

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

GENERAL OPTICAL COUNCIL

F(22)03

AND

NASEEM SULEMAN (SD-7278)

**DETERMINATION OF A SUBSTANTIVE HEARING
[Subject to appeal]**

**21 SEPTEMBER –23 SEPTEMBER AND 28 – 30 SEPTEMBER 2022
6, 7, 13 AND 16 DECEMBER 2022**

Committee Member	Ms Pamela Ormerod (Chair/Lay) Ms Amanda Webster (Lay) Ms Diane Roskilly (Lay) Mr Philip Cross (Dispensing Optician) Mr Simon Pinnington (Dispensing Optician)
Legal adviser:	Mr Mike Bell
GOC Presenting Officer:	Ms Georgia Luscombe
Registrant present/represented:	No and not represented
Registrant representative:	N/A
Hearings Officer:	Ms Abby Strong-Perrin
Facts found proved:	1, 2, 3, 4, 5, 6, 7 & 8
Facts not found proved:	None
Misconduct:	Found
Impairment:	Impaired

Sanction:	ERASURE
Immediate order:	Yes
Appeal:	Decision appealed by the Registrant

Proof of service

1. The Committee heard an application from Ms Luscombe for the Council for the matter to proceed in the Registrant's absence. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Act and Rule 61 of the Fitness to Practise Rules 2013.
2. Ms Luscombe referred the Committee to the Council's Service bundle and the Notice of Inquiry dated 24 June 2022. Ms Luscombe submitted that Notice had been properly served in accordance with Section 23A of the Act and Rule 61.
3. The Legal Adviser raised with Ms Luscombe the existence of a further 'Notice of Inquiry' dated 14 September 2022 contained within the service bundle and asked whether this Notice, in the Council's view superceded the Notice of 14 June 2022 and, if so, whether a further period of Notice under Rule 34 had to commence as of 14 September 2022.
4. Having taken further instruction, Ms Luscombe submitted that the 'Notice' dated 14 September 2022, did not vary the original Notice as the start date of the hearing remained the same and the 'Notice' of 14 September 2022 was confirmation of the variation of dates within the original period set down for the hearing. Ms Luscombe referred the Committee to emails from the Council to the Registrant dated 17 August 2022 and 22 August 2022 that she submitted were confirming the dates for the hearing.
5. The Committee accepted the advice of the Legal Adviser. He referred the Committee to the Council's service bundle and Rule 34.
6. The Committee considered the submissions of Ms Luscombe and all the relevant documentation before it. In particular, the Committee noted that the email sending the 'Notice' of 14 September 2022 to the Registrant described the documents as being 'Notice and Confirmation of Hearing'. Having considered the numerous communications between the Council and the Registrant holistically, the Committee was satisfied that the 'Notice' of 14 September 2022, was simply confirmation of the amended hearing dates within the window already provided to the Registrant in June 2022 and did not constitute a new Notice of Inquiry triggering a further period of notice starting as of 14 September 2022. It was also apparent that the Registrant was aware of the amended dates and had had an opportunity to comment.
7. The Committee was therefore satisfied that all reasonable efforts have been made to notify the Registrant of the hearing in accordance with the Rules.

Proceeding in the absence of the Registrant

8. The Committee then went on to consider whether it would be in the public interest to proceed in the Registrant's absence in accordance with Rule 22.
9. Ms Luscombe, on behalf of the Council, submitted that the Committee should proceed in the Registrant's absence. She referred the Committee to Rule 22 and the cases of *R v Jones [2022]UKHL 5* and *GMC v Adeogba [2016] EWCA Civ 162*.
10. Ms Luscombe referred the Committee to the various emails between the Registrant and the Council in the Council's proceeding in absence bundle. Ms Luscombe submitted that the Registrant had initially stated that she could not attend various dates for the hearing due to them falling during a religious festival and then, only recently, raised the issue of her REDACTED as a reason for non-attendance. Ms Luscombe submitted that the allegations were serious and involved alleged dishonesty and that public protection interests existed. Ms Luscombe further submitted that there were witnesses for the Council who had arranged to attend the hearing and would be inconvenienced if it did not proceed. Ms Luscombe also submitted that there had been significant periods during the course of the preparation for the hearing when the Registrant did not engage. Ms Luscombe submitted that it was in the public interest for the hearing to proceed in the Registrant's absence.
11. The Committee accepted the advice of the Legal Adviser. He referred it to the case of *Adeogba* in relation to proceeding in absence and to Rules 35 to 37 in relation to the Registrant's request that the hearing be 'postponed.'
12. The Committee carefully considered the submissions of Ms Luscombe and the various emails from the Registrant and all relevant productions.
13. REDACTED
14. The Committee noted that, at least until quite recently, the Registrant appeared to be working but had no information regarding this work.
15. The Committee considered, that in the circumstances, the Registrant had voluntarily absented herself from today's hearing and provided insufficient evidence to persuade it that, if the hearing did not proceed, that she would engage at a future date. The Committee considered that the allegations were serious and raised issues of public protection. Several witnesses have been warned for this hearing. The matters go back to 2019, so as memories fade recall is likely to be less reliable were these matters to be adjourned.
16. The Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence.
17. The Committee noted that should the Registrant wish to contact the Council or engage with this hearing as it progresses this course of action was open to her.

Application to Amend the Allegations

18. Prior to the allegations being read, Ms Luscombe, on behalf of the Council applied to amend the allegations under Rule 46 (20).

19. Ms Luscombe provided the Committee with a 'marked up copy' of the allegations with the proposed amendments highlighted. The application proposed to vary allegations 1,2 and 3 as follows:

1. *On or around 8 September 2019 at REDACTED you carried out restricted activities as a dispensing optician whilst unregistered and/or unsupervised, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b)to:*

a. Patient 1;

2. *On or around 15 September 2019 at REDACTED, you carried out restricted activities as a dispensing optician whilst unregistered and/or unsupervised, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b), to:*

a. Patient 2; and/or

b. Patient 3; and/or

c. Patient 4; and/or

3. *On or around 14 September 2019 at REDACTED you carried out restricted activities as a dispensing optician whilst unregistered and/or unsupervised to Patient 7, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b)*

20. The proposed amendment also sought to add the words 'a false' before the words 'registration number' in allegation 4.

21. The proposed amendment further sought to introduce a new allegation 6 as follows

6. *On or around 20 September 2019, you stated via electronic communication with Colleague A that you had "just qualified 2 weeks ago"*

and that the further allegations be renumbered.

22. The proposed amendment also sought to introduce a new, per amended numbering charge 8(c)) and 9 (c)

Your conduct at (4) and/or (5) and/or (6)

8 c. you knew that you had not fully qualified as a Dispensing Optician:'

9 c. you attempted to deceive Colleague A by suggesting you were a fully qualified Dispensing Optician, when you were not:'

23. Ms Luscombe referred the Committee to the case of *PSA v Doree* 2017 EWCA. Ms Luscombe in her oral submissions concentrated on the amendments adding a new allegation 6 and the subsequent additions arising from that. Ms Luscombe submitted that these amendments would properly reflect the evidence as contained in the Council's bundle. She submitted that the question in relation to the matters set out in the proposed amendment were whether the Registrant deliberately sought to create a false impression of her registration status and that if the application were not granted there was a risk of 'undercharging'. Ms Luscombe submitted that the Registrant had been advised of the Council's intention to amend on 6 September 2022, that this was sufficient notice and that the Registrant had not advised the Council she was objecting to the application. Ms Luscombe further submitted that there was no prejudice to the Registrant in the allegations being amended and that it was in the public interest for this to be done.
24. In response to questions from the Committee, Ms Luscombe stated that the Council's bundle had been sent to the Registrant on 9 September 2022 and that this had not contained the proposed amended allegations, and that a 'Notice and Confirmation' of this hearing had been sent to the Registrant on 14 September 2022 and that it had also not referred to the proposed amended allegations. Ms Luscombe stated that the sending of the Notice/Confirmation without the proposed amended allegations 'was not helpful'. Ms Luscombe reiterated her submission that the Registrant had notice of the application, had not objected to it, that the Registrant was not prejudiced and that it was in the public interest for the allegations to be amended.
25. The Committee accepted the advice of the Legal Adviser. He referred to Rule 46(20) and the cases of *Council for the Regulation of Health Care v GMC & Rusillo* [2005] 1 WLR 717 and *PSA v HSPC & Doree* [2017] EWCA Civ 319.
26. The Committee carefully considered Ms Luscombe's written and oral submissions and all relevant documents before it.
27. Having reviewed the existing allegation holistically, the Committee did not accept Ms Luscombe's submission that if the proposed amendments of the addition and a new allegation 6 and the amendments consequent of that were not allowed, there would be undercharging. From the information currently available to it the Committee was satisfied that, if found proved, the current allegations sufficiently reflected any potential regulatory concerns including alleged dishonesty and therefore the public interest was protected.
28. The Committee did not consider that the addition of the words '*and/or unsupervised*' in allegations 1,2 and 3 was required to reflect the regulatory concerns alleged.
29. In relation to the proposed amendments clarifying the relevant legislation the Committee considered that these did not change the nature of the allegation. The Committee considered that, while there may have been some confusion arising from correspondence to the Registrant post-dating 6 September 2022, the Registrant would not be prejudiced by these minor changes and that it was in the public interest to allow this limited amendment.
30. The Committee therefore refused the application to add the words '*and/or unsupervised*' to allegations 1, 2 and 3 and the addition of a new allegation 6 and

subsequent additions to allegations 8 and 9, but otherwise allows the application to the limited extent indicated above.

ALLEGATION

The Council alleges that you, Miss Naseem Suleman (SD-7278), a registered student dispensing optician:

1. *On or around 8 September 2019 at REDACTED, you carried out restricted activities as a dispensing optician whilst unregistered, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b) to;*
 - a. *Patient 1;*
2. *On or around 15 September 2019 at REDACTED, you carried out restricted activities as a dispensing optician whilst unregistered contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b), to;*
 - a. *Patient 2; and/or*
 - b. *Patient 3; and/or*
 - c. *Patient 4; and/or*
3. *On or around 14 September 2019 at REDACTED, you carried out restricted activities as a dispensing optician whilst unregistered to Patient 7, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b).*
4. *On or around 8 September 2019, you provided REDACTED with the registration number REDACTED despite knowing that this was not your temporary registration number given to you by the GOC.*
5. *On or around 14 September 2019, you provided REDACTED with the registration number REDACTED despite knowing that this was not your temporary registration number given to you by the GOC.*
6. *Your conduct at (4) and/or (5) above was inappropriate in that:*
 - a. *you knew that you had given REDACTED a different registration number in an attempt to conceal that you were an unregistered dispensing optician;*
 - b. *you knew that you had given REDACTED a different registration number in an attempt to conceal that you were an unregistered dispensing optician*
7. *Your conduct at (4) and/or (5) above was misleading in that:*
 - a. *you knew that you had given REDACTED a different registration number in an attempt to conceal that you were an unregistered dispensing optician;*

- b. you knew that you had given REDACTED a different registration number in an attempt to conceal that you were an unregistered dispensing optician;*
- 8. Your conduct at (4) and/or (5) above was dishonest in that:*
 - a. you attempted to deceive REDACTED by submitting a different false registration number to appear as a fully qualified Dispensing Optician when you were not;*
 - b. you attempted to deceive REDACTED by submitting a different registration number to appear as a fully qualified Dispensing Optician when you were not;*

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

DETERMINATION

Admissions in relation to the particulars of the allegation

31. The Registrant admitted no particulars of the allegation.

Background to the allegations

32. In September 2019, REDACTED were struggling to find dispensing opticians for their stores and therefore put an advert on the website, LinkedIn. It is alleged that the Registrant responded to the advert and applied for the position saying that she had experience working as a locum Dispensing Optician. It is further alleged that the Registrant's LinkedIn profile described her role as locum dispensing optician and stated that her name was Naseem Salim.
33. The Registrant first attended work on 8 September 2019 at the REDACTED. It is alleged that she provided Mr C, the Branch Manager at REDACTED, with a GOC registration number REDACTED which she stated was hers and this was entered into the store's system. It is further alleged that the Registrant told Mr C that it may not show on the GOC register yet but that she had been told it would show up within a few days.
34. The Registrant next worked on 14 September 2019 at REDACTED store. It is alleged that on that occasion, she provided a different GOC registration number REDACTED, to the store manager, Ms A. On 20 September 2019, Ms B contacted the Registrant via WhatsApp and explained that the GOC registration number she had provided on 14 September did not return her details. It is alleged that the Registrant suggested to Ms B that she had been provided with a temporary registration number by the GOC as she had recently qualified and applied for her full registration two weeks prior.
35. It is further alleged the Registrant provided the registration number REDACTED and the registration REDACTED knowing that they did not belong to her. As a result of the Registrant's assurances that she had qualified as a dispensing optician two weeks

prior to commencing work at Specsavers, she was permitted to work unsupervised, including carrying out restricted dispensing activities.

36. It is alleged that on 8 September 2019, the Registrant carried out restricted activities as a dispensing optician to Patient 1 at the REDACTED. Patient 1 had broken her glasses and attended Specsavers for a replacement. The records show that Patient 1 collected her new glasses from the Registrant. The term “collected”, as used by Specsavers, means that an employee fitted the new spectacles to the patient, checked they were happy with the vision, and signed off “Collected” on the computer system by a qualified person. Patient 1 was under 16 at the time and therefore supplying new spectacles to them was a restricted activity.
37. It is also alleged that on 15 September 2019, the Registrant carried out restricted activities as a dispensing optician to Patients 2, 3 and 4 at the REDACTED. Patients 2 and 3 collected new glasses from the Registrant and were under 16 at the time. Patient 4 was also under 16 at the time and attended to collect a new pair of spectacles as their old ones had been lost. The Registrant is said to have authorised another member of staff to supply the new pair of spectacles.
38. It is further alleged that on 14 September 2019, the Registrant again carried out restricted activities to Patient 7 at the REDACTED. The Registrant is alleged to have authorised the collection by another member of staff. The spectacles were provided to a child under 16 and the other member of staff would have believed that they were supervised by a registered dispensing optician.

Findings in relation to the facts

Evidence

39. In reaching its decisions on the facts, the Committee considered all the evidence adduced in this case together with the submissions made by Ms. Luscombe, on behalf of the Council. It also took into account any information or communications from the Registrant in the documentation before it which set out her position in relation to the Allegation.
40. The Committee heard evidence from Ms B, Mr Aaron Grell, Ms Sophie Bowen, Mr C, Ms A, Mr Richard Booth and Mr D.
41. Ms A told the Committee that in 2019 she was a Dispensing Optician at Specsavers branch in REDACTED.
42. She said that she met the Registrant when she came to work at the REDACTED branch on 14 September 2019. Ms A told the Committee that she set the Registrant up on Specsavers system and asked the Registrant for her name and GOC number which she appeared to recall from memory. Ms A said that she didn't request any documents from the Registrant.
43. Ms A told the Committee that during this day the Registrant carried out various dispensing duties unsupervised.
44. Ms B adopted her witness statement and expanded on it in supplementary questions.

45. She told the Committee that at the time of the Allegation she was the Retail Director for Specsavers in their branches at REDACTED. She said she remained in that position at the time of the hearing. She described her role and responsibilities in this position. These included providing support to both managers and the teams at each store.
46. She told the Committee that in September 2019 the store manager at REDACTED was Mr C. Ms B explained that they were having difficulty recruiting Dispensing Opticians to work in that branch and Mr C suggested advertising on LinkedIn.
47. Ms B said that the Registrant applied for the position as a Locum Dispensing Optician through LinkedIn, indicating that she had experience working as a locum Dispensing Optician.
48. Ms B explained that in 2019 Locum Dispensing Opticians were asked to provide a GOC number and proof of identity when starting work. She said that when the Registrant started work at REDACTED on 8 September 2019, she provided a GOC registration number. Ms B said that the Registrant stated that she had recently qualified as a Dispensing Optician and been provided with a temporary registration number by ABDO.
49. Ms B told the Committee that on 14 September 2019 the Registrant then worked at the REDACTED and provided a different GOC registration number. On both occasions the Registrant said she had forgotten to bring her indemnity insurance documents.
50. Ms B said that on 19 September 2019 a colleague Mr D told her that he had checked the Registrant's GOC registration number and that his search did not return her details based on the name of Naseem Salim which the Registrant had been using.
51. Ms B told the Committee that she contacted the Registrant by Whatsapp on 20 September 2019 and asked her for an explanation. Ms B said the Registrant told her that she had been provided with a temporary GOC registration number and also provided her with a photograph of what she said was her indemnity insurance certificate provided by the AOP. Ms B said that she noticed that the name on the certificate was a different surname to the one the Registrant had used on LinkedIn (Salim). The name on the certificate was Suleman. Ms B said the Registrant had been using the surname Salim when working in the store.
52. Ms B said that as a result she had searched the GOC Register under the name of Suleman and it stated that the Registrant was a student member. Ms B referred the Committee to copies of various Whatsapp messages between herself and the Registrant.
53. Ms B explained that she made a call to the GOC Registration Team and provided them with the surname Naseem Suleman and was advised that the individual was registered as a student.
54. Ms B confirmed that the Registrant had been working unsupervised carrying out and/or supervising the supply of spectacles to 6 patients when working at the Specsavers branches. She said that if it had been known the Registrant was a student she would have been supervised at all times. She also said that had she known the Registrant was a student she would not have been employed as a locum at that time.

55. In response to questions from the Committee Ms B denied that she ever had a conversation with the Registrant where the Registrant had told her she was a student and denied that she had told the Registrant that she could work unsupervised knowing she was only a student.
56. Ms B told the Committee that Specsavers now ask for all relevant information before anyone started working with them
57. Mr Grell adopted his witness statement and expanded on it in supplementary questions.
58. He told the Committee that he was the International Registration & Quality Assurance Manager of the GOC and responsible for the day-to-day maintenance of the register. He confirmed that he had searched the GOC CRM database in relation to Naseem Suleman and confirmed that she had first appeared on the Register as a Student Dispensing Optician on 14 January 2015 and remained on the Register as a Student Dispensing Optician at the time of his statement on 12 February 2020. Mr Grell also told the Committee that the GOC registration numbers provided by the Registrant to Specsavers did not belong to her. He told the Committee that the number REDACTED was not in use and the number REDACTED was the registration number of another individual. There was no record of the Registrant ever having applied for to be registered as a qualified Dispensing Optician. He confirmed that the GOC did not issue temporary registration numbers.
59. Ms Sophie Bowen adopted her witness statement and expanded on it in supplementary questions.
60. She told the Committee that she was an Investigating Officer with the Fitness to Practise team at the GOC. She explained that her role involved preparing cases for consideration by Case Examiners and Fitness to Practise Committees. She further told the Committee that she was the investigating officer managing this case before it was considered by Case Examiners.
61. She referred the Committee to various correspondence which she had with the Registrant and which she had exhibited. She also told the Committee that she had spoken to the Registrant once on the telephone on 24 October 2019 when she was 'chasing the Registrant's employment details'. Ms Bowen told the Committee that the Registrant told her she had told Ms B that she was a student and could not supervise. Ms Bowen also said that she got the impression that the Registrant was saying that Ms B had been aware she was only a student and told her it was ok to work unsupervised. Ms Bowen said the Registrant had not specified when or where the conversation with Ms B took place, but Ms Bowen said she assumed it had been a face to face conversation.
62. Mr Richard Booth adopted his expert witness report and expanded on it in his subsequent oral evidence. He told the Committee of his experience in his field and background as an expert witness. He set out the remit of his instructions and the documents that he had been provided with to assist him in preparing his report.
63. Mr Booth explained to the Committee why the supply of spectacles to children under that age of 16 was a regulated activity. He also explained to the Committee what took place when spectacles were collected and why it was important that spectacles were fitted properly and that this should be done by a Registered Optometrist or Dispensing

Optician. He also explained to the Committee that if a person other than a Registered Optometrist or Dispensing Optician was to carry out this process, that person would require to be authorised to do this by a Registered Optometrist or Dispensing Optician who would also be required to be present and aware of what was going on. He told the Committee that this would effectively be direct supervision.

64. When asked about the Registrant using the term 'locum dispensing optician' Mr Booth said that this was an unusual term, that they would be a student dispensing optician.
65. Mr Booth confirmed that it was his opinion that any harm caused to patients would have been low and explained how he had reached this view.
66. Mr C adopted his witness statement and expanded on it in supplementary questions.
67. He told the Committee that he was the Store Manager at REDACTED in July 2019 and remained in that role at the date of giving evidence. He told the Committee that his duties involved the supervision of all regulated dispensing training staff, and day to day management of the shop floor.
68. He explained to the Committee that in 2019 a Locum Dispensing Optician was required to help at the REDACTED, but he had been unable to recruit anyone through the Specsavers Recruitment Services so he posted an advert for a Locum Dispensing Optician or Dispensing Assistant on LinkedIn.
69. Mr C told the Committee that the Registrant initially contacted him through LinkedIn when she expressed an interest in the position of Dispensing Optician cover. Mr C referred the Committee to the LinkedIn correspondence between the Registrant and himself that he had exhibited. Mr C told the Committee that the Registrant's LinkedIn profile made it clear that she was a Dispensing Optician and had been since 2017 citing her experience in this role in her profile and seeking to negotiate the fee appropriate to a qualified individual.
70. Mr C told the Committee that he had no telephone conversations with the Registrant. He said he obtained her details and availability from the LinkedIn exchange and passed this to Ms B.
71. Mr C told the Committee that he had been present in the branch on the first day that the Registrant worked there. He said he talked her through the processes and set her up in the system. Mr C said that the Registrant told him she had worked as a locum before in Specsavers and had also worked in Vision Express. He said when he set her up on the system the Registrant provided him with the name 'Nasim Saleem' and she showed him a screen shot of her GOC number and explained that it might show up on the GOC register due to her having issues with ABDO. She said she had been told by the GOC that her registration would appear in a few days. Mr C said the Registrant had showed him an email from ABDO and whilst he couldn't recall the exact content he recalled it stated that she was registered as a Dispensing Optician. He said the Registrant said she didn't have her indemnity insurance with her but would show it to him later.
72. Mr C told the Committee that the Registrant carried out regulated activities at the branch on 8 September 2019. Mr C said he was not informed by Ms B or Mr G (REDACTED) that the Registrant was a student and should not be carrying out such

activities. He said that the patients that had been seen by the Registrant had been recalled and there were no concerns or complaints so far as he was aware.

73. Mr C was asked whether the Registrant could have been mistaken and truly believed that she had said she was a student and had to be supervised. He refuted this suggestion and was adamant that supervision was not mentioned. Mr C stated that he considered that the Registrant deliberately misled Specsavers. He expressed dismay at the damage he considered that her deception had done to the reputation of the store locally and to the profession in general.
74. Mr D adopted his witness statement and expanded on it in supplementary questions.
75. He advised the Committee that at the time of the Allegation he was an Optometrist Director of the Specsavers branch REDACTED. He said his duties included ensuring the safety of the practice.
76. Mr D told the Committee that he had never met the Registrant and did not know her. He said he was on holiday when she worked at Specsavers' REDACTED.
77. Mr D explained that he made payments to all locum staff at the branch and when he returned from holiday he noticed the Registrant's name and checked the GOC register to obtain background on her. Mr D said when he did this he couldn't locate her on the register.
78. He said he raised this with Ms B and Mr G on their group WhatsApp chat. He referred the Committee to copies of this conversation that he exhibited. Mr D said he asked Ms B for further information and she said she would speak to the Registrant. Mr D said that when Ms B got back to him she said that the Registrant had been vague and that she had been unable to get straight answers out of her.

Submission on the Facts

79. Ms Luscombe, on behalf of the GOC, submitted that the Committee should find all particulars of the Allegation proved.
80. She took the Committee through the evidence of each witness and identified the sections that she submitted supported the GOC's case.
81. Ms Luscombe submitted that in relation to particulars 1 – 5 of the Allegation the evidence of the GOC's witness should be accepted.
82. Ms Luscombe further referred the Committee to the exhibited patient records and Mr Booth's opinion in his report and oral evidence that the Registrant had performed restricted activities whilst unregistered. She further submitted that the Committee should accept Mr Booth's opinion that in doing so the Registrant failed to comply with the GOC Standards for Optical Students identified by him in his report.
83. In relation to dishonesty, Ms Luscombe referred the Committee to the case of *Ivey v Gentings Casinos (UK) Ltd* [2017] UKSC 67 and the test set out therein at paragraph 74. Ms Luscombe submitted that the Registrant knew she was a student member and had not received a fully qualified membership number from the GOC. Nevertheless, the Registrant provided GOC numbers that did not and had never belonged to her.

84. Ms Luscombe submitted that this behaviour would be seen as dishonest by the standards of ordinary decent people and the Committee should therefore find the dishonesty particulars of the Allegation proved.
85. Ms Luscombe accepted that there were some minor discrepancies between the evidence of Ms B and Mr C.
86. The Committee heard and accepted the advice of the legal assessor. He referred the Committee to the cases of *Suddock v NMC* [2015] EWHC 3612(Admin), *Dutta v GMC* [2020] EWHC 1974 (Admin) and *Khan v GMC* [2021] EWHC 374 (Admin) in respect of witness evidence.

Decision

87. In reaching its decisions on the facts, the Committee considered all the evidence adduced in this case together with the submissions made by Ms. Luscombe, on behalf of the Council. It also took into account any information or communications from the Registrant in the documentation before it which set out her position in relation to the Allegation. The Registrant engaged with the Hearing when the Committee reconvened on 7 December 2022 at which time she stated that she wished to provide the Committee with oral submissions and possibly further documentation setting out her position in respect of the Allegation. The Registrant stated that despite numerous requests from her the documents which she sought to rely on were still not forthcoming from her lawyer in family proceedings. The Registrant advised that the information she wished to provide to the Committee did not relate to the particulars of what actions she had taken, but provided an explanation of what was happening to her around this time and would show that she was not a dishonest person generally.
88. The Committee considered that the Registrant was applying to adjourn the Hearing to obtain further documentation from her lawyer in family proceedings. Ms Luscombe opposed any application to adjourn.
89. The Committee accepted the advice of the Legal Adviser. He referred the Committee to the case of *CPS v Picton* [2006] EWHC 1108 (Admin) and the approach suggested therein for considering an application to adjourn.
90. The Committee determined that it would not grant the Registrant's application to adjourn. It considered that the Registrant had been unable to specify what documentation she was seeking to obtain from her lawyer, when it might be available or what relevance it might have to the issues of facts. Further, the Committee considered the Registrant had had ample time to obtain the information sought, as she was first given notice of this Hearing in June 2022. However, the Committee allowed the Registrant time to consider what submissions she might wish to make, but during the lunch break the Registrant emailed the Hearings Officer and advised that she was overwhelmed, unwell and did not feel able to go ahead with making any submissions. The Committee considered that the Registrant should be given further opportunity to consider her position and provide either oral or written submissions and requested the Hearings Officer email the Registrant and advise her that it would adjourn until 13 December 2022 to allow the Registrant to consider her position. When the Committee reconvened on 13 December 2022, it was advised the Registrant had contacted the Hearings Officer and stated that she had been unable to obtain further documentation

to put before the Committee at this time and she asked the Committee to proceed in her absence going forward. The Registrant did not provide any further written submissions to the Committee. In the absence of additional information and without any indication of when/if it may be available and its specific relevance the Committee determined that further delay would not be in the public interest.

91. The Committee was aware that the burden of proof rests on the General Optical Council (GOC), and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts will be proved if the Committee was satisfied that it was more likely than not that the incidents occurred as alleged.
92. The Committee considered the evidence of all the non-expert witnesses for the GOC to have been credible, internally consistent and consistent with the evidence of the other GOC witnesses and the documentation exhibited. The GOC witnesses in their oral evidence were consistent with their prior witness statements. There was nothing before the Committee to undermine the evidence of these witnesses.
93. The Committee noted there were minor inconsistencies between some evidence given by Ms B and Mr C. The Committee considered that these inconsistencies arose from individual subjective recollections of events some time ago and did not significantly undermine the evidence of these witnesses in relation to the issues the Committee required to consider and decide upon.
94. The Committee was satisfied that Mr Booth had the necessary knowledge, skill and experience in the areas he commented upon. It was further satisfied that he was impartial in his presentation and assessment of the evidence and that his views were based on a reliable body of knowledge. He assisted the Committee in providing clear and straight forward explanations for his views on matters raised with him. The Committee accepted his opinion in relation to the issues he commented upon.
95. The Committee considered each particular of the Allegation in turn. In reaching its decision, the Committee considered how the relevant witnesses' oral evidence fitted with non-contentious facts, contemporaneous documents, the inherent probability or improbability of any account of events and any consistencies and inconsistencies.

1. On or around 8 September 2019 at REDACTED you carried out restricted activities as a dispensing optician whilst unregistered, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b) to;

a. Patient 1;

96. The Committee noted the evidence of Mr Grell that the Registrant came onto the GOC Register on 14 January 2015 as a Student Dispensing Optician and remained on the Register as a Student Dispensing Optician at the time of his statement. There was nothing before the Committee to challenge the evidence of Mr Grell.
97. The Committee also took into account the evidence of Ms B that she had called the GOC Registration Team and provided them with the name Naseem Suleman and been advised that the individual was registered as a student. There was nothing before the Committee to challenge the evidence of Ms B.

98. The Committee was satisfied on the balance of probabilities that on 8 September 2019 that the Registrant was registered only as a Student Dispensing Optician.
99. The Committee also took into account the evidence of Mr C that on 8 September 2019 the Registrant had undertaken restricted activities at the REDACTED. The Committee took into account that Mr C stated that when attending to patients on this date the Registrant was not being supervised. Again, there was nothing before the Committee to challenge the evidence of Mr C. The Committee was satisfied on the balance of probabilities that on 8 September 2019 the Registrant had carried out restricted activities at the REDACTED.
100. The Committee also took into account the evidence of Mr Booth. The Committee noted that Mr Booth had examined the patient records provided to him. He had told the Committee that the records showed that on 8 September 2019 the Registrant had performed the processes outlined in paragraph 2.1.3 of his report in relation to Patient 1, summarily recorded as the 'customer collecting spectacles'. Mr Booth had opined carrying out this process was a restricted activity as the patient was a child, therefore this process should not be carried out by a Student Dispensing Optician unsupervised. He further opined that the Registrant in doing so was acting contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b). There was no other expert witness evidence before the Committee disputing the views of Mr Booth. The Committee accepted the evidence of the expert that this activity should have been performed by a registered individual.
101. The Committee took into account the position stated by the Registrant that she had advised Ms B that she was registered as a Student Dispensing Optician and Ms B had advised her that she should still carry out collections unsupervised. The Committee considered that the Registrant's position was untested as she had not engaged with this hearing. Further, the Registrant's assertions were denied by Ms B and Mr C. The Committee considered that the Registrant's assertions as to this occurring were inherently improbable and rejected them.
102. In all the circumstances, the Committee was satisfied, that on or around 8 September 2019 at REDACTED, the Registrant carried out restricted activities as a dispensing optician whilst unregistered, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b).
103. The Committee therefore finds particular 1 proved.

2. On or around 15 September 2019 at REDACTED, you carried out restricted activities as a dispensing optician whilst unregistered contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b), to;
a. Patient 2;

104. The Committee again, noted the evidence of Mr Grell that the Registrant came onto the GOC Register on 14 January 2015 as a Student Dispensing Optician and remained on the register as a Student Dispensing Optician at the time of his statement. There was nothing before the Committee to challenge the evidence of Mr Grell.

105. The Committee also took into account the evidence of Ms B that she had called the GOC Registration Team and provided them with the name Naseem Suleman and been advised that the individual was registered as a student. There was nothing before the Committee to challenge the evidence of Ms B.
106. The Committee was satisfied on the balance of probabilities that on 15 September 2019 that the Registrant was only Registered as a Student Dispensing Optician.
107. The Committee noted that Mr Booth had examined the patient records provided to him. He had told the Committee that the records showed that on 15 September 2019 the Registrant had performed the processes outlined in paragraph 2.1.3 of his report in relation to Patient 2 and summarily recorded as the 'customer collecting spectacles'. Mr Booth had opined carrying out this process was a restricted activity when undertaken with a child and should not have been carried out by a Student Dispensing Optician unsupervised. He further opined that the Registrant in doing so was acting contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b). There was no other expert witness evidence before the Committee disputing the views of Mr Booth.
108. The Committee took into account the position stated by the Registrant to Ms Bowen that she had advised Ms B that she was registered as a Student Dispensing Optician and Ms B had advised her that she should still carry out collections unsupervised. The Committee considered that the Registrant's position was untested in light of her limited engagement with this hearing. Further, the Registrant's assertions were denied by Ms B and Mr C, neither of whom had been under the impression supervision was required. The Committee considered that the Registrant's assertions as to this occurring were inherently improbable and rejected them.
109. In all the circumstances, the Committee was satisfied that on or around 15 September 2019 at REDACTED, the Registrant carried out restricted activities as a Dispensing Optician whilst unregistered contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b), to Patient 2.
110. The Committee therefore finds particular 2 (a) proved.

b. Patient 3

111. The Committee again, noted the evidence of Mr Grell that the Registrant came onto the GOC Register on 14 January 2015 as a Student Dispensing Optician and remained on the Register as a Student Dispensing Optician at the time of his statement. There was nothing before the Committee to challenge the evidence of Mr Grell.
112. The Committee also took into account the evidence of Ms B that she had called the GOC Registration Team and provided them with the name Naseem Suleman and been advised that the individual was registered as a student. There was nothing before the Committee to challenge the evidence of Ms B.
113. The Committee was satisfied on the balance of probabilities that on 15 September 2019 that the Registrant was only Registered as a Student Dispensing Optician.

114. The Committee noted that Mr Booth had examined the patient records provided to him. He had told the Committee that the records showed that on 15 September 2019 the Registrant had performed the processes outlined in paragraph 2.1.3 of his report in relation to Patient 3, summarily recorded as the customer collecting spectacles. Mr Booth had opined carrying out this process was a restricted activity when undertaken with a child which should not be carried out by a Student Dispensing Optician unsupervised. He further opined that the Registrant in doing so was acting contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b). There was no other expert witness evidence before the Committee disputing the views of Mr Booth.
115. The Committee took into account the position stated by the Registrant to Ms Bowen that she had advised Ms B that she was registered as a Student Dispensing Optician and Ms B had advised her that she should still carry out collections unsupervised. The Committee considered that the Registrant's position was untested due to her limited engagement with this hearing. Further, the Registrant's assertions were denied by Ms B and Mr C. The Committee considered that the Registrant's assertions were inherently improbable and rejected them.
116. In all the circumstances, the Committee was satisfied that on or around 15 September 2019 at REDACTED, the Registrant carried out restricted activities as a Dispensing Optician whilst unregistered contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b), to Patient 3.
117. The Committee therefore finds particular 2 (b) proved.

c. Patient 4

118. The Committee again, noted the evidence of Mr Grell that the Registrant came onto the GOC Register on 14 January 2015 as a Student Dispensing Optician and remained on the Register as a Student Dispensing Optician at the time of his statement. There was nothing before the Committee to challenge the evidence of Mr Grell.
119. The Committee also took into account the evidence of Ms B that she had called the GOC Registration Team provided them with the name Naseem Suleman and been advised that the individual was registered as a student. There was nothing before the Committee to challenge the evidence of Ms B.
120. The Committee was satisfied on the balance of probabilities that on 15 September 2019 that the Registrant was only Registered as a Student Dispensing Optician.
121. The Committee noted that Mr Booth had examined the patient records provided to him. He had told the Committee that the records showed that on 15 September 2019 the Registrant had performed the processes outlined in paragraph 2.1.3 of his report in relation to Patient 4 and summarily recorded as the 'customer collecting spectacles'. Mr Booth had opined carrying out this process was a restricted activity when undertaken on a child which should not be carried out by a Student Dispensing Optician unsupervised. He further opined that the Registrant in doing so was acting contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b). There was no other expert witness evidence before the Committee disputing the views of Mr Booth.

122. The Committee took into account the position stated by the Registrant to Ms Bowen that she had advised Ms B that she was registered as a Student Dispensing Optician and Ms B had advised her that she should still carry out collections unsupervised. The Committee considered that the Registrant's position was untested due to her limited engagement with this hearing. Further, the Registrant's assertions were denied by Ms B and Mr C. The Committee considered that the Registrant's assertions were inherently improbable and rejected them.
123. In all the circumstances, the Committee was satisfied that on or around 15 September 2019 at REDACTED, the Registrant carried out restricted activities as a Dispensing Optician whilst unregistered contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b), to Patient 4.
124. The Committee therefore finds particular 2 (c) proved.

3. On or around 14 September 2019 at REDACTED you carried out restricted activities as a dispensing optician whilst unregistered to Patient 7, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b)

125. The Committee again, noted the evidence of Mr Grell that the Registrant came onto the GOC Register on 14 January 2015 as a Student Dispensing Optician and remained on the Register as a Student Dispensing Optician at the time of his statement. There was nothing before the Committee to challenge the evidence of Mr Grell.
126. The Committee also took into account the evidence of Ms B that she had called the GOC Registration Team and provided them with the name Naseem Suleman and been advised that the individual was registered as a student. There was nothing before the Committee to challenge the evidence of Ms B.
127. The Committee was satisfied on the balance of probabilities that on 14 September 2019 that the Registrant was only Registered as a Student Dispensing Optician.
128. The Committee noted that Mr Booth had examined the patient records provided to him. He had told the Committee that the records showed that on 15 September 2019 the Registrant had performed the processes outlined in paragraph 2.1.3 of his report in relation to Patient 7 and summarily recorded as the customer collecting spectacles. Mr Booth had opined carrying out this process was a restricted activity when undertaken on a child which should not be carried out by a Student Dispensing Optician unsupervised. He further opined that the Registrant in doing so was acting contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b). There was no other expert witness evidence before the Committee disputing the views of Mr Booth.
129. The Committee took into account the position stated by the Registrant to Ms Bowen that she had advised Ms B that she was registered as a Student Dispensing Optician and Ms B had advised her that she should still carry out collections unsupervised. The Committee considered that the Registrant's position was untested due to her limited engagement with this hearing. Further, the Registrant's assertions were denied by Ms B and Mr C. Further Ms A confirmed neither she nor the Optometrists had provided

any supervision. The Committee considered that the Registrant's assertions were inherently improbable and rejected them.

130. In all the circumstances, on the balance of probabilities, the Committee was satisfied that on or around 14 September 2019 at REDACTED, the Registrant carried out restricted activities as a Dispensing Optician whilst unregistered to Patient 7, contrary to the Opticians Act 1989 as amended in 2005, Part 4 Subsection 27 (1) (b).

131. The Committee therefore finds particular 3 proved.

4. On or around 8 September 2019, you provided REDACTED with the registration number REDACTED despite knowing that this was not your temporary registration number given to you by the GOC

132. The Committee took into account the evidence of Ms B that on the Registrant's first day at work on 8 September 2019, the Registrant provide a GOC registration number D-19364 and that this was put on Specsavers' system by Mr C. The Committee also took into account Mr C's evidence that on 8 September 2019 the Registrant had provided him with a screenshot of her GOC number and explained to him that it might not show up on the GOC Register due to her having difficulties with ABDO. Mr C stated in evidence that the number the Registrant gave him was REDACTED.

133. There was nothing before the Committee to challenge the evidence of Ms B or Mr C.

134. The Committee also took into account the evidence of Mr Grells who had told it that the GOC registration numbers provided by the Registrant to Specsavers did not belong to her. He told the Committee that the number REDACTED was not in use and the number REDACTED was the registration number of another individual. Again, there was nothing before the Committee to challenge Mr Grell's evidence.

135. The Committee noted that the Registrant had not addressed this issue in any of the documents or correspondence before it.

136. In all the circumstances, on the balance of probabilities, the Committee was satisfied that, on or around 8 September 2019, the Registrant provided REDACTED with the registration number REDACTED despite the Registrant knowing that this was not her temporary registration number given to her by the GOC.

137. The Committee therefore finds particular 4 proved.

5. On or around 14 September 2019, you provided REDACTED with the registration number REDACTED despite knowing that this was not your temporary registration number given to you by the GOC

138. The Committee took into account the evidence of Ms A that on 14 September 2019 the Registrant had provided her with a GOC registration number that Ms A then inputted onto Specsavers record system.

139. Ms B had previously referred the Committee to copies of entries in Specsavers record system exhibited by her relating to each of the stores. This included an entry for the

Registrant's GOC registration number of REDACTED with a 'Post-it' note attached indicating that this was the number provided by the Registrant 'to REDACTED'.

140. There was no evidence before the Committee that the number contained on Specsavers' record system was not the number given to Ms A by the Registrant on 14 September 2019.
141. The Committee therefore determined that, on the balance of probabilities, on or around 14 September 2019, the Registrant provided REDACTED with the registration number 'REDACTED' despite knowing that this was not a temporary registration number given to her by the GOC.
142. The Committee therefore finds particular 5 proved.

6. Your conduct at (4) and/or (5) above was inappropriate in that:

a. you knew that you had given REDACTED a different registration number in an attempt to conceal that you were an unregistered dispensing optician;

143. In considering particular 6 the Committee noted the everyday dictionary definition of inappropriate as being '*not suitable or proper in the circumstances.*'
144. The Committee noted that the Registrant had not addressed this issue in any documentation or correspondence before it. The Committee did consider whether there was an alternative explanation for the actions of the Registrant found proved in particular 4 other than it being an attempt to conceal her status but could identify no credible explanation which would have been suitable or proper in the circumstances. The Registrant's assertion that it was an innocent mistake did not appear plausible to the Committee. Additionally, the Registrant would have known that she was not entitled to use any number commencing 'D-' (denoting Dispensing Optician) whilst she remained as a student with designation 'SD-' (denoting Student Dispensing Optician) which she had held for a number of years.
145. Considering the Registrant's actions in the round, the Committee determined that, on the balance of probabilities, that the Registrant knew that the registration number she gave REDACTED was a different registration number and by acting as found proved in particular 4, was attempting to conceal that she was an unregistered Dispensing Optician.
146. The Committee determined that the Registrant's actions in the context that they took place were neither suitable nor proper and thereby inappropriate.
147. The Committee therefore found particular 6 (a) proved.

b. you knew that you had given REDACTED a different registration number in an attempt to conceal that you were an unregistered dispensing optician

148. In considering particular 6 the Committee noted the everyday dictionary definition of inappropriate as being '*not suitable or proper in the circumstances.*'

149. The Committee noted that the Registrant had not addressed this issue in any documentation or correspondence before it. The Committee did consider whether there was an alternative explanation for the actions of the Registrant found proved in particular 5 other than it being an attempt to conceal her status but could identify no credible explanation which would have been suitable or proper in the circumstances. The Registrant's assertion that it was an innocent mistake did not appear plausible to the Committee. Additionally, the Registrant would have known that she was not entitled to use any number commencing capital 'D-' whilst she remained as a student with designation 'SD-' which she had held for a number of years.
150. Considering the Registrant's actions in the round, the Committee determined that, on the balance of probabilities, that the Registrant knew that the registration number she gave REDACTED was a different registration number and by acting as found proved, was attempting to conceal that she was an unregistered Dispensing Optician.
151. The Committee determined that the Registrant's actions in the context that they took place were neither suitable nor proper and thereby inappropriate.
152. The Committee therefore found particular 6 (b) proved.

7. Your conduct at (4) and/or (5) above was misleading in that:

- a. you knew that you had given REDACTED a different registration number in an attempt to conceal that you were an unregistered dispensing optician;**

153. In considering particular 7 the Committee noted the everyday dictionary definition of misleading as being '*causing someone to believe something that is not true.*'
154. The Committee noted that the Registrant had not addressed this issue in any documentation or correspondence before it. The Committee did consider whether there was an alternative explanation for the actions of the Registrant found proved in particular 4 other than it being an attempt to conceal her status but could identify no credible explanation which would not have been misleading in the circumstances. The Registrant's assertion that it was an innocent mistake did not appear plausible to the Committee. Additionally, the Registrant would have known that she was not entitled to use any number commencing capital 'D-' whilst she remained as a student with designation 'SD-' which she had held for a number of years.
155. Considering the Registrant's actions in the round, the Committee determined that, on the balance of probabilities, that the Registrant knew that the registration number she gave REDACTED was a different registration number and by acting as found proved, was attempting to conceal that she was an unregistered Dispensing Optician.
156. The Committee determined that in acting in this manner the Registrant was seeking to cause HSL to believe something that was not true.
157. The Committee therefore found particular 7 (a) proved.

b. You knew that you had given REDACTED a different registration number in an attempt to conceal that you were an unregistered dispensing optician

158. In considering particular 6 the Committee noted the everyday dictionary definition of misleading as being ‘causing someone to believe something that is not true.’
159. The Committee noted that the Registrant had not addressed this issue in any documentation or correspondence before it. The Committee did consider whether there was an alternative explanation for the actions of the Registrant found proved in particular 4 other than it being an attempt to conceal her status but could identify no credible explanation which would not have been misleading in the circumstances. The Registrant’s assertion that it was an innocent mistake did not appear plausible to the Committee. Additionally, the Registrant would have known that she was not entitled to use any number commencing capital ‘D-’ whilst she remained as a student with designation ‘SD-’ which she had held for a number of years.
160. Considering the Registrant’s actions in the round, the Committee determined that, on the balance of probabilities, that the Registrant knew that the registration number she gave REDACTED was a different registration number and by acting as found proved, was attempting to conceal that she was an unregistered Dispensing Optician.
161. The Committee determined that in acting in this manner the Registrant was seeking to cause SSL to believe something that was not true.
162. The Committee therefore found particular 7 (b) proved.

8. Your conduct at (4) and/or (5) above was dishonest in that:

a. you attempted to deceive REDACTED by submitting a different false registration number to appear as a fully qualified Dispensing Optician when you were not;

163. In considering particular 8 the Committee applied the test for dishonesty set out in paragraph 74 of the case of *Ivey* that states:
- ‘When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.’*
164. For the reasons set out in relation to particulars 6 and 7 the Committee has determined that the Registrant knew that the registration number she had provided to the Huntingdon branch of Specsavers was not her registration number. On the information available to it, the Committee determined that the Registrant carried out a course of

conduct to deliberately and intentionally create the impression to the REDACTED branch of Specsavers that she was a fully qualified Dispensing Optician.

165. The Committee determined that, on the balance of probabilities, the Registrant attempted to deceive REDACTED by submitting a different false registration number to appear as a fully qualified Dispensing Optician when she was not.
166. The Committee determined that by the standards of ordinary decent people this would be considered dishonest.
167. The Committee therefore found particular 8 (a) proved.

b. you attempted to deceive REDACTED by submitting a different registration number to appear as a fully qualified Dispensing Optician when you were not;

168. For the reasons as set out above, the Committee determined that the Registrant had acted dishonestly in attempting to deceive REDACTED by submitting a different registration number to appear as a fully qualified Dispensing Optician when she was not.
169. The Committee therefore found particular 8 (b) proved.

Findings regarding misconduct

170. The Committee has heard submissions from Ms. Luscombe in relation to misconduct. She submitted that the question of whether the facts found proved amount to misconduct was a matter for the Committee exercising its own professional judgement.
171. Ms. Luscombe submitted that the allegation found proved amounted to breaches of a number of paragraphs of the GOC Standards for Optical Students 2016 (Standards) applicable at the time; that the misconduct was professional misconduct; and were serious breaches of the Standards. She referred the panel to the case of *Roylance v GMC (No. 2) [2000] 1 AC 311 and Nandi v GMC [2004] EWHC 2317 (Admin)*.
172. Ms Luscombe referred the Committee to the judgement of Mr Justice Collins in *Nandi* that '*dishonest conduct can very easily be regarded as serious professional misconduct.*' Ms Luscombe submitted that the other particulars of the Allegation found proved were also sufficiently serious to amount to misconduct as the Registrant had held herself out as being qualified to carry out restricted activities when she was not. Ms Luscombe further submitted that the Registrant had potentially put patients at risk.
173. Ms Luscombe submitted that Standards 5, 6, 10, 11, 15 and 16 of the GOC's Standards had been engaged and breached to a sufficient level to amount to misconduct. She stated that the Registrant's actions would be viewed as deplorable by a fellow member of the profession.
174. The Committee accepted the advice of the Legal Adviser. He referred the Committee to the case of *Roylance* and *Calheam v GMC [2007] EWHC 2606* and to the GOC's Hearing and Indicative Sanctions Guidance (Sanctions Guidance).

175. The Committee was aware that, in considering the question of misconduct, there was no burden of proof, nor standard of proof.
176. In reaching its decision on misconduct, the Committee bore in mind its duty to protect the public, to maintain public confidence in the profession and in the regulatory process, and to declare and uphold proper standards of behaviour and conduct.
177. The Committee appreciated that breaches of the Code do not automatically result in a finding of misconduct.
178. The Committee considered that acting in the manner found proved in particulars 1 – 5 the Registrant had put patients at risk of harm, breached the trust put in her by colleagues and Specsavers and undermined public confidence in Specsavers and the Profession.
179. The Committee further determined that the Registrant had acted inappropriately, misled colleagues at Specsavers and carried out a course of conduct to deliberately and intentionally create the impression to Specsavers that she was a fully qualified Dispensing Optician.
180. Further, the Committee considered that the Registrant's actions had resulted in personal financial gain as she was paid a higher fee than she would have received as a student.
181. The Committee concluded that the Registrant was in breach of the following paragraphs of the Standards:
- 5 Recognise, and work within, your limits of competence*
 - 6 Conduct appropriate assessments, examinations, treatments and referrals under supervision*
 - 10 Protect and safeguard patients, colleagues and others from harm*
 - 11 Ensure a safe environment for your patients*
 - 15 Be honest and trustworthy*
 - 16 Do not damage the reputation of your profession through your conduct*
182. The Committee was satisfied that, both individually and cumulatively, the Registrant's acts and omissions fell seriously below the standard to be expected of a Student Dispensing Optician and amounted to misconduct.

Decision on impairment

183. The Committee then went on to consider if, as a result of this misconduct, the Registrant's fitness to practise is currently impaired.
184. The Committee heard submissions from Ms. Luscombe in relation to impairment. She submitted that the issue of impairment was a two-stage process involving personal and public components.

185. Ms Luscombe referred the Committee to the case of *The Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)* and in particular paragraph 76 where Mrs Justice Cox stated:

'I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise, but in my view the test would be equally applicable to other practitioners governed by different regulatory schemes.

Do our findings of fact in respect of the doctor's 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 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 the 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.'*

186. Ms Luscombe submitted that the Registrant had put patients at risk of harm by holding herself out to be qualified to carry out restricted activities when she was not.

187. She further submitted that by holding herself out as being qualified to carry out restricted activities and acting inappropriately and dishonestly, the Registrant had undermined confidence in the profession.

188. The Committee accepted the advice of the Legal Advisor. He referred it to the cases of *Grant, Cohen v GMC [2008] EWHC 581 Admin* and *Lusinga v NMC [2017] EWHC 1458 (Admin)* and to the Sanctions Guidance.

189. The Committee considered that the facts found proved engaged limbs a – d of the test set out in *Grant* in relation to the past.

190. The Committee considered that the Registrant's actions put patients at unwarranted risk of harm and resulted in personal financial gain. Further, the Registrant's actions were inappropriate, misleading and dishonest. By acting in this manner, the Registrant has brought the profession into disrepute and breached fundamental tenets of the profession. Further, the Committee considered that the Registrant had abused the trust put in her by colleagues at Specsavers and patients.

191. The Committee has already found that the Registrant's was dishonest when she carried out a deliberate and intentional course of conduct of to create the impression to Specsavers that she was a fully qualified Dispensing Optician and that she had gained financially.

192. Regarding insight, the Committee has already found that the Registrant has had limited engagement with the GOC and this Hearing. When the Registrant did engage with this

Hearing on 7 December 2022 she made reference to her REDACTED that she stated would explain why she had acted as she did. At the Hearing, she provided no further details regarding this. The Committee had no REDACTED before it of any REDACTED or how that might have affected or explained her actions. Further, the Committee had no evidence before it of REDACTED.

193. Similarly, the Committee had no independent evidence before it of any external factors that might have affected or explained the Registrant's actions. Further, the Committee had no evidence before it as to whether any such external factors have now been resolved or continued to exist.
194. The Committee's considered that the Registrant's misconduct was remediable, albeit that her dishonesty might be difficult to remediate. However, it further determined that the Registrant had failed to demonstrate any evidence of remediation or express real and tangible insight. The Committee therefore concluded that there existed a real risk of repetition in the future.
195. The Committee considered that a finding of current impairment on public protection grounds is necessary given the serious nature of the Registrant's misconduct, the absence of any insight or remediation and given that the Committee has found that there is a risk of repetition.
196. The Committee then considered whether a finding of impairment was also necessary to uphold standards and maintain public confidence in the profession. The Committee was in no doubt that the Registrant's past actions did bring the profession into disrepute and given the seriousness of the misconduct identified, including dishonesty, that public confidence in the profession would be seriously damaged if a finding of current impairment was not made.
197. The Committee is therefore satisfied that the Registrant's fitness to practise is currently impaired both on the grounds of public protection and in the wider public interest.

Sanction

198. Having determined that the Registrant's fitness to practise is impaired, the Committee has considered what sanction, if any, it should impose. In reaching its decision, the Committee has considered all the evidence provided, together with Ms Luscombe submissions.
199. Ms Luscombe referred the Committee to the GOC Sanction's Guidance and took the Committee through the relevant sections of it. She referred the Committee to the cases of *Parkinson v NMC* [2010] EWHC 1898 (Admin), *Burrows v GMC* [2016] EWHC 1050 (Admin) and *Lusinga v NMC* [2017] 1458. (Admin). Ms Luscombe submitted that the Registrant had not engaged or provided any reference or reflection. She identified what she submitted were aggravating factors.
200. The Committee heard and accepted the advice of the Legal Advisor. He referred the Committee to the Sanctions Guidance and that it must act proportionately.
201. The Committee has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such

consequences. It recognised that the decision on sanction is a matter for the Committee, exercising its own independent judgement.

202. Before making its decision on the appropriate sanction, the Committee established the aggravating and mitigating features in this case.

203. The Committee considered that the aggravating factors in this case were:

- The dishonesty occurred on more than one occasion and was premeditated.
- The dishonesty resulted in personal financial gain.
- The Registrant abused the trust of her colleagues at Specsavers and of patients.
- There appears to be a persistent lack of insight and remorse throughout the regulatory process.

204. The Committee considered that the mitigating factor in this case was:

- There was no actual patient harm.

205. In considering what would be the most appropriate and proportionate sanction the Committee did take into account that the Registrant was a Student Dispensing Optician. However, in light of its findings of dishonesty it gave this little weight. The Committee also noted that the Registrant had stated that she was suffering from difficult personal circumstances when the misconduct occurred.

206. The Committee first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The Committee decided that it would be neither proportionate nor in the public interest to take no further action.

207. The Committee then considered whether to impose a financial penalty. However, it determined that these matters are too serious for a financial penalty to be considered appropriate or sufficient to reflect adequately the public interest.

208. The Committee next considered the imposition of a Conditional Registration Order.

209. The Committee noted the terms of paragraph 21.5 of the Sanctions Guidance which states:

21.25 Conditional registration may be appropriate when most, or all, of the following factors are apparent (this list is not exhaustive):

- 1. No evidence of harmful deep-seated personality or attitudinal problems.*
- 2. Identifiable areas of registrant's practise in need of assessment or retraining.*
- 3. Evidence that registrant has insight into any health problems and is prepared to agree to abide by conditions regarding medical condition, treatment, and supervision.*
- 4. Potential and willingness to respond positively to retraining.*
- 5. Patients will not be put in danger either directly or indirectly as a result of conditional registration itself.*
- 6. The conditions will protect patients during the period they are in force.*

7. *It is possible to formulate appropriate and practical conditions to impose on registration and make provision as to how conditions will be monitored.*

210. The Committee considered that there is no evidence of insight or remorse and that conditions would not protect patients during the period they are in force. Further, it is difficult to formulate appropriate conditions in cases where repeated dishonesty has been found.

211. In light of this, the Committee determined that there were no practical or workable conditions that could be formulated at this time which would adequately address the concerns in this case and protect the public and the wider public interest

212. The Committee then went on to consider whether a suspension order would be an appropriate sanction.

213. It noted the terms of paragraph 21.29 of the Sanctions Guidance that states:

21.29 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.*

214. As set out above the Committee considered that there had been very limited engagement from the Registrant and there was no evidence of insight or remorse before it. Further, the Committee was satisfied that this was not one serious instance of misconduct but rather a premeditated and planned dishonest course of action. There was nothing before the Committee to provide appropriate reassurance that there is no risk of the Registrant repeating the behaviour in the future.

215. The Committee determined that a suspension order is insufficient to satisfy the public interest in maintaining public confidence in the profession and the GOC as the regulator.

216. The Committee then went on to consider erasure.

217. The Committee considered the terms of paragraph 21.35 of the Sanctions Guidance that states:

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. *Abuse of position/trust (particularly involving vulnerable patients) or violation of the rights of patients;*
- d. *Offences of a sexual nature, including involvement in child pornography;*
- e. *Offences involving violence;*
- 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.*

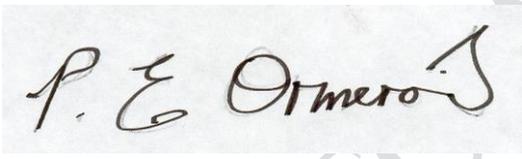
218. The Committee was satisfied that the Registrant's actions amounted to a serious departure from the relevant professional standards. The Committee found that the Registrant was dishonest when she carried out a premeditated deliberate and intentional course of conduct to create the impression to Specsavers that she was a fully qualified Dispensing Optician. She had gained financially. The Registrant abused the trust of colleagues at Specsavers and patients and put patients at risk of harm. Further, the Committee considered that the Registrant has shown persistent lack of insight into her dishonesty, its seriousness and consequences.
219. The Committee was wholly satisfied that the Registrant's conduct was fundamentally incompatible with continued registration.
220. Balancing all of these factors and after taking into account all the evidence before it during this case, the Committee determined that the appropriate and proportionate sanction is that of erasure. Having regard to the matters it identified, in particular the effect of the Registrant's actions in bringing the profession into disrepute, the Committee has concluded that nothing short of erasure would be sufficient in this case.
221. The Committee considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a Student Dispensing Optician.
222. The Committee considered the significant adverse impact this decision may have on the Registrant, but considered her dishonest misconduct is such that the public interest outweighed the Registrant's own interests.
223. The Committee therefore determined that the Registrant's name should be erased from the register.

Immediate Order

224. The Committee then went onto to consider if an immediate order was required on the grounds that it was necessary for the protection of the public and is otherwise in the public interest.

225. The Committee has heard submissions from Ms Luscombe, on behalf of the Council and has accepted the advice of the Legal Adviser.
226. The Committee was satisfied that an immediate suspension order is necessary for the protection of the public and is otherwise in the public interest. The Committee had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an immediate order. To do otherwise would be incompatible with its earlier findings and fail to meet public protection and public interest.
227. If no appeal is made, then the immediate order will be replaced by the substantive order of erasure 28 days after the Registrant is sent the decision of this hearing in writing.

Chair of the Committee: Pamela Ormerod

Signature  Date: 16 December 2022

Registrant: Naseem Suleman

Signature not present.....Date: 16 December 2022

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 10 Old Bailey, London, EC4M 7NG or, by telephone, on 020 7580 3898.

SUBJECT TO APPEAL