

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

GENERAL OPTICAL COUNCIL

F(22)07

AND

**ALISTAIR AIKEN
(01-28871)**

**DETERMINATION OF A SUBSTANTIVE HEARING
31 OCT – 3 NOV 2022**

Committee Members:	Pamela Ormerod (Chair/Lay) Nicola Enston (Lay) Nigel Pilkington (Lay) Sarvat Fida (Optometrist) Gemma O'Rourke (Optometrist)
Clinical adviser:	Dr Desmond Dunleavy
Legal adviser:	Jonas Milner
GOC Presenting Officer:	Wafa Shah
Registrant present/represented:	Yes and represented
Registrant representative:	Natasha Tahta
Hearings Officer:	Terence Yates
Facts found proved:	All
Facts not found proved:	None
Misconduct:	Found
Impairment:	Found
Sanction:	Suspension order – 6 months
Immediate order:	No



Original Allegation

The Council alleges that you, Mr Alistair Aitken (01-28871), a registered optometrist:

1. *Between October 2019 and November 2019, you were in contact with Miss B, who was under 18 years old, and you:*
 - a. *Sent indecent and / or inappropriate images of yourself;*
2. *Between January 2020 and February 2020, you were in contact with Miss D and you sent indecent and /or inappropriate images of yourself;*
3. *In or around November 2019, you were in contact with Miss F, who was under 18 years old, and you:*
 - a. *Sent indecent and / or inappropriate images of yourself;*
 - b. *Sent a message saying “I get to look at your good bum and big boobs” or words to that effect;*
4. *Between June 2019 and November 2019, you were in contact with Miss G, and you:*
 - a. *Sent indecent and / or inappropriate images of yourself;*
 - b. *Sent indecent and / or inappropriate videos of yourself;*
 - c.
5. *Your conduct above was:*
 - a. *sexually motivated; and / or*
 - b. *inappropriate*

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

Application to amend the Allegation

1. Ms Shah for the Council made an application to amend the Allegation. Ms Tahta for the Registrant submitted that the application was not opposed. The Committee accepted the advice of the Legal Adviser.
2. The Application was to amend Allegation 4 by the removal of the words “and/or inappropriate” from both 4a and 4b. Additionally, the application was to remove the word “inappropriate” from Allegation 5, which would therefore allow Allegation 5 to be redrafted as a single line, because “inappropriate” was already accommodated in particulars 1-3, and would not now apply to particular 4.

3. The Committee allowed the application to amend the Allegations 4 and 5. Accordingly, the Amended Allegation is reproduced below:

ALLEGATION (AS AMENDED)

The Council alleges that you, Mr Alistair Aiken (01-28871), a registered optometrist:

1. Between October 2019 and November 2019, you were in contact with Miss B, who was under 18 years old, and you:
 - a. Sent indecent and/or inappropriate images of yourself;
2. Between January 2020 and February 2020, you were in contact with Miss D and you sent indecent and/or inappropriate images of yourself;
3. In or around November 2019, you were in contact with Miss F, who was under 18 years old, and you:
 - a. Sent indecent and/or inappropriate images of yourself;
 - b. Sent a message saying "I get to look at your good bum and big boobs" or words to that effect;
4. Between June 2019 and November 2019, you were in contact with Miss G, and you:
 - a. Sent indecent images of yourself;
 - b. Sent videos of yourself;
5. Your conduct above in charges 1-4 was sexually motivated;

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

4. The Registrant admitted the Allegation. It was clarified on his behalf that he was accepting that in relation to particulars 1 -3, the images he sent were both indecent and inappropriate. The Committee therefore finds the Allegation proved in its entirety by reason of the Registrant's admissions.

Background to the allegations

Summary

5. The Registrant is an Optometrist, first registered in August 2015. He became the subject of a fitness to practise investigation by the Council, following a referral made by the Retail Director of Specsavers, [Redacted] his former employer on 10 December 2019. The referral related to allegations that the Registrant had sent inappropriate messages, including sexualised images and videos, to several female work colleagues via Snapchat, matters that came to light following conversations between staff during an employee 'night out'.

It transpired that two of the female colleagues that it was alleged had received the messages from the Registrant were aged under 18 at the time. The messages were sent on multiple occasions, over a period of some months.

Subsequent to his dismissal from Specsavers, [Redacted] in December 2019, the Registrant went on to add Miss D, a former colleague as a contact, and sent her indecent and explicit images.

The Evidence of the Complainants

6. The documentary evidence submitted by the GOC was not challenged by the Registrant, and accordingly no witnesses were required for cross-examination.
7. The evidence of the complainants in the case can be summarised as below. We do not set out every point as set out in their witness statements and the notes of their interviews, but wish to make it clear that we have read and considered all of the written and visual evidence very carefully in the course of our deliberations.
8. On the morning of 25 November 2019, it was brought to the attention of Mr A, the Retail Director at Specsavers [Redacted] that there were reports being made about the Registrant. Mr A discovered that, at the preceding Friday's work drinks, attended by various employees at the [Redacted] branch, there had been discussion about the Registrant and it had emerged that he had sent various indecent and inappropriate photographs and videos to a number of female colleagues.
9. The following day, Mr A interviewed all staff members who were involved in the conversations at the pub. The Committee was provided with notes of those

interviews. On speaking to his employees, Mr A discovered that the images and videos were sent using a mobile telephone application called Snapchat. Snapchat is an encrypted application where media will automatically delete once sent, unless specifically saved. Although he interviewed several female members of staff, the individuals to whom the Allegation in this case relates are identified as optical assistants Miss B, D, F and G. While the Committee considered the evidence of the other witnesses, we will focus on the evidence given by these complainants for the purposes of this summary.

10. Although Mr A asked the female members of staff interviewed for examples of the material sent to them by the Registrant, these could not be provided since they had been automatically deleted by Snapchat. Only a video sent to Miss G was provided. This was labelled exhibit PL/11 and was a video of a Snapchat image. It showed an erect penis being held in a hand. It was accepted by the Registrant that this was him, and the photo had been sent by him to Miss G.
11. In her witness statement, Miss B confirmed that she knew the Registrant and had worked alongside him at the [Redacted] branch of Specsavers for around 3 months. She was under 18 years old at the time, and was employed as an Optical Assistant. She stated that in around October 2019 the Registrant added her as a friend on Snapchat and then began conversations with her. These were mainly conversations about work and how her day had been. After about two weeks the Registrant began sending photos to her. The first she recalls was a photo of the Registrant topless in bed, at about 8pm. She states that she was shocked to receive this.
12. Further pictures followed that evening which progressed to photographs of the Registrant's bottom half, including his erect penis. Miss B described the sending of these photos as follows:

"When I received this, I was shocked. I don't speak to him that much so ignored it and he then sent me another picture a minute or two later which was the same. I did not reply to the first picture of his naked penis and therefore in the text part he added me a question mark but I did not respond. Alistair then continued to send me a '?' even though I was ignoring him and this continued until he would get bored and stop. But then after work, he would do it again and this went on for about two weeks. This included pictures and when I would not respond he would send a '?' or 'are we ok?' and then he would apologise. The pictures were not really any different, it was the same stuff to what was sent before, as explained above. After apologising, he would stop messaging that day but restart the next day. In the sorry message he would say something like 'I am sorry I shouldn't have done that it was inappropriate' and to this message I sometimes replied 'ok' and sometimes I ignored him. The sorry message was not sent everyday but only now and again. Alistair also sent me a picture of him in the shower and this picture showed his face and torso and he was not wearing any clothes. I did not respond, and I was really uncomfortable because I had to work with him."

13. She described being present at the work drinks described above, and the topic of conversation turning to the Registrant, and it emerged that he had been sending similar photos and videos to other female colleagues.
14. In her witness statement Miss D described how she had been working at Specsavers between January 2016 – September 2018. She was 17 years old when she left.
15. She describes how she had worked alongside the Registrant during that time, and was managed by Mr A.
16. The Registrant added Miss D as a friend on Snapchat in January 2020 – subsequent to his dismissal from his position at Specsavers, [Redacted] because of the sending of explicit images to colleagues. The conversation began as polite, and the Registrant asked whether Miss D was single. She informed him that she was going through a breakup. Miss D describes the exchange as follows:

“About 4 or 5 messages later, he asked if I was single. At that point, I was just about to turn 20. I said that I was currently going through a breakup. He then sent me a few explicit photos without any asking from me or any indication from me whether I wanted any of these photos. He just sent them anyway.

The photos were of genitals. There were about 3 or 4 photos one after each other with the general caption ‘wish you were here’ but can’t remember exactly what was said. I blocked him straight away and I didn’t engage in any conversation after that.”

17. Miss D describes speaking to her mother about the messages, and being advised to contact Mr A. She in fact contacted Miss G, who passed on her concerns to Mr A.
18. Miss F was another colleague of the Registrant, who began working at Specsavers in [Redacted] as an Optical Assistant in August 2019. She was 17 at the time, and turned 18 in December 2019.
19. In October 2019, the Registrant added her on Snapchat. Towards the end of the month, the Registrant started a conversation with Miss F, responding to photos she had posted of her with other colleagues. A few days later he sent her a photo of his face, and then topless photos. Shortly afterwards, the Registrant sent Miss F photos of himself in his underwear. Miss F made it clear that she did not want that kind of photograph sent to her and the Registrant apologised. She described how in a later conversation, the Registrant made remarks to her which she found uncomfortable:



“He said something like, ‘I always love it when you do a handover’. Then he said something along the lines of ‘I get to look at your good bum and big boobs’ or something like that. I said ‘that’s a bit weird. Don’t say that kind of thing’. This was done all over Snapchat. It made me feel uncomfortable. I don’t understand why he was even looking. He said something along the lines of, ‘oh sorry but it’s true’. After that, I ignored him for the rest of the night. Even though I ignored him, Alistair still sent a couple of dodgy photos that evening of his hip and himself in bed topless, but I just continued to ignore the messages.”

20. On a later occasion she states that the Registrant told her not to tell anyone about the messages and photos that had been sent, but didn’t say why. Miss F described how the Registrant continued to send photos to her that she did not want, of his leg for example, and she would ask him to stop. She describes him apologising but then sending further messages and photographs later.
21. Her contact with the Registrant emerged when Miss G informed her that it was known that the Registrant had been messaging female colleagues.
22. Miss G stated that she knew the Registrant through working alongside him at the [Redacted] branch of Specsavers. The two were friendly, occasionally going for a drink, or for something to eat after work, usually in company with other colleagues. At some point the Registrant added her on Snapchat and then began to send her photos and to message her very frequently.
23. She says this of the contact:

“I did not tell anyone as it was not bothering me, there was nothing wrong with it at the beginning. There was no harm in the messaging. I told Miss E about it and if I said this is not ok, Miss E would have taken action. I think it is partly my fault for [not] saying to Alistair to stop messaging me.”

24. There were videos which he sent that were explicit, involving his genitals and masturbation. She recalls waking up to find that the Registrant had sent her multiple videos overnight.
25. She confirmed that when out with Miss E, she received the picture from the Registrant that is the subject of the video exhibit before us. Miss E took a video on her phone of the photograph the Registrant sent to Miss G on Snapchat.
26. Miss G confirms that the Registrant continued to have some contact with her on Snapchat following his dismissal.
27. It should be noted that another witness, Miss E, stated that “at times she thought that she [Miss G] was sending pictures back, but she had always denied it”.

28. Miss G plainly did send at least one photo back to the Registrant, because within his Defence Bundle, R1, he produced an obviously sexual photograph that she had sent to him, at p.72, which he had retained.
29. The Committee were informed that it was this evidence that led to the agreed amendment of the allegation set out above, and led to the GOC agreeing to the removal of the word “inappropriate” from Allegations 4 and 5.

The Defence Documentary evidence

30. The documentary evidence submitted by the Registrant came in the form of R1, his Defence Bundle. That contained, among other things, a witness statement from the Registrant, a statement of reflection from him and a witness statement from his [Redacted] Witness A. All of these were of significance to the Committee and were carefully considered, alongside the live evidence we heard from both individuals.
31. Aside from that, R1 contained evidence of the courses and training completed by the Registrant, and a record of self-directed study. There were also 4 testimonials provided for the Registrant.
32. [Redacted]
33. In her submissions to the Committee, Ms Tahta set out the particulars in relation to each of the complainants. The Committee noted that this demonstrates that there were multiple incidents in relation to all of the complaints, over a significant period of time.

The Live Evidence

34. The Registrant elected to give evidence. He began with an apology to the various complainants in this case, to his colleagues, the profession at large and to the Committee.
35. The Registrant informed the Committee about the factual background that, in his opinion, led to his behaviour as set out in the Allegation. He informed the Committee as to how, from around July 2019, [Redacted]
36. [Redacted]
37. [Redacted]
38. The COVID-19 pandemic made matters worse for him. In May 2020 he returned to [Redacted].

39. [Redacted]
40. [Redacted]
41. [Redacted]
42. [Redacted]
43. He told the Committee how, looking back on the allegations he feels that his behaviour was instigated and sustained [Redacted] will never be repeated.
44. Of the allegations, he noted that the first images he sent were to Miss G, and these were reciprocated. He accepted sending similar images to Miss B, who was under 18 at the time, although he claimed that he did not know her age until the interview with Mr A. He accepted that in relation to Miss F, he knew that she was 17 at the time of the messages. He accepted contacting Miss D although stated that this contact occurred in a [Redacted].
45. In February 2020 he completely cut off his social media. The only communication app he retains are WhatsApp and Twitter.
46. He informed the Committee as to how he had continued working in locum positions, and had eventually been offered a store manager's role full time. He described how 6 weeks ago he was suspended from work when his Regional Manager became aware of this hearing, pending its outcome.
47. In cross-examination the Registrant accepted that he had only recently resolved to accept all of the allegations in the terms drafted.
48. He accepted that he had not provided the Committee with any evidence from [Redacted], and that he had not provided the Committee with more formal [Redacted]. He stated that he had not registered with [Redacted] at his work but accepted that on reflection this was a good idea.
49. He stated that although there were no outside agencies involved in his current [Redacted].
50. The Registrant accepted that his behaviour should not have occurred, and that it would have had an unpleasant impact on the complainants, who may have found it intrusive, particularly when viewing the images in their own homes.
51. The Registrant's [Redacted], Witness A, gave live evidence before the Committee. She gave evidence setting out her view of the descent into the [Redacted] that the Registrant had already set out to us, from her perspective.
52. [Redacted]

53. The Committee then heard submissions from the parties as to the issues of misconduct and impairment.

Findings in relation to misconduct

54. The Committee heard submissions from Ms Shah on behalf of the Council and from Ms Tahta on behalf the Registrant. The Committee noted the points made on behalf of the Registrant in relation to the judgment in the case of *Beckwith v SRA* [2020] EWHC 3231 (Admin).

55. The Committee has accepted the advice of the Legal Adviser.

56. The Committee noted that there was no dispute between the parties that Allegations 1-3 amount to serious professional misconduct. It agreed that the behaviour described in those allegations violated fundamental tenets of the profession, and caused considerable distress to the complainants. The misconduct is aggravated by witnesses B and F being under 18 years old, and in the case of Miss F the Registrant was aware of this, and the Registrant was in a senior position to them. We find that members of the profession would consider the Registrant's behaviour in these allegations deplorable, and therefore do find that these allegations amount to misconduct, both individually and collectively.

57. Even though The Committee noted that this behaviour was attributed to substance abuse by the Registrant, it noted that the Registrant did not send the images indiscriminately to all of his Snapchat contacts. On his own case, he accepts that he must have decided to send the images to certain colleagues, albeit in an [Redacted].

58. Although allegation 4 is the last factual allegation involving a named complainant, we note that the Registrant's behaviour in fact began with his interactions with Miss G, and then escalated into further sending of images to the other complainants.

59. In relation to Allegation 4 we do find that the sending of unsolicited indecent material to Ms G was reprehensible. Although The Committee accepts that there *may* have been at least some reciprocity between the two, it determined that some of the media sent to Miss G by the Registrant was uninvited. Although at times she undoubtedly did send him some explicit media herself, there were other occasions where the contact and sending of explicit material from the Registrant was unwanted and unwelcome. The Committee considered that this distinguished the particular facts of this case from the facts of *Beckwith*.

60. In her submissions to us, Ms Shah placed emphasis upon paragraphs 7 and 8 of Miss G's statement, in which she says as follows:

"...But then he started to spam me with messages, for a couple of months. For example 20 videos sent in during the night at different times. After I got back with my boyfriend, I said to Alistair that he needs to stop sending these messages. Alistair responded saying 'when are you not with him?' I felt bad

as at the start I provoked it and the first three weeks I replied but after that I did not respond. I can't really remember dates.

[The Registrant] then started to send me videos about two months later. It was awkward because when I came into work, he was completely normal. We did not speak about the videos or messaging. Some examples of the video he sent me included videos of [the Registrant] touching himself, masturbating as and his penis was erect. [the Registrant] was always in the bathroom and I used to skip the videos. I would wake up in the morning with multiple videos from him."

61. In his statement at paragraph 6, The Registrant says as follows:

"My actions toward Miss G were sexually motivated and took place within a consensual flirtation; I accept that my behaviour was inappropriate because I was a qualified optometrist and Miss G was an optical assistant and younger than me. I admit that I was sexually motivated."

62. Whilst we do not consider that the Registrant's behaviour here is as serious as in the other particulars, the Committee finds that there were periods where the Registrant was sending explicit photos that were not welcomed by Miss G. In a sense, the Registrant took a chance that Miss G might welcome the first explicit image he sent her, having initiated contact on social media with her in the first place. It is clear to the Committee that there were periods where the Registrant "spammed" Miss G with messages and explicit media, which was not consented to by her, a junior colleague of the Registrant. The Committee finds that members of the profession would find that behaviour deplorable, and therefore the Committee finds that Allegation 4 amounts to serious professional misconduct. The Committee also notes that some of the contact with Miss G occurred during October and November 2019, when the Registrant was also messaging his other junior colleagues, Miss B and Miss F.

63. The Committee agrees with the submissions made by the Council that the following standards from the *Standards for Optometrists and Dispensing Opticians (2016)* have been breached by the Registrant:

11. Protect and safeguard patients, colleagues and others from harm

11.4 *If you have concerns about your own fitness to practise whether due to issues with health, character, behaviour, judgement or any other matter that may damage the reputation of your profession, stop practising immediately and seek advice*

13. Show respect and fairness to others and do not discriminate

13.5 *Be aware of how your own behaviour might influence colleagues and students and demonstrate professional behaviour at all times.*

15. Maintain appropriate boundaries with others

15.1 *Maintain proper professional boundaries with your patients, students and others that you come into contact with during the course of your professional practice and take special care when dealing with vulnerable people.*

15.2 *Never abuse your professional position to exploit or unduly influence your patients or the public, whether politically, financially, sexually or by other means which serve your own interest.*

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.*

17.2. *Ensure your conduct in the online environment, particularly in relation to social media, whether or not connected to your professional practice, does not damage public confidence in you or your profession.*

17.3 *Be aware of and comply with the law and regulations that affect your practice, and all the requirements of the General Optical Council.*

64. The Committee therefore found that the admitted allegations found proved do amount to misconduct.

65. The Committee therefore moved on to consider the issue of impairment.

Findings regarding impairment

66. The Committee has heard submissions from Ms Shah on behalf of the Council and from Ms Tahta on behalf the Registrant. It has accepted the advice of the Legal Adviser.

67. The Committee considered the question of the Registrant's insight. The Committee does find that the Registrant has developed some insight into his behaviour. It noted that he did make some admissions to aspects of his behaviour when interviewed initially at work as part of the investigation conducted by Mr A. However, the Committee also noted that he then went on to contact, for example, Miss D and repeat some of his previous misconduct.

68. Subsequent to his placement at the [Redacted], and in conjunction with the multiple courses he has taken, the Committee concluded that the Registrant's insight developed more fully. However, contrary to the case of the Registrant, The Committee does not consider that fuller insight was developed until a much later stage than this. The Committee retains concerns about the Registrant's current level of insight, which in some respects continues to minimise the Registrant's responsibility for his behaviour. The Committee notes that the statements of [Redacted] (September 2022) and the Registrant's pre-registration student (October 2022) both report being informed of a lesser level of behaviour and transgression than the Registrant has admitted to during the hearing. Although the Committee accepts that the amended Allegations were only available to the Registrant on the first day of this hearing, the Committee has concerns that the referees appear not to have been told the full extent of the Registrant's behaviours.

69. Ultimately, although the Committee find that there has been some insight developed by the Registrant, and recognises his efforts in developing this, we find that he still

has further to go in demonstrating full insight. The Committee did not have any [Redacted]. These could have addressed not only his ability to [Redacted], but also his detailed understanding of sexual boundaries and appropriate behaviour between professional colleagues.

70. The Committee considered the questions posed by Dame Janet Smith in her fifth Shipman report when considering misconduct, which were also adopted by Mrs Justice Cox in *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)*. The GOC suggested that the following two questions should be answered 'yes' by the Committee:

"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:

- b) as 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*

71. The Committee had no hesitancy in determining that he had in the past engaged both questions above. The disputed issue before the Committee was whether the Registrant currently poses a risk of repeating his past misconduct, and therefore is impaired on the basis that the public require protection from him.

72. In her submissions on behalf of the Registrant, Ms Tahta submitted that while the Registrant had in the past behaved poorly, he was extremely unlikely to do so in the future, owing to the various systems now in place to safeguard his wellbeing.

73. The GOC submission was that the evidence discloses a concerning pattern of behaviour from the Registrant, which combined with his limited insight and potential attitudinal problems, gives rise to a likelihood of repetition.

74. The Committee has considered these questions very carefully indeed. The Committee agree with the Council that (b) and (c) are engaged and accepts the submissions of the GOC on them.

75. [Redacted]

76. The Committee accepts that the Registrant has made considerable efforts to remediate his issues. The Committee recognises those efforts, and the determination he has shown in order to try and overcome his past problems. The Committee considers that his work on this has thus far has been impressive. Having noted this, the Committee would have liked more material from him to demonstrate, in so far as possible, an objective opinion of his progress and [Redacted].

77. [Redacted]

78. Both parties agreed before us that the Registrant is currently impaired on the basis of the interest public interest. The Committee agrees with the parties that members of the public would be concerned if a finding of impairment were not to be made in this matter, because of the need to uphold standards and protect the reputation of

the profession. Therefore the Committee concluded that the Registrant is currently impaired on the basis of public interest.

79. The Committee therefore finds that the Registrant's fitness to practise is currently impaired, on both the grounds of public protection and in the wider public interest.

Sanction

80. The Committee heard submissions from Ms Shah on behalf of the Council and from Ms Tahta on behalf the Registrant. It accepted the advice of the Legal Adviser.

81. The Committee found that the following aggravating features were present in this case:

- a. The Registrant abused his position of responsibility in his practice, and his position of seniority with respect to the victims;
- b. Two of the victims in the case were under the age of 18 when the sexual misconduct occurred;
- c. There were multiple victims; and
- d. There was a sustained pattern of behaviour that continued over a period of time.

82. The Committee found that the following mitigating features were present in this case:

- a. The Registrant made full admissions to the Allegation;
- b. The Registrant demonstrated remorse during his written and oral evidence;
- c. The Registrant has shown some insight into his past behaviour;
- d. [Redacted]
- e. The testimonials spoke well of the Registrant, attesting to his clinical skills and efforts he had made to address [Redacted]. The Committee in particular found the evidence of Witness A supportive in this regard; and
- f. There were no previous regulatory findings against the Registrant.

83. The Committee considered the sanctions available to it in ascending order of severity (no further action, financial penalty, conditional registration, suspension, erasure). It reminded itself of the need to act proportionately, impose the least restrictive sanction necessary, and to impose the least restrictive sanction necessary. It reminded itself that the purpose of sanctions were not to punish a registrant, but that an appropriate sanction might have punitive effects.

84. The Committee agreed with the parties that, having considered them carefully, the imposition of no further action or of a financial penalty were not appropriate in a case of this seriousness, and no protection would be offered to the public.

85. The Committee went on to consider whether an order for conditional registration was appropriate. It considered paragraph 21.25 of the Indicative Sanctions Guidance (2021 update), and read into the provisions the protection of *colleagues* as being relevant in this case.

86. The Committee considered the submissions of both the GOC and the Registrant very carefully as to the imposition of conditional registration. It considered the Registrant's indication that he would comply with any conditions imposed, including conditions requiring him to [Redacted].
87. [Redacted]
88. The Committee was concerned as to whether the imposition of conditional registration would sufficiently address the wider public interest. In particular, it was concerned whether such an order would protect the reputation of the profession and declare and uphold standards. The Committee considered that the aggravating features in this case render it a serious example of persistent misconduct, which caused distress to the Registrant's colleagues and considerable damage to the reputation of the profession. The Allegation involved repeated sexual misconduct, including against colleagues who were under 18. While a robust package of conditions may have been sufficient to protect public safety, the Committee considered that the misconduct was too serious to be marked by an order for conditional registration alone. It considered that such an order would not sufficiently reflect the wider public interest.
89. The Committee moved on to consider an order for suspension. It considered the factors within the Indicative Sanctions Guidance, at paragraph 21.29, said to be indicators of a sanction of suspension being appropriate. The Committee found factors a – c, and to an extent, d, to be present.
90. The Committee considered whether the seriousness of the case required removal from the register, and whether a period of suspension would protect the public as well as the public interest. It concluded that a period of suspension would satisfy these requirements. The Committee therefore concluded that an order of suspension would be appropriate.
91. Before considering the length of any suspension, the Committee briefly considered the advice in the Indicative Sanctions Guidance as regards erasure. It found that was not a suitable sanction in this case. The Committee noted that neither party suggested that this sanction was appropriate, and the Committee agreed.
92. The Committee considered the length of the suspension. It noted that the GOC invited the Committee to suspend the Registrant for a period of 12 months, whereas Ms Tahta submitted that, if a period of suspension was considered appropriate, a period of 3 months was sufficient. The Committee considered the mitigation available to the Registrant, and in particular the efforts made by him in maintaining his abstinence and beginning to develop his insight. The Committee considered that these were substantial mitigating factors, and therefore determined that the appropriate period of suspension is 6 months.
93. In making this decision, the Committee considered the impact it would have on the Registrant, but determined that the public interest could only be met by the imposition of this sanction.
94. The Committee considered the submissions it heard about a review hearing being held. It determined that a review hearing should be ordered in the Registrant's case, and accordingly orders that a review hearing will be held between four and six weeks prior to the expiration of this order. The Review Committee will need to be satisfied that the Registrant has fully appreciated the gravity of the Allegation, has not repeated any of the misconduct and that the Registrant's colleagues will not be

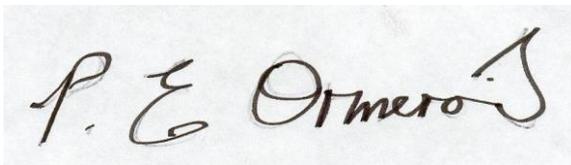
placed at risk by resumption of practice or by the imposition of conditional registration.

95. In addition, the Committee considers that any Review Committee may be assisted by the following material:
- a. [Redacted]
 - b. [Redacted]
 - c. [Redacted]

Immediate order

96. The Committee heard submissions from Ms Shah on behalf of the Council and from Ms Tahta on behalf the Registrant. It accepted the advice of the Legal Adviser.
97. The Committee hear submissions from Ms Shah, who submitted an immediate order for suspension is necessary for the protection of the public. In response, Ms Tahta She submitted that the making of such an order was not immediately *necessary*, and the Registrant has worked for almost 3 years without restrictions.
98. Having considered the submissions. the Committee determined that none of the statutory grounds for the making of an immediate order were met, and therefore no immediate order was imposed.
99. There was no application for costs.

Chair of the Committee: Pamela Ormerod



Signature

Date: 3 November 2022

Registrant: Alistair Aiken

Signature signed in person

Date: 3 November 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.