns in the Registrant's practice and if the evidence is not admitted, there is no alternative evidence upon which the Allegation could be determined. Further, the footage does not disclose the identities of third parties, so steps have been taken to minimise the unnecessary disclosure of personal data. Additionally, the Legal Adviser advised that the Registrant has been aware of the existence of the recordings for some considerable time and has had a fair opportunity to prepare a response to them and no challenge has been made about the accuracy of the footage.

41. In the course of deliberations on the issue, the Registrant submitted a further document which reiterated many of the same points already under consideration. No further submissions were made by the Council in response to it. The Committee gave consideration to this document when making its findings set out below.

Committee's findings on the admissibility argument

42. The Committee considered the submissions of both parties. It was mindful that the overarching objective of the Committee is to act in the public interest by way of the protection of the public and patients, the maintenance of trust and confidence and the upholding of standards in the profession.
43. The Registrant had raised detailed arguments regarding the potential privacy and data protection implications arising from the obtaining of the covert recording. The Committee considered that it is not in a position, on the basis of the evidence provided and the submissions made, to rule on the status of the covert footage evidence as regards the ECHR, UK GDPR and/or ICO guidance. The Committee however had regard to the submissions made in considering the overall fairness of receiving the material and it being admitted into evidence in this case.
44. The Committee was mindful that it has a wide discretion to admit evidence, in any form. In particular, Rule 40 (1) provides that the Committee may admit:

"..any evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a court of law."

Rule 40(2) states :

"Where evidence would not be admissible in civil proceedings in England and Wales, the Committee shall not admit such evidence unless, on the advice of the legal adviser, it is satisfied that it's duty of making due inquiry into the case before it makes its admission desirable."

45. In relation to relevance, the Committee was satisfied that it was plainly relevant evidence to the matters under consideration in this case, as it was key evidence capturing the Registrant's examination of Patient A, which is central to the Allegation.
46. As to whether it was fair to admit the evidence, the Committee had regard to the fact that no dispute over the accuracy of the content of the footage had been

raised, rather the issue was whether it was fair in the circumstances, and in light of the issues raised by the Registrant, to admit it.

47. The Committee considered that monitoring of employee conduct is part and parcel of a professional setting and so the Registrant can have had only a limited expectation of privacy within the workplace. The Committee considered that, in any event, the subject matter of the video raises a strong public interest in its admission that outweighs any legitimate expectation of privacy that may have been present. The Committee was also satisfied that on the balance of probabilities this Registrant would have been aware of the practice of mystery shoppers within the profession.
48. Accordingly, the Committee considered that notwithstanding the objections raised by the Registrant, it would be fair to admit the video footage into evidence and decided that it shall be admissible.

Application to amend the originally worded Allegation

49. The Council then made an application to amend the Allegation under Rule 46(20), which related to particulars 1(c),1(d)(i),1(f) (with consequential changes to 1(g)) and 1(h) (with consequential changes affecting particular 2).
50. The Registrant made no objection to these amendments being made.
51. The Committee was advised by the Legal Adviser that it had the power to amend the Allegation under Rule 46(20), either upon the application of a party, or on its own volition, if the amendment can be made without injustice. The Committee were advised that the proposed addition to 1(f) represented a substantive amendment, rather than one of form, given that it raised an entirely fresh allegation, albeit one that derived from the existing evidence. The Council highlighted that it was drawn from paragraph 8.4.4 of the expert report of Dr Kwartz. Nevertheless, the Committee needed to be satisfied that the change was necessary and did not prejudice the Registrant.
52. The Committee considered the application and legal advice received and determined to grant the application, as the Committee was satisfied that the amendments were appropriate and could be made without causing injustice. The below Allegation shows the amendments sought and granted by the Committee, with the struck through wording being the wording to be removed and the underlined wording be added to the Allegation.

ALLEGATION (AS AMENDED)

The Council alleges that you, Mr Abdul Khan (01-30126), a registered Optometrist:

1. On 12 July 2023 you performed a sight test on Patient A, and you:
 - a. Failed to carry out an internal and/or external examination of Patient A's eyes, namely you:
 - i. Failed to perform a slit lamp examination of the anterior eyes;
 - ii. Failed to perform an ophthalmoscopic examination of the peripheral and/or nasal fundi;
 - b. Failed to accurately assess the type and/or density of the cataract in Patient A's right eye;
 - c. Failed to assess Patient A's oculomotor status; and/or
 - d. Failed to accurately ascertain Patient A's history and symptoms, namely you:
 - i. Recorded that Patient A was attending for a routine check with no symptoms, despite you not ascertaining the reason for Patient A's visit; and/or
 - ii. Recorded that Patient A was not taking any medications, despite Patient A providing details of medications taken during the examination.
 - e. Failed to provide your advice and/or recommendations to Patient A, namely you:
 - i. Recorded that you recommended contact lenses to Patient A, despite this not being mentioned to Patient A during the examination;
 - f. Recorded that Patient A's oculomotor status at distance and near were normal, despite not carrying out an assessment of the oculomotor status;
 - f. g. Failed to record details of those involved in Patient A's optical consultation;
 - g. h. Falsified Patient A's clinical record to say that the above at 1a)(i), ~~and/or (ii), and/or (b), and/or (c), and/or (d)(i), and/or (ii) and/or (e)(i), (f)~~ had been carried out and/or provided when they had not;
2. Your conduct at 1g) h) above was
 - a. Inappropriate; and/or

b. Dishonest, in that Patient A's clinical record does not reflect a genuine representation of the examination that took place.

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

DETERMINATION

Admissions in relation to the particulars of the allegation

53. The Registrant admitted particulars 1(a)(i) and (ii), 1(b), 1(c), 1(d)(i) and (ii), 1(e)(i), 1(f), 1(g), and 2(a) of the allegation. In relation to particular 1(h), the Registrant indicated that he accepted that he had recorded the matters alleged in the patient record, however he did not admit that he 'falsified' the record as alleged, as he did not agree that characterisation of his conduct. In relation to particular 2, he admitted that his conduct was inappropriate, but not dishonest.

Background to the allegations

54. The Registrant is an Optometrist who registered with the Council on 13 April 2017. The Registrant has no known fitness to practise history.
55. The Registrant worked as a locum at Specsavers, [redacted] ('the practice'), at the material time, namely July 2023. On 12 July 2023 Patient A attended the practice as a "mystery shopper" and their interactions with the Registrant, who carried out a sight test on Patient A, were recorded (audio and visual).
56. The recording of the visit was reviewed by the practice. Following this review, concerns emerged surrounding the standard of the eye examination and the accuracy of the Registrant's record keeping that was completed during the sight test he performed for Patient A.
57. The concerns of the practice centred on inconsistencies between (i) what is seen and heard in the recording and (ii) Patient A's records made by the Registrant on 12 July 2023. In particular, the practice was concerned that the records made by the Registrant showed that internal and external eye examinations were physically performed using traditional methods on Patient A, but the recording suggests they were not actually physically performed. A decision was made to refer the matter to the Council and this was communicated via a referral letter dated 21 February 2024.

The hearing

58. The Committee had before it bundles of documentary evidence, which included, but was not limited to, the witness statements of Ms A, Ophthalmic Director of Specsavers, [redacted], the referral letter to the Council, Patient

A's clinical records and the expert report of Dr Anna Kwartz, dated 21 July 2024, commenting upon the covert footage of the Registrant's examination of Patient A, the Mystery Shopper. The Committee was also provided with a copy of this footage.

59. The Committee also had material provided by the Registrant, upon which he wished to rely as evidence, which included his written statements on the background and the particulars of the Allegation, a bundle of emails and WhatsApp messages with various individuals at Specsavers and a witness testimony contained in an email from a work colleague, regarding the working environment in the practice.
60. The only live witness was Ms A, who attended, confirming the contents of her witness statements and she was questioned by Ms Fantania, on behalf of the Council, the Registrant and the Committee. The expert evidence of Dr Anna Kwartz was agreed by the Registrant and there were no questions arising from the Committee, therefore this witness was not required to attend the hearing.
61. The Registrant chose not to give evidence and relied upon the documentation, including his written statements, which he had provided to the Committee.
62. Ms Fatania made closing submissions and submitted that the two disputed parts of the Allegation went hand in hand. Ms Fatania highlighted that the Registrant had made factual admissions that the clinical record was false, in that it was not an accurate record of the examination. She submitted that it was an inevitable consequence of those admissions that 'falsified' in particular 1(h) should be found proved. Whatever pressure the Registrant was under, she submitted that the Registrant would have known when making the entries that he did on the clinical record, that it was not a true reflection of the examination. Ms Fatania suggested that in reality the Registrant did accept that this was a false record, but he was drawing back from that because of the consequences of it.
63. In relation to dishonesty, Ms Fatania submitted that the Committee could find dishonesty proved on the objective standard of ordinary decent people even if the Registrant did not think he was acting dishonestly, under the objective test in *Ivey v Genting Casinos* [2017] UKSC 67 (SC). In relation to the Registrant's account that he was negligent or that it was poor practice rather than dishonest, Ms Fatania submitted that even the thoughtless ticking of boxes, which the Registrant knew not to be a true reflection, oblivious to the gravity of it, could still be dishonest. This is particularly the case for a professional, with professional standards to adhere to, knowing how important it was to complete patient records accurately. Ms Fatania submitted that arguably there was a gain to the Registrant in his conduct, as the record would indicate that the examination was carried out to the standards to be expected, when it was not and if filled out accurately, the Registrant would be exposing that fact.

64. The Registrant was invited to make any closing submissions and he referred the Committee to the written statement that he had provided and he stated that he had nothing more to add other than he had no intention to deceive or falsify the clinical record.
65. The Committee heard and accepted advice from the Legal Adviser at the end of the facts stage, which included advice that the burden of proof throughout lies on the Council to prove the disputed facts, on the balance of probabilities. The Committee was advised it is required to make decisions based on the whole evidence, deciding what evidence to accept, what to reject and what weight to attach to evidence, assessing all of the evidence that has been presented, both witness evidence, documentary evidence and the video footage it had admitted. Reasonable inferences can be drawn from the evidence, but the Committee should not speculate about evidence or witnesses it has not heard from.
66. In relation to dishonesty, the Committee was advised that the test is set out in *Ivey v Genting Casinos* [2017] UKSC 67 (SC). The test in *Ivey* has 2 separate stages; firstly the Committee should ascertain, subjectively, the actual state of the Registrant's knowledge or belief as to the facts. Secondly, the Committee should decide whether the conduct was honest or dishonest by applying the objective standards of ordinary decent people. The reasonableness or otherwise of the belief is a matter of evidence going to whether or not the Registrant genuinely held the belief, but there is not an additional requirement that the belief must be reasonable.
67. The Legal Adviser advised that the Committee ought to be mindful that recklessness cannot be equated with dishonesty, as confirmed in *Ahmedsowida v The General Medical Council* [2021] EWHC 3466 (Admin). However, where a person deliberately chooses to ignore an obvious fact, this can amount to knowledge under the principle of 'blind-eye knowledge'. There is often no direct evidence of dishonesty, but the Committee can draw inferences about the Registrant's state of mind from the evidence. However, this must be the most likely inference to draw in the circumstances.
68. In relation to the Registrant's character, the Legal Adviser reminded the Committee that he had no fitness to practise history. Good character could be relevant to both the Registrant's credibility and propensity. However, the weight to be attached to such evidence is a matter for the Committee.

Findings in relation to the facts

69. Given the admissions made by the Registrant, the Committee was required to consider and determine two particulars of the Allegation, which were considered in turn, as set out below.

1 h. Falsified Patient A's clinical record to say that the above at 1(a)(i),(ii),(b),(c),(d)(i),(ii) (e)(i),(f) had been carried out and/or provided when they had not;

70. In the Registrant's written response to the Allegation, particular 1(h), he stated that this was "*admitted in substance, but without intent to deceive*" and that he admitted that he "*documented various examinations and advice which, in truth, were not done....I admit that the overall effect of my record was to give a false impression of a more thorough examination than actually occurred.*" However, he went on to state that the word 'falsified' suggests a deliberate action to deceive, which he denied.
71. The Registrant stated that "*I did not set out with an intention to mislead anyone. I did not falsify the record for personal gain or to cover up misconduct. Rather, I inaccurately completed the record under pressures and forgetfulness and at the time I did not fully appreciate that what I was doing could be viewed as falsification.*" In addition, the Registrant has stated that this was a one-time lapse in a very strained setting and in his background document, which he provided to the Committee, he sets out his position in respect of the working environment and pressures he was under.
72. The Committee noted that the Registrant is of good character and this is relevant to his credibility and propensity, of how likely it is that he acted as alleged.
73. The Committee noted that the Registrant had chosen not to give live witness evidence and so had not been questioned about these matters.
74. The Committee considered the Registrant's position, as set out in summary above, which was essentially an acceptance of the underlying facts of this particular of the Allegation but not to the description of the conduct as falsifying the patient record. When deciding this particular of the Allegation and whether it had been proved that the Registrant had 'falsified' the clinical record of Patient A, the Committee considered the ordinary meaning of the word falsified. The Committee did not infer a mental element into the word, and did not consider that it had to decide for this particular whether the Registrant had dishonestly falsified the clinical record. The Committee concluded that this part of the Allegation (particular 1(h)) was a bare factual allegation, with the mental element alleged of dishonesty, to be determined in relation to particular 2.
75. The Committee noted that all of the individual parts of the Allegation set out in particular 1(h) had been admitted by the Registrant and he accepted that he had documented that examinations had been conducted and/or that advice had been provided, when they had not. On the Registrant's own account, he has accepted that the overall effect of his clinical record for Patient A was to

give a false impression, as it documented examinations that were not done and that he admits that “*the record itself was false in parts*”. The Committee considered that the evidence before it, including the Registrant’s own account, supported that the Registrant had falsified Patient A’s clinical record to say that the matters alleged at 1(a)(i),(ii),(b),(c),(d)(i),(ii) (e)(i),(f) had been carried out and/or provided when they had not.

76. Accordingly, the Committee found particular 1(h) of the Allegation proved.

2. Your conduct at h) above was

b. Dishonest, in that Patient A’s clinical record does not reflect a genuine representation of the examination that took place.

77. In relation to this particular of the Allegation, the Registrant’s position is that he accepts that he inaccurately completed the clinical record for Patient A, but he does not accept that he was dishonest, in that he says it was not an intentional act of deception. He states in his written statement that “*dishonesty in professional practice is a very serious label that implies a conscious decision to mislead. I respectfully submit that my case is one of negligence and poor practice under pressure, not calculated dishonesty.*” He suggests that he was checking tick boxes on the patient record without thinking, not realising the implications.

78. The Registrant accepts that Patient A’s clinical record does not reflect a genuine representation of the examination that took place, therefore the sole issue for the Committee to determine in respect of this particular of the Allegation is whether the Registrant’s conduct in this regard was dishonest.

79. The Committee applied the test for dishonesty set out in *Ivey v Genting Casinos* [2017] UKSC 67 (SC) and firstly the Committee considered, subjectively, the actual state of the Registrant’s knowledge or belief as to the facts. It had regard to the Registrant’s written statement and the documentation which the Registrant relied upon. However, as the Registrant did not give live witness evidence, these issues could not be explored further and the evidence of the actual state of the Registrant’s knowledge or belief as to the facts was limited to what is set out in the Registrant’s written account. This also affected the weight that the Committee was able to put upon this evidence.

80. The Committee carefully considered the Registrant’s account that his clinical record for Patient A was not a genuine representation of the examination that took place due to negligence or poor practice, by ticking boxes without thinking. The Committee considered whether the Registrant knew at the time of making the record that he was entering false information onto the clinical record and was satisfied for the reasons below, taken together, that he did.

81. On the evidence before it, the Committee took the view that the Registrant's conduct went further than simply not taking sufficient care to record the examination accurately. The Committee reminded itself of the good character of the Registrant. The Committee had regard to the number and the nature of the false entries in the clinical record. This was not a case of record keeping errors where the Registrant had simply omitted to record matters, or tick boxes, when he ought to have done. Rather, the Registrant took steps to positively record matters and aspects of the examination that did not in fact take place, by making entries in the record that would suggest to another Optometrist that a full and complete eye examination had been undertaken by the Registrant. For example, in relation to the retina the Registrant documented that it was '*flat and even, all quadrants checked*', which indicates that a peripheral fundus examination had been conducted when it had not.
82. In relation to particular 1(f) the Registrant made an entry regarding Patient A's oculomotor status, recording '*no movement*', which suggests that he had undertaken the test despite not carrying out an assessment of the oculomotor status. The Committee took the view that the Registrant entered a level of detail that could not be explained by merely careless or rushed record keeping.
83. A further example is the Registrant documenting that Patient A had a cataract when there was no positive evidence of such and the video footage showed that he undertook no clinical assessment which would enable him to properly form that opinion. The evidence of Dr Kwartz was that from the video footage there was no assessment undertaken by the Registrant where he could have detected this, and no slit lamp technique was undertaken during the examination.
84. The Committee considered it significant that the evidence showed that the clinical record was completed contemporaneously by the Registrant during the consultation with Patient A (as can be seen from the clinical audit data) and the Registrant had only qualified relatively recently (in 2017), so would have been professionally assessed on the importance of accurate recordkeeping and the risks of not assessing patients to an adequate standard. Additionally, the Committee noted that the video footage showed that the examination of Patient A lasted just over 10 minutes, despite the Registrant having a 20–25 minute slot per patient. The evidence of Ms A was that the Registrant often would finish his clinics early and would say he did not know why other Optometrists took so long to conduct an examination.
85. The Committee concluded, on the evidence before it, that the Registrant knowingly made false entries in the clinical records, to make it appear that he had undertaken a fuller examination of Patient A than he had. In addition, the patient record suggests that a full examination, which was up to the expected standards, was conducted, when the video shows that it was not. The Registrant's actions led to the clinical record to be materially false and would

be misleading to colleagues, who would believe that assessments had been undertaken during that examination when they had not.

86. The Committee therefore did not accept the Registrant's account that he was simply being negligent, careless or his actions were simply poor practice under pressure, as this was contrary to the weight of the evidence. Due to the Committee's findings set out above, notwithstanding the Registrant's good character, the Committee was satisfied that the Council had proved, on the balance of probabilities, that the Registrant's conduct was dishonest and would be regarded as such by the standards of ordinary decent people. Therefore, paragraph 2(b) is found proved.

Applications to recuse and adjourn

87. The hearing resumed on 19 November 2025 before a reduced quorum of three Committee members, rather than the original Committee of five. One Committee member's term of appointment had come to an end, and a second Committee member was no longer able to attend due to unforeseen circumstances. The Chair confirmed that the reduced Committee remained quorate in accordance with Rule 22 and Rule 25 of The General Optical Council (Committee Constitution Rules) Order of Council 2005. The parties had previously been asked for their views and confirmed that they had no objection to the hearing proceeding with the reduced quorum.

Potential Conflict of Interest

88. At the outset of the resumed hearing, following introductions and confirmation of the documents before the Committee, registrant Committee Member Ms Kalpana Theophilus declared a potential conflict of interest. She informed the parties that she had sat as a committee member in an interim order hearing in July 2025 concerning [redacted], who had provided a statement for the Registrant which had been admitted in evidence during the earlier stage of this hearing in May 2025.
89. Ms Theophilus further confirmed that she had no prior knowledge of, or professional dealings with, [redacted] before the interim order hearing. It is a matter of public record that the July 2025 hearing resulted in an interim suspension order, although the hearing itself was conducted in private. The other members of the present Committee played no part in that hearing, and no details of the interim order case had been discussed with them.
90. Both parties were invited to make submissions regarding the declaration.
91. On behalf of the Council, Mr Kirke applied for Ms Theophilus to be recused. He submitted that the statement provided by [redacted] may remain relevant at later stages of the proceedings and the imposition of the interim order could raise issues of credibility. He argued that Ms Theophilus may hold background knowledge from the interim order hearing which would not be available to the parties or the other committee members, and that even

if she did not consciously rely upon such information, there was a risk of subconscious influence. He submitted that this risk was sufficient to raise potential unfairness in the proceedings.

92. Mr Kirke also made a connected application to adjourn the proceedings. He submitted that, should the recusal be granted, a new committee member would need to be appointed. This would present practical difficulties, because only two remaining members would have heard the earlier evidence. While this could be mitigated through the provision of transcripts and published determinations, the process would require time, and the loss of significant hearing time addressing the potential conflict meant that proceeding without adjournment risked unfairness and undue pressure. Mr Kirke also submitted that should the application for recusal of Ms Theophilus be refused, there would still remain insufficient time to complete the hearing and the application to adjourn would still persist. He acknowledged that the applications were regrettable but submitted that, given the seriousness of the allegations and the potential consequences for the unrepresented Registrant, they were necessary in the interests of justice.
93. The Registrant submitted that he understood the need for fairness but asked that the proceedings continue. He explained that the prolonged nature of the process was causing significant personal and professional strain. He stated that he no longer intended to rely on the evidence within the statement provided by [redacted], particularly as the fact-finding stage had concluded, and he believed this reduced the potential for perceived bias. He emphasised that he wished to proceed in a manner that was transparent and fair and ultimately deferred to the Committee's judgment on the matter.
94. The Legal Adviser reminded the Committee of the applicable legal principles, referring to the GOC's guidance on committee member disclosures and potential bias. She drew the Committee's attention to the test in *Porter v Magill [2001] UKHL 67*, namely whether a fair-minded and informed observer, aware of all the relevant facts, would conclude that there was a real possibility of bias. She referred also to *Rasool v General Pharmaceutical Council [2015] EWHC 217* where the court emphasised that previous panel involvement does not automatically give rise to apparent bias, and to *Akers v Kirkland [2019]*, which confirmed that judicial discomfort alone is not sufficient, there must be a real possibility of perceived bias. She also reminded the Committee of its discretion to adjourn proceedings under Rules 35 and 36, and that it must balance fairness to both parties with the public interest in the expeditious disposal of regulatory proceedings.
95. The Committee carefully considered all submissions. It reminded itself that the correct question is whether a fair-minded and informed observer, aware of all the circumstances, would conclude that there is a real possibility of bias. The Committee noted that although the statement from [redacted] had been relied upon at an earlier stage, Mr Khan had indicated he would not

rely upon it further. However, the Committee recognised that the evidence within it, referencing difficult working conditions at the practice, may still become relevant to matters yet to be determined. It also noted the submission by the Council that it may seek to challenge the evidence and to raise issues relating to the credibility of [redacted]. The Committee was mindful that the Registrant is unrepresented, which heightens the risk that issues may inadvertently arise which touch upon the statement.

96. The Committee considered the evidence contained within the statement. It referred to the Registrant's work environment and conditions, which may well be relevant to issues of insight, gravity and mitigation. The statement had already been admitted in evidence, and as the Registrant was unrepresented the Committee could place limited reliance upon any well intended assurance regarding its ongoing relevance. The Committee accepted that Ms Theophilus was confident in her ability to remain impartial and was a professional and capable committee member. However, whatever care and intellectual rigour Ms Theophilus applied, the Committee was aware that the test concerns perception, and how matters would appear to a fair-minded observer, not the subjective intentions of the committee member in question.
97. The Committee acknowledged the considerable strain these proceedings have placed upon Mr Khan, who told the Committee he was subject to conditions of practise, procedural delays and his absence of representation. The Committee expressed sympathy for the disruption and difficulty this has caused him. Nevertheless, the Committee concluded that a fair-minded and informed observer could perceive a real possibility of bias if Ms Theophilus remained on the Committee, given her involvement in a recent interim order hearing concerning the individual who provided a statement in support of the Registrant in these proceedings.
98. The Committee further noted the practical difficulties arising from its reduced membership. The Committee is already reduced from five to three members. Recusal of Ms Theophilus would reduce the Committee to two members, the minimum required for quorum is three members, including one registered member. Appointing a replacement registrant member at this stage would require sufficient time to ensure that the new member was properly acquainted with the case history, which would not be possible without adjournment.
99. For these reasons, the Committee determined that Ms Theophilus should recuse herself in the interests of procedural fairness. The Committee also determined that the proceedings must be adjourned, to allow for the appointment of a new committee member with appropriate expertise and the necessary time to review the full case papers and transcripts.

Misconduct

Submissions on behalf of the Council

100. Mr Robinson on behalf of the Council submitted that there is no strict definition of misconduct. He referred to *Roylance v General Medical Council (No.2) [2000] 1 A.C. 311* where Lord Clyde stated

“Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed in the particular circumstances.”

101. He also referred the Committee to *R (Calhaem) v General Medical Council [2007] EWHC 2606 (Admin)* where the judge stated

“The word ‘misconduct’ in [the Medical Act 1983] section 35C (2) (a) does not connote any breach of the duty owed by a doctor to his patient: it connotes a serious breach which indicates that the doctor’s fitness to practise is impaired.”

102. He also referred the Committee to *Remedy UK Ltd v General Medical Council [2010] EWHC 1245 (Admin)* where the court stated that

“Misconduct is of two principal kinds. It may involve sufficiently serious misconduct in the exercise of professional practice such that it can properly be described as misconduct going to fitness to practise. Second, it can involve conduct of a morally culpable or otherwise disgraceful kind which may, and often will, occur outside the course of professional practice itself, but which brings disgrace upon the doctor and thereby prejudices the reputation of the profession.”

“Misconduct within the first limb need not arise in the context of a doctor exercising his clinical practice, but it must be in the exercise of the doctor’s medical calling. There is no single or simple test for defining when that condition is satisfied.”

“Conduct falls into the second limb if it is dishonourable or disgraceful or attracts some kind of opprobrium; that fact may be sufficient to bring the profession of medicine into disrepute. It matters not whether such conduct is directly related to the exercise of professional skill.”

103. Mr Robinson referred to the expert evidence of Dr Anna Kwartz and her view on the standard demonstrated by the Registrant as well as her view when posed with additional questions (paragraphs 8.6.1 and 8.6.2 of her report on page 42). He highlighted the following from Dr Kwartz’s report.

‘I consider the Registrant’s actions to be far below that of a reasonable and competent optometrist...Fundamentally, there are multiple disparities

between the patient record and the video footage and the patient record does not reflect a genuine representation of the examination that occurred.'

104. He also referred to Dr Kwartz's opinion regarding the impact of recording an internal and external eye examination as completed when it had not been completed,

'In this scenario, there is the possibility that pathology may be undetected' (paragraph 8.5.1 of the report, page 42 of the bundle).

105. Mr Robinson submitted on behalf of the Council that in determining misconduct, the Committee should also have regard to the Council's Standards of Practice for Optometrists and Dispensing Opticians effective from April 2016. He drew the Committee's attention to Dr Kwartz's opinion of the relevant standards (Table 4, pages 44-45 of the bundle).
106. Mr Robinson on behalf of the Council submitted that the Committee may wish to consider that the Registrant has departed from the following standards by virtue of his conduct.

'5. Keep your knowledge and skills up to date

5.1 Be competent in all aspects of your work including clinical practice, supervision, teaching, research and management roles, and do not perform any roles in which you are not competent.

5.3 Be aware of current good practice, taking into account relevant developments in clinical research, and apply this to the care you provide.

7. Conduct appropriate assessments, examinations, treatments and referrals

7.1 Conduct an adequate assessment for the purposes of the optical consultation, including where necessary any relevant medical, family and social history of the patient. This may include current symptoms, personal beliefs or cultural factors.

7.3 Only prescribe optical devices, drugs or treatment when you have adequate knowledge of the patient's health.

7.2 Provide or arrange any further examinations, advice, investigations or treatment if required for your patient. This should be done in a timescale that does not compromise patient safety and care

7.5 Provide effective patient care and treatments based on current good practice.

7.6 Only provide or recommend examinations, treatments, drugs or optical devices if these are clinically justified, and in the best interests of the patient.

8. Maintain adequate patient records

8.1 Maintain clear, legible and contemporaneous patient records which are accessible for all those involved in the patient's care.

8.2 As a minimum, record the following information:

8.2.3 The reason for the consultation and any presenting condition.

8.2.4 The details and findings of any assessment or examination conducted.

8.2.5 Details of any treatment, referral or advice you provided, including any drugs or optical device prescribed or a copy of a referral letter.

8.2.7 Details of all those involved in the optical consultation, including name and signature, or other identification of the author.

9. Ensure that supervision is undertaken appropriately and complies with the law

9.7 Ensure that details of those being supervised or performing delegated activities are recorded on the patient record.

16. Be honest and trustworthy

16.1 Act with honesty and integrity to maintain public trust and confidence in your profession.

17. Do not damage the reputation of your profession through your conduct

17.1 Ensure your conduct, whether or not connected to your professional practice, does not damage public confidence in you or your profession.'

107. Mr Robinson on behalf of the Council submitted that the Registrant's behaviour amounted to misconduct in that his conduct fell far below the standard expected due to the potential risk and harm to patients.

Submissions by the Registrant

108. The Registrant referred the Committee to his skeleton argument.
109. He stated that he agreed with the Council that the facts found proved amounted to misconduct. He added that he recognised the seriousness of his failings to carry out the appropriate examinations.
110. The Registrant submitted that this was a single isolated episode in a pressured working environment. He also submitted there was no prima

facie motive, financial or otherwise, for the conduct, nor was there any intent to deceive or endanger the patient.

Legal Advice

111. The Committee received and accepted the legal advice from the Legal Adviser.
112. The Committee, had to go on to consider misconduct. If misconduct was found, the Committee had to go on in the next stage of the hearing to consider impairment.
113. The Committee was advised that not every case of misconduct results in a finding of impairment (*Cohen v GMC 2008 EWHC 581*). Misconduct was not statutorily defined (*Roylance v. General Medical Council [2000] 1 AC 311 (PC), at 330F–332E*) and was a matter of its own independent judgment (*Council for the Regulation of Health Care Professionals v. General Medical Council and Biswas [2006] EWHC 464 (Admin)*). There was no burden or standard of proof applied.
114. The Legal Adviser referred the Committee to the distinction made in *R (Remedy UK Ltd) v. General Medical Council [2010] EWHC 1245 (Admin)* between (i) misconduct in the exercise of professional practice and (ii) outwith the course of professional practice itself. The Committee was concerned with misconduct falling within the first limb of this distinction, as it arose in the context of the Registrant’s professional practice as an Optometrist.
115. For guidance on the approach to assessing misconduct, the Legal Adviser referred the Committee to several authorities and the approach it should take to determining it.
116. In *Roylance v. General Medical Council (No 2) [2000] 1 AC 311*, the court specifically described the essential elements of misconduct:
- “misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances. The misconduct is qualified in two respects. First it is qualified by the word ‘professional’ which links the misconduct to the profession ...secondly the misconduct is qualified by the word ‘serious.’ It is not any professional misconduct which will qualify. The professional misconduct must be serious”.*
117. In *Meadow v. General Medical Council [2007] 1 All ER 1*, the Court of Appeal made clear that “misconduct” should not be viewed as anything less than “serious professional misconduct”.
118. In *GMC v Calhaem [2007] EWHC 2606 (Admin)* the court made clear that

“(1) Mere negligence does not constitute “misconduct” within the meaning of section 35C(2)(a) of the Medical Act 1983. Nevertheless, and depending upon the circumstances, negligent acts or omissions which are particularly serious may amount to “misconduct”

(2) A single negligent act or omission is less likely to cross the threshold of “misconduct” than multiple acts or omissions. Nevertheless, and depending upon the circumstances, a single act or omission, if particularly grave, could be characterised as “misconduct”

119. The Legal Adviser also advised the Committee it needed to have regard to The Standards of Practice for Optometrists and Dispensing Opticians that were in effect at the relevant time of the proven allegations.
120. The Legal Adviser also highlighted that the Registrant agreed that his conduct amounted to misconduct and should consider this in its determination.
121. In summary, the Committee needed to consider each of the proven allegations and determine using its own judgment whether the conduct or omission for each Allegation found proven was sufficiently serious to amount to misconduct having regard to the standards ordinarily required to be followed by the Registrant.
122. There was no comment on the Legal Advice from Mr Robinson on behalf of the Council or from the Registrant.

Finding on misconduct

123. The Committee took account of all evidence adduced, submissions by Mr Robinson on behalf of the Council and the submissions of the Registrant, legal advice and guidance. The Committee acknowledged that the Registrant accepted his actions and omissions amounted to misconduct.
124. The Committee considered the Standards of Practice for Optometrists and Dispensing Opticians, effective from April 2016 and also took account of the preamble

‘As an optometrist you must make the care of your patients your first and overriding concern: the care, well-being of and safety of patients must always be your first concern. This is at the heart of being a health care professional.’

125. The Registrant had not ensured that Patient A was at the heart of his decisions in relation to their care. The Registrant had failed to conduct appropriate assessments and examinations. He had falsified Patient A’s clinical records. He had been dishonest in a way that would attract opprobrium.

126. The Committee concluded that the Registrant's conduct had breached relevant parts of Standards 7, 8, 16 and 17 of the 2016 Standards.

7. Conduct appropriate assessments, examinations, treatments and referrals

7.1 Conduct an adequate assessment for the purposes of the optical consultation, including where necessary any relevant medical, family and social history of the patient. This may include current symptoms, personal beliefs or cultural factors.

7.3 Only prescribe optical devices, drugs or treatment when you have adequate knowledge of the patient's health.

7.2 Provide or arrange any further examinations, advice, investigations or treatment if required for your patient. This should be done in a timescale that does not compromise patient safety and care

7.5 Provide effective patient care and treatments based on current good practice.

7.6 Only provide or recommend examinations, treatments, drugs or optical devices if these are clinically justified, and in the best interests of the patient.

8. Maintain adequate patient records

8.1 Maintain clear, legible and contemporaneous patient records which are accessible for all those involved in the patient's care.

8.2 As a minimum, record the following information:

8.2.3 The reason for the consultation and any presenting condition.

8.2.4 The details and findings of any assessment or examination conducted.

8.2.5 Details of any treatment, referral or advice you provided, including any drugs or optical device prescribed or a copy of a referral letter.

8.2.7 Details of all those involved in the optical consultation, including name and signature, or other identification of the author.

16. Be honest and trustworthy

16.1 Act with honesty and integrity to maintain public trust and confidence in your profession.

17. Do not damage the reputation of your profession through your conduct

17.1 Ensure your conduct, whether or not connected to your professional practice, does not damage public confidence in you or your profession.'

127. The Committee was satisfied that the clinical failings were serious, potentially put a patient at risk. The Committee concluded this was deliberate and not because of any error of judgement or lack of knowledge and as such amounted to serious professional misconduct.
128. The Registrant had falsified Patient A's records to show he had carried out examinations and assessments which he had not undertaken. The Committee had found that in doing so the Registrant had acted dishonestly and was now satisfied this dishonesty was significant and clearly amounted to serious professional misconduct.

Impairment

Submissions on behalf of the Council

129. Mr Robinson on behalf of the Council submitted that the Committee had to consider whether the Registrant's fitness to practise was currently impaired as a result of misconduct.
130. He referred the Committee the case of *Meadow v General Medical Council* (2007) 1 WB 462 and in particular para 32 (Sir Anthony Clarke MR):

"In short, the purpose of [fitness to practise] proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts or omissions of those who are not fit to practise. The FPP looks forward not back. However, in order to form a view as to the fitness to practise of a person to practise today, it is evidence that I will have to take account of the way in which the person concerned has acted or failed to act in the past.

In my judgment this means that the context of the doctor's behaviour must be examined. In circumstances where there is misconduct at a particular time, the issue becomes whether that misconduct, in the context of the doctor's behaviour both before the misconduct and to the present time, is such as to mean that his or her fitness to practise is impaired. The doctor's misconduct at a particular time may be so egregious that, looking forward, a panel is persuaded that the doctor is simply not fit to practise medicine without restrictions, or maybe at all."

131. Mr Robinson on behalf of the Council also referred to the case of *CHRE v* (1) NMC and (2) Grant [2011] EWHC 927 (Admin) which considered that an appropriate test for panels considering impairment might be that which was formulated by Dame Janet Smith in her fifth Shipman Report:

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

(a) Has in the past acted and/or is liable in the future to so act so as to put a patient or patients at unwarranted risk of harm and/or;

(b) Has in the past brought and/or is liable in future to bring the medical profession into disrepute and/or;

(c) Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession and/or

(d) Has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

132. Mr Robinson further submitted on behalf of the Council that all the questions posed must be answered in the affirmative.

133. Mr Robinson also referred the Committee to the case of *CHRE v (1) NMC and (2) Grant* [2011] EWHC 927 (Admin) where the High Court considered the case of Cohen and stated at paragraph 101:

“The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case”.

134. Mr Robinson additionally submitted on behalf of the Council that public protection and public confidence in the profession at the Council as a regulator would be seriously undermined if no finding of impairment was made following such conduct, especially if dishonesty is found proven, which indeed it has been.

Submissions by the Registrant

135. The Registrant highlighted that this was the first time he was in such a situation and without being properly represented it was very difficult for him to communicate.

136. He submitted that everything that he had written down was all part of his remediation and everything that he did was to “sort of acknowledge” that there was fault.

137. He wanted to reassure the Committee that he was not currently impaired. He had gone through extensive and sustained remediation with supervised practice over a year and a half. He maintained patient logs and was observed where supervisors were looking through the testing room window to see him conducting a thorough examination.

138. He submitted that as soon as the incident was brought to his attention, which was a month after the actual incident, he held up his hands from the

outset. He was honest and truthful in everything that he did all throughout the process. The mystery shopper video was reported eight months after the actual incident.

139. The Registrant also submitted that he was still working within the practice after the incident and was aware of the patient's identity. He had six months, and if he was dishonest, or if he was untrustworthy, or if he was trying to hide his mistake, he had every opportunity to log into the record, and rewrite or re-amend the record, to reflect what had actually been done in the actual sight test. He did not do this.
140. In concluding, the Registrant submitted that he was honest and was trusted throughout the process.

Legal Advice

141. The Legal Adviser advised that impairment was not statutorily defined, there was no burden or standard of proof, and that the question was a matter of the Committee's independent judgement taking into account all of the evidence it had considered so far. He advised that not every case of misconduct results in a finding of impairment: *Cohen v GMC* 2008 EWHC 581.
142. The Legal Adviser referred to the case of *Meadow v General Medical Council* [2007] 462 and the court's approach on the purpose and approach to take:

"In short, the purpose of FTP proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The FTP thus looks forward not back.
143. The Legal Adviser also set out the approach and factors for the Committee to determine if the Registrant was currently impaired as set out in the case of *Cohen v GMC* [2008] EWHC 581 (Admin). This included considering if the misconduct is easily remediable, whether it has been remedied and, the risk of repetition.
144. The Legal Adviser referred the Committee to the test for considering impairment as set out by Dame Janet Smith in the fifth report of the Shipman Inquiry (para 25.67) and cited with approval in the case of *CHRE v NMC & Paula Grant* [2011] EWHC 927 (Admin), para 76, by Mrs Justice Cox as set out above [paragraph 131].
145. The Legal Adviser further advised that the Committee should also consider the public interest and the need to maintain public confidence in the profession and maintain appropriate standards of behaviour may mean that a clinician's fitness to practise is impaired by reason of misconduct. He advised that even in the absence of ongoing risk, a finding of impairment may be necessary to reaffirm to the public and optometrists the standard of conduct expected: *Yeong v GMC* [2009] EWHC 1923.

146. The Legal Adviser also referred the Committee to several cases regarding the importance of insight in the assessment of impairment. In *Sawati v General Medical Council* [2022] EWHC 283 (Admin) the court emphasised that insight was a necessary precondition for remediation and maintaining public confidence in the profession. In the *General Medical Council and another v Bramhall* [2021] EWHC 2109 (Admin) the court defined insight as the development of a fair and objective understanding of the nature and gravity of the misconduct that “*required empathetic identification with the perspectives of others*”. In *Hyder v General Medical Council* [2024] EWHC 2945 (Admin), the court highlighted that insight must be specific to the misconduct in question and involve an understanding of the motivations and triggers behind the behaviour.
147. The Legal Adviser advised that whether the Registrant had shown insight into his misconduct and how much insight he had were “*classically matters of fact and judgment for the professional disciplinary committee in the light of the evidence before it*”: *Professional Standards Authority v Health & Care Professionals Council and Doree* [2017] EWCA Civ 319.
148. There was no comment from either party regarding the legal advice.

Findings on impairment

149. The Committee accepted the unchallenged advice of the Legal Adviser. In making its findings on current impairment, the Committee had regard to the evidence it had received to date, the submissions of Mr Robinson on behalf of the Council and the submissions of the Registrant. The Committee also carefully considered the Hearings and Indicative Sanctions Guidance, the Council’s Standards of Practice for Optometrists and Dispensing Opticians (from April 2016), and its earlier findings.
150. The Committee firstly considered whether the Registrant’s conduct was remediable, whether it had been remedied and whether the conduct was likely to be repeated in future. The Committee had regard to the Guidance which at paragraph 16.1 states;
- ‘Certain types of misconduct (for example, cases involving clinical issues) may be more capable of being remedied than others’.*
151. The Committee also had regard to the paragraph 17.8 which states that when considering impairment in cases of dishonesty it:
- ‘should be mindful of the guidance given in Lusinga v NMC [2017] EWHC 1458 (Admin) about the scale of dishonesty: “...dishonest conduct can take various forms; some criminal, some not; some destroying trust instantly, others merely undermining it to a lesser or greater extent.’*
152. The Committee considered whether the Registrant’s dishonest misconduct had been remedied since it had occurred. The Committee considered the steps that the Registrant had taken to remediate his dishonest misconduct.

It noted that the Registrant had completed some Continuing Professional Development (CPD) courses before October 2025, did not address the dishonesty. While the Committee also considered the references relied upon by the Registrant were relevant to their assessment of current impairment, it noted that the Registrant had not produced any evidence that had focused on or targeted his dishonesty.

153. The Committee also noted that the findings of fact, including the finding of dishonesty were made in May 2025. Despite the passage of time since then, the Registrant had provided limited evidence to the Committee of the steps he had taken since then to remediate his dishonest misconduct.
154. The Committee considered the level of insight that had been demonstrated by the Registrant. The Committee concluded that the Registrant's insight was limited. There was no evidence of any reflection or developed insight into his dishonesty and how he addressed it, to prevent its repetition in future. There was little evidence that the Registrant had reflected on how his dishonesty and misconduct had affected the profession and the public perception of it. In the circumstances, the Committee was not satisfied that the Registrant had developed sufficient insight such as to allow him to fully remediate his dishonest misconduct.
155. The Committee then considered the likelihood of repetition. The Committee considered that the Registrant was largely in the same position as when the misconduct occurred, with limited insight and had not yet undertaken the work to address the concerns and especially the Registrant's dishonesty in the case. The Committee therefore concluded that there was a risk of repetition.
156. Having regard to all of the above, the Committee determined that the Registrant's fitness to practice was impaired on public protection grounds.
157. The Committee next had regard to public interest considerations and to the case of CHRE v (1) NMC and (2) Grant [2011] EWHC 927 (admin), particularly the test formulated by Dame Janet Smith in the report to the Fifth Shipman Inquiry. The Committee considered that limbs (a)-(d) of this test were all engaged in this case.
158. The Committee considered that the Registrant's dishonesty and misconduct put Patient A at unwarranted risk of harm. The Registrant's dishonesty and misconduct had also brought the profession into disrepute. The Committee also considered that the Registrant's dishonesty and misconduct breached several fundamental tenets of the profession. In particular "*making the care of your patients your over-riding concern*". The misconduct clearly breached several of the Council's Standards of Practice for Optometrists and Dispensing Opticians, effective from April 2016 including: 7. *Conduct appropriate assessments, examinations, treatments and referrals* (7.1, 7.2, 7.3, 7.5, 7.6), 8. *Maintain adequate patient records* 8.1 (8.2, 8.2.3, 8.2.4, 8.2.5, 8.2.7), 16. *Be honest and trustworthy* (16.1), 17. *Do not damage the*

reputation of your profession through your conduct (17.1) as it had found at the misconduct stage.

159. The Committee considered whether a finding of impairment was necessary in order to uphold proper professional standards and public confidence in the profession. The Committee had found at the misconduct stage that the Registrant's dishonest misconduct was serious. The Committee considered that the Registrant's dishonest misconduct was a significant departure from the standards to be expected of a reasonably competent Optometrist. The Committee was of the view that the public would be concerned and public confidence in the profession would be undermined, if a finding of impairment was not made, in respect of the Registrant's dishonest misconduct. The Committee determined that it was necessary to make a finding of impairment in this case in order to maintain confidence in the profession and in order to uphold proper professional standards.
160. Accordingly, the Committee found that the Registrant's fitness to practise is currently impaired on both public protection and public interest grounds.

Sanction

161. Having determined that the Registrant's fitness to practise is currently impaired by reason of misconduct, the Committee went on to consider whether it was impaired to a degree which required action to be taken in relation to his registration.

Submissions on behalf of the Council

162. The Committee heard submissions from Mr Robinson on behalf of the Council. Mr Robinson highlighted to the Committee that it should have regard to the principles of proportionality and weigh the interests of the public against those of the Registrant. He submitted that public interest considerations included protecting the public, maintaining public confidence in the profession, and maintaining proper standards of conduct and behaviour.
163. Mr Robinson referred to the case of *Professional Standards Authority for Health and Social Care v Nursing and Midwifery Council*, [2015] EWHC 1887 (Admin) in which the court emphasised the importance of the public interest and suggested the effect of sanction on a Registrant was very much of secondary importance. He added that the court had also emphasised that the public interest in maintaining the reputation of the profession was the "*overriding factor*" to consider. The public was entitled to the highest standards of honesty and integrity from the Registrant.
164. Mr Robinson reminded the Committee of its decision on the facts of the case and the reasons for its decisions. He emphasised that the Registrant did not give live evidence and there was no opportunity for him to be cross-examined. Mr Robinson highlighted that the Committee had found that the Registrant had been dishonest and submitted that the Registrant had been

“caught in the act”. Mr Robinson suggested that the Registrant’s dishonesty was not an isolated incident.

165. He further submitted on behalf of the Council that the Registrant’s compliance with the current conditions on his practice did not absolve him of what went on before. He submitted that if the Registrant had not been caught, he would have *“continued with this kind of reckless practice”* with *“dishonesty being the central theme”*.
166. Mr Robinson referred to paragraph 21 of the Guidance and the factors at paragraph 21.35. He submitted that erasure was the only sanction which would be sufficient to protect patients and the public interest. He referred the Committee to the factors at 21.35 and submitted that dishonesty, especially where persistent and covered up (f), was fundamentally incompatible with being a registered professional.
167. Mr Robinson referred to the Committee’s findings that the Registrant falsified documents, was dishonest, and covered up material. He added that this was one incident, but due to the evidence that was presented to the Committee, regarding the time taken by the Registrant to finish examinations or “early finishes” this kind of behaviour was not isolated but was undetected until the mystery shopper had come along.
168. He submitted that for these reasons, the only sanction could be erasure from the record.
169. In response to questions from the Chair, Mr Robinson clarified that the Registrant’s falsification of documents and Mr Robinson’s reference to the Registrant’s cover up were not separate issues but were all part of the same issue. Mr Robinson clarified that there was no evidence that the Registrant “covered up” his dishonesty.
170. In addition, Mr Robinson clarified that there was no evidence before the Committee that the Registrant’s dishonesty had gone on before. He added that the Committee could draw an inference.

Submissions by the Registrant

171. The Registrant stated that he accepted that his conduct amounted to serious misconduct. This included dishonesty and record keeping. He added that he understood that dishonesty struck at the heart of the profession.
172. The Registrant also stated that members of the public had to be able to rely on professionals to accurately record and be clear when errors occurred.
173. He submitted that the Committee needed to consider whether he was a continuing risk and what sanction was proportionate.

174. The Registrant submitted that during the past 2 years, he had practised with conditions. He highlighted to the Committee that there had been no repetition of inaccurate documentation or concealment.
175. He submitted that his supervisor has helped him with integrity challenges. In addition, he submitted his dishonesty was a serious but isolated lapse and had not been repeated. He had changed.
176. The Registrant also submitted that public protection could be maintained with remediation and continued supervision. The Registrant further submitted that a warning would mark the gravity of his misconduct while recognising sustained insight and the low risk of repetition.
177. The Registrant submitted that any suspension or erasure would not enhance public protection and would only risk being punitive and not proportionate.
178. The Registrant highlighted that he made an addendum to his skeleton argument and left the matter in the hands of the Committee.

Legal Advice

179. The Legal Adviser advised the Committee that at the sanction stage of proceedings there is no burden or standard of proof. The decision on sanction was a matter for the Committee's judgment alone.
180. The case of *Raschid v GMC [2007] 1 WLR 1915* indicated that although sanctions may have a punitive (even a devastating) effect on a Registrant, the Committee is for the most part concerned with the reputation of the profession and protection of the public.
181. In *Bijl v GMC [2001] UKPC 42* the court said that a Committee should not be obliged to erase an otherwise competent and useful healthcare professional who presents no danger to the public, in order to satisfy public demand for blame or punishment.
182. The Legal Adviser referred the Committee to the guidance in the Hearings and Indicative Sanctions Guidance (the Guidance). The Guidance was intended to be flexible and was not comprehensive. Although a Committee need not adhere to the Guidance, it should have proper regard to it following the case of *General Medical Council and another v Bramhall [2021] EWHC 2109 (Admin)*.
183. The Legal Adviser referred the Committee to Paragraph 8 of the Guidance and highlighted that the Committee should take a proportionate approach in deciding what sanction, if any, to impose. He also referred the Committee to Paragraphs 22.4 and 22.6 of the Guidance that covered cases of dishonesty that were relevant to its consideration. He highlighted that there was no blanket rule or presumption that erasure was the appropriate sanction in all cases of dishonesty. However, a failure to impose any sanction for

dishonesty may be found to be unreasonable in light of the importance of maintaining public confidence in the profession (*Professional Standards Authority for Health and Social Care v General Medical Council* [2019] EWHC 1638 (Admin)).

184. The Legal adviser further advised that the Committee should have regard to all the circumstances of the case, any aggravating and/or mitigating features that may be present, and any personal mitigation submitted by the Registrant. Mitigation could affect the type of sanction and the length of a relevant order. Where there were only two options for sanction such as erasure or suspension, it was critical that the available mitigation was applied when evaluating the proportionality of each alternative (*Wisniewska v NMC* [2016] EWHC 2672). Although mitigation could reduce the length of suspension, it could also pull a case back from the brink of erasure and mean that a suspension is proportionate.
185. The Legal Adviser further advised the Committee that while there might be a public interest in enabling a practitioner's return to safe practice, protection of patients and the wider public interest remained a primary concern. The impact on public confidence in cases involving dishonesty, was not diminished just because the practitioner in question was unlikely to repeat their dishonesty, if that was the case (*GMC v Armstrong* [2021] EWHC 1658).
186. In deciding what sanction was appropriate, the Committee should start with the least severe and only move on to consider the next sanction if the one under consideration does not sufficiently protect the public, promote, and maintain public confidence in the profession and promote and maintain proper professional standards and conduct, having regard to the circumstances of the case and the over-arching objective. The Committee should also take account of the principle of proportionality and the need to weigh the interests of the public against those of the Registrant.
187. The Committee should consider the seriousness of the misconduct as well as balancing any aggravating and mitigating factors against the central aim of the sanctions, namely, protection of the public.
188. In doing so, the Committee had to consider all the evidence of remorse, insight and remediation, including CPD certificates and any relevant testimonials. The Committee also had to take account of submissions from the parties.

The Committee's Decision on Sanction

189. The Committee accepted the unchallenged advice of the Legal Adviser and took account of the Guidance which confirmed that sanctions are to be considered in ascending order of severity. The Committee accepted that the purpose of a sanction was not to be punitive, but to protect members of the public and also that the wider public interest includes declaring and

upholding professional standards and maintaining public confidence in both the profession and the regulatory process.

190. In reaching a decision on sanction, the Committee took account of all the evidence and submissions from Mr Robinson on behalf of the Council and from the Registrant considering the principles in the Guidance, the statutory overarching objective and relevant law. The Committee also considered the Registrant's recent separate submissions and reflections on dishonesty.

Aggravating and Mitigating Factors

191. The Committee took account of its decisions at earlier stages of this hearing in its deliberations on sanction. The Committee considered and balanced the aggravating and mitigating factors identified in the case.

192. The Committee first considered Paragraph 14.3 of the Guidance and identified the following aggravating factors:

- (i) The nature of the misconduct was dishonesty.
- (ii) The Registrant's lack of sufficient insight into his dishonest misconduct.

193. The Committee identified both as serious.

194. The Committee considered relevant parts of paragraph 14.1 of the Guidance and identified the following mitigating factors:

- (i) The conduct was a single event;
- (ii) The development of insight into the clinical failings;
- (iii) The Registrant expressed remorse and had admitted the majority of the particulars in the allegation against him;
- (iv) The Registrant had cooperated with the investigation and had engaged with the hearing process throughout.

195. The Committee also took account of the fact that the Registrant had no previous regulatory findings and there was no evidence of actual harm to the patient. The Committee also considered all the references and testimonials and took them into account.

196. The Committee carefully considered the Guidance as set out at paragraphs 22.4 and 22.5. In accordance with these paragraphs the Committee considered the serious nature of the dishonest misconduct and concluded that it seriously undermined confidence in the profession. The falsification of patient records went against the core tenet of the requirement on the professional to act with integrity. While the Registrant had some insight into the clinical failings, this was less so for the integral dishonesty. The lack of insight added to the risk of repetition and risk of harm to the public.

197. The Committee next considered the sanctions available to it following the finding of impairment and carefully considered paragraph 21 of the

Guidance. The Committee considered each option and sanction in ascending order of severity, starting with the least restrictive.

198. The Committee considered whether a sanction was necessary.

No further action.

199. The Committee had to consider whether to conclude the case by taking no action. The Committee noted in the Guidance that taking no action after a finding of impaired fitness to practise was appropriate only in exceptional circumstances. The Committee concluded that there were no exceptional circumstances in the case that would justify taking no action. The Committee had found that the Registrant had not demonstrated considerable insight into his dishonest behaviour and had not fully remediated his misconduct.

200. No further action would not protect patients, uphold standards or maintain public confidence in the profession. Accordingly, the Committee concluded that a sanction was required.

Financial penalty

201. The Committee next considered the issue of a financial penalty order. However, it was of the view that such an order was not appropriate, given that this case did not involve financial motivation or gain. Additionally, a financial penalty order would not protect the public nor meet the public interest concerns.

Conditional Order

202. The Committee considered the Guidance for the imposition of conditions. The Committee considered that even if conditions could be formulated that were workable and practical, such conditions would not reflect the gravity of the dishonest misconduct. The imposition of conditions would not sufficiently address the promotion of public confidence in the profession and the maintenance of proper standards of professional conduct.

Suspension

203. The Committee next considered suspension and had regard to paragraphs 21.29 to 21.31 of the Guidance. The Committee considered the list of factors set out at paragraph 21.29 that indicated when a suspension may be appropriate. These factors were as follows:

'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. In cases where the only issue relates to the registrant's health, there is a risk to patient safety if the registrant continued to practise, even under conditions'.

204. The Committee considered that several of the factors in paragraph 21.29 of the Guidance were applicable in this case. The misconduct was serious, and it had found that a lesser sanction would not be sufficient in the circumstances. There was no evidence of harmful deep-seated personality or attitudinal problems. In addition, there was no evidence of a repetition of the behaviour since the incident.

205. In relation to factor d), the Committee noted that it had found that the Registrant had only limited insight and there was a risk of repetition. The Committee had regard to the section of the Guidance on erasure. It considered that many of the factors set out in paragraph 21.35, which would indicate when erasure maybe appropriate, did not apply to this case:

Erasure

21.35 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;

b. Creating or contributing to a risk of harm to individuals (patients or otherwise)

either deliberately, recklessly or through incompetence, and particularly where there is a continuing risk of harm to patients;

c.....

- f. Dishonesty (especially where persistent and covered up);*
- g. Repeated breach of the professional duty of candour, including preventing others from being candid, that present a serious risk to patient safety; or*
- h. Persistent lack of insight into seriousness of actions or consequences.*
206. The Committee was mindful that erasure was likely to be appropriate when the behaviour was fundamentally incompatible with being a registered professional and where erasure is the only sanction that would protect the public. The Committee did not consider that the misconduct in this case, whilst serious, was fundamentally incompatible with being on the register and was capable of being remediated. It concluded that the Registrant's dishonest misconduct was a serious departure from the relevant professional standards as set out in the standards of practice. Although the Committee found that the Registrant had been dishonest, there was no evidence that his dishonesty was persistent or that it had been covered up.
207. The Committee was of the view that erasure was not the only order that would satisfy public interest concerns, and it would be disproportionate. The Committee therefore determined that a period of suspension was the necessary and proportionate sanction to impose in this case. It concluded that erasure would be disproportionate in the circumstances, especially because the dishonest misconduct was restricted to one incident.
208. The Committee went on to consider the length of suspension to impose. The Committee noted that a 12-month suspension was the maximum period that could be imposed.
209. The Committee balanced the aggravating and mitigating factors and had regard to the principle of proportionality, considering the impact of a period of suspension upon the Registrant. The Committee also considered the seriousness of the misconduct and concluded that a period of suspension of 12 months would be an appropriate and proportionate period of suspension. This would adequately mark the seriousness of the misconduct and be a sufficient period of time for the Registrant to reflect, develop further insight and remediate further.
210. The Committee considered whether to direct that a review hearing should take place before the termination of the 12-month suspension period. The Committee noted that at paragraph 21.32 of the Guidance, that a review should normally be directed before an order of suspension is lifted. This is because the Committee will need to be reassured that the Registrant is fit to resume unrestricted practice. The Committee was mindful of its findings at the impairment stage as regards the Registrant's limited insight, that he had not yet fully remediated and that there still remained a risk of repetition.

211. Accordingly, the Committee considered that it was necessary and appropriate for a review hearing to be directed before the order of suspension expired. The Committee considered that the review Committee may be assisted by:

- (i) A detailed reflective statement demonstrating reflections and insight into the impact of the misconduct upon the profession and upon public confidence in the profession;
- (ii) Any evidence of further remediation addressing dishonesty such as attendance at training or CPD, formal certificates and/or self-directed learning.

212. A review hearing will be held between four and six weeks prior to the expiration of this order.

213. Accordingly, the Committee imposed a period of suspension for 12 months with a review hearing.

Immediate Order

214. The Committee heard submissions from Mr Robinson, on behalf of the Council, regarding the imposition of an immediate order. Mr Robinson invited the Committee to impose an immediate order under Section 131 of the Opticians Act 1989 on the basis that such an order was necessary to protect the public and was otherwise in the public interest.

215. The Registrant submitted that there was no basis for an immediate suspension order. He added that the interim order review Committee did not consider suspension necessary. Therefore, he submitted that immediate suspension was not required for public protection or public confidence. He further submitted that the suspension should take effect in the usual way after the appeal period.

216. The Committee considered that the purpose of the interim order was separate and different to the purpose of the suspension order it imposed in the substantive hearing. The Committee bore in mind that it had found that the misconduct was serious. Additionally, the Committee had concluded that the maximum of 12 months was the appropriate and proportionate sanction in this case. The Committee did not consider that an immediate order was necessary for the protection of members of the public. However, the Committee considered that the public would be very concerned, given the gravity of the Committee's findings of dishonest misconduct, if the Registrant was allowed to continue to practice without any restrictions during the appeal period. Accordingly, the Committee decided that it was otherwise in the public interest that an immediate order of suspension be imposed.

217. Accordingly, the Committee imposed an immediate order of suspension.

Revocation of Interim Order

218. The Committee revoked the Interim Order of Conditions that was in place.

Chair of the Committee: Gerry Wareham



Signature

Date: 13 February 2026

Registrant: Abdul Khan

Signature *Present remotely and received via email* **Date:** 13 February 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.