



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

GENERAL OPTICAL COUNCIL

F(21)17

AND

CHRISTOPHER PARRISH - (D-9032)

**DETERMINATION OF A SUBSTANTIVE HEARING
20 JUNE 2022 - 24 JUNE 2022
28 NOVEMBER 2022 - 30 NOVEMBER 2022**

Committee Members:	Jayne Wheat (Chair/Lay) Nigel Pilkington (Lay) Paul Curtis (Lay) Catherine Kimpton (Dispensing Optician) Simon Pinnington (Dispensing Optician)
Legal adviser:	Graeme Henderson
GOC Presenting Officer:	Tope Adeyemi
Registrant present/represented:	Not present but represented
Registrant representative:	John Graham (WGL Solicitors)
Hearings Officer:	Terence Yates (20-24 June) Lee Wood (28-30 November)
Facts found proved:	By admission: 1,2,3,4,6(b),6(c),7(b),7(c),11(b),11(c),14(b),14(c),21(b) & 21(c) (in relation to 6,7,11 &14 only) Proved after evidence: 5(a),5(b),6(a),7(a),8(a),8(b),8(c),9(a),9(b),10(a),10(b),11(a), 12(a),12(b),12(c),13(a),13(b),14(a), 15(a),15(b),16(a),16(b),17(a),(17(b),20(c), 21(a), 21(c) (in relation to 5,8,9,10,12,15,16,17)
Facts not found proved:	18(a),18(b),19(a),19(b), 20(a), 20(b) 21(c) (in relation to 13,18,19 only)

Misconduct:	Found
Impairment:	Impaired
Sanction:	Erasure
Immediate order:	Yes



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ALLEGATION (As served on the Registrant)

That being a registered optometrist, the fitness to practise of Mr Christopher Parrish is impaired by reason of misconduct, in that:

1. On 5 July 2017, you wrote “REDACTED” in the section titled “Optician Details” on the form required to be completed as part of the DVLA assessment of Patient A;
2. Between 21 April 2016 and 12 September 2017, you claimed £27 of business expenses for “Stationery” or “Property on 16 separate occasions from REDACTED”;
3. On or around 23 July 2016, you claimed £81 of business expenses for “printer cartridges” from REDACTED;
4. Between 05 October 2015 and 04 July 2017, you withdrew £1,163.28 in petty cash from REDACTED without archiving the relevant receipts to justify the withdrawals made;
5. On or around 20 April 2015, you did the following in respect of Patient C:
 - a. Dispensed spectacles worth £338;
 - b. Discounted the dispense so that Patient C was required to pay nothing in exchange for the spectacles;
6. On or around 01 September 2015, you did the following in respect of Patient B:
 - a. Modified their prescription;
 - b. Dispensed spectacles worth £393; and
 - c. Discounted the dispense so that Patient B was required to pay nothing in exchange for the spectacles.
7. On or around 22 October 2015, you did the following in respect of Patient C:
 - a. Modified their prescription;
 - b. Dispensed spectacles worth £129;
 - c. Discounted the dispense so that Patient C was required to pay nothing in exchange for the spectacles.
8. On or around 11 April 2016, you did the following in respect of Patient I:
 - a. Modified their prescription;
 - b. Dispensed spectacles worth £519;
 - c. Discounted the dispense so that Patient I was required to pay nothing in exchange for the spectacles.
9. On or around 12 May 2016, you did the following in respect of Patient K:

- a. Dispensed spectacles worth £49;
 - b. Discounted the dispense so that Patient K was required to pay nothing in exchange for the spectacles.
10. On or around 05 August 2016, you did the following in respect of Patient J:
- a. Dispensed spectacles worth £149;
 - b. Discounted the dispense so that Patient J was required to pay nothing in exchange for the spectacles.
11. On or around 05 September 2016, you did the following in respect of Patient E:
- a. Modified their prescription;
 - b. Dispensed spectacles worth £437; and
 - c. Discounted the dispense so that Patient E was required to pay nothing in exchange for the spectacles.
12. On or around 06 October 2016, you did the following in respect of Patient G:
- a. Modified their prescription;
 - b. Dispensed spectacles worth £393;
 - c. Discounted the dispense so that Patient G was required to pay nothing in exchange for the spectacles.
13. On or around 26 November 2016, you did the following in respect of Patient D:
- a. Dispensed spectacles worth £148;
 - b. Discounted the dispense so that Patient D was required to pay nothing in exchange for the spectacles.
14. On or around 20 December 2016, you did the following in respect of Patient D:
- a. Modified their prescription;
 - b. Dispensed spectacles worth £129;
 - c. Discounted the dispense so that Patient D was required to pay nothing in exchange for the spectacles.
15. On or around 22 May 2017, you did the following in respect of Patient O:
- a. Dispensed spectacles worth £266;
 - b. Discounted the dispense so that Patient O was required to pay nothing in exchange for the spectacles.
16. On or around 10 July 2017, you did the following in respect of Patient L:

- a. Dispensed spectacles and/or accessories worth £530;
 - b. Discounted the dispense so that Patient L was required to pay nothing in exchange for the spectacles.
17. On or around 19 September 2017, you did the following in respect of Patient Q:
- a. Dispensed spectacles worth £197;
 - b. Discounted the dispense so that Patient Q was required to pay nothing in exchange for the spectacles.
18. On or around 08 September 2017, you did the following in respect of Patient M:
- a. Dispensed spectacles worth £204;
 - b. Discounted the dispense so that Patient M was required to pay nothing in exchange for the spectacles.
19. On or around 23 May 2017, you did the following in respect of Patient N:
- a. Dispensed spectacles worth £25
 - b. Discounted the dispense so that Patient N was required to pay nothing in exchange for the spectacles.
20. Your record-keeping was inadequate in that:
- a. In respect of Charge 4, you did not retain and file receipts to justify withdrawing £1,163.28 of petty cash;
 - b. You did not keep any, or any adequate, record to justify the discounts provided to:
 - i. Patient B
 - ii. Patient C
 - iii. Patient D
 - iv. Patient E
 - v. Patient G
 - vi. Patient I
 - vii. Patient J
 - viii. Patient K
 - ix. Patient L
 - x. Patient M
 - xi. Patient N



- xii. Patient O
- xiii. Patient Q
- c. You failed to record any, or any adequate, sight test records to explain the modification in prescription of;
 - i. Patient B
 - ii. Patient C
 - iii. Patient D
 - iv. Patient E
 - v. Patient G
 - vi. Patient I

21. Your conduct was misleading and/or dishonest in that:

- a. In respect of Charge 1, you forged the signature of **REDACTED**;
- b. In respect of Charges 2 and 3, you misrepresented these expenses as business expenses while knowing that they were personal expenses
- c. In respect of Charges 5 through 18, you exposed the practice to loss in order to provide free spectacles and/or accessories to associates of yours.

AND that by reason of the matters alleged above your fitness to practise is impaired by reason of misconduct.

DETERMINATION

Preliminary Matters

1. At the start of the hearing Ms Adeyemi appeared for the Council and Mr Graham represented the Registrant, who was absent.
2. Ms Adeyemi informed the Committee that, prior to the allegation being read, she wished to make an application for the admission of hearsay evidence.
3. Mr Graham indicated that he opposed the application but agreed that this was the appropriate time for the issue to be resolved.
4. In making the Council's application, Ms Adeyemi invited the Committee to have regard to her skeleton argument and documents bundle which were produced in support of the admission of the witness statement of Ms 1.
5. She reminded the Committee that Rule 40 of the General Optical Council (Fitness to Practise) Rules 2013 (The Rules) which governs the admission of evidence states:

“Admissibility of evidence

40.—(1) The Fitness to Practise Committee may admit any evidence it considers fair and

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

This is subject to paragraphs (2) and (3).

(2) Where evidence would not be admissible in civil proceedings in England and Wales, the

Committee shall not admit such evidence unless, on the advice of the legal adviser, it is satisfied that its duty of making due inquiry into the case before it makes its admission desirable.”

6. It was submitted that it was not in dispute that the evidence was relevant. The issue was whether or not it was fair to admit it.
7. Ms Adeyemi explained that the witness was the administrator at the practice. She submitted that her evidence was in relation to particulars 1 and 21 (a) of the Allegation. There were concerns about the completion of a DVLA form. She provided an account of the circumstances that led her to raise concerns about the Registrant with Mr 2. Ms 1 is said to have noted that there were irregularities with paperwork prepared by the Registrant. She also set out the details of her conversation with the Registrant about these irregularities.
8. Ms Adeyemi referred the Committee to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565. She submitted that the factors discussed in that case favoured the admission of her application to read the statement of Ms 1 into the evidence.

9. She submitted that Ms 1's evidence was not the sole or decisive evidence in support of the particular. She said that there was other evidence that supported particular 1. The Committee could have regard to the Registrant's own responses to the allegations. This written response had been provided to the Council in 2017. Within his response he accepted completing the DVLA form and writing the name "REDACTED" in the section titled Optician Details. In addition, oral evidence would be given by Mr 2, a director at the practice and the individual whose name is printed on the relevant document. He saw the form and is able to provide his account of what occurred. As a result, while the evidence of Ms 1 was important, it was by no means the only evidence available to prove these particulars of the Allegation.
10. Ms Adeyemi then addressed the Committee on the seriousness of the particular, taking into account the impact adverse findings might have on the registrant. Ms Adeyemi conceded that the particulars were serious and adverse findings would be likely to have an impact on the Registrant's career.
11. Ms Adeyemi submitted that the Council had taken reasonable steps to secure the attendance of Ms 1. She took the Committee through the history of the interaction between Ms 1 and the Council
12. On 25 September 2019, the Council called Specsavers to arrange a witness statement. On 23 October 2019, a signed statement was provided by Ms 1 to the Council. In January 2021, the Council were able to contact Ms 1 directly. At that point she stated she could not attend a physical hearing. No reasons were given and it was not clear whether she appreciated the hearing was virtual. A follow up call was made to enquire whether she could attend by phone. No response was received. Further attempts were made to contact her but there was no response. In March 2021, an email was sent to Specsavers requesting contact details for Ms 1. The Council was informed that they did not have her contact details. By May 2022 tracing agents had been instructed to locate Ms 1's address so a witness summons could be issued. Her address was located.
13. The Committee were provided with documents relative to an application, by the Council, to obtain a witness summons for Ms Adeyemi. The Committee were shown the relevant witness summons which bore an authenticating stamp dated 25 May 2022. On 8 June 2022, the summons was served by posting through her letter box, and not personally. On 17 June 2022, Ms 1 responded to the witness summons stating she could not attend due to an existing medical condition. She also added that she held a vital role at her place of work and therefore cannot take time off to attend a hearing.
14. As Ms Adeyemi had provided the Committee with more information regarding Ms 1's health condition the Committee resolved to place this issue in private. They were reminded by the Legal Adviser that Rule 25 of the Rules states;

25(1) Substantive hearings before the Fitness to Practise Committee must be held in public.

This is subject to the following provisions of this rule.

(2) The Fitness to Practise Committee may determine that the proceedings, or any part of the proceedings, are to be a private hearing, where the Committee consider it appropriate, having

regard to—

- (a) *the interests of the maker of an allegation (where one has been made);*
- (b) *the interests of any patient or witness concerned;*
- (c) *the interests of the registrant; and*
- (d) *all the circumstances, including the public interest.*

15. The Committee determined that although the majority of hearing such as this should be heard in public it was neither in the interest of Ms 1 or in the public interest that more intrusive details of her health condition should be disclosed. It directed that any matter relating to her health should be heard in private.
16. Mr Graham invited the Committee to refuse the application to admit Ms 1's statement as hearsay. He invited the Committee to consider that the Council had "bent over backwards" to accommodate the witness. He suggested that her purported reasons for non-attendance were contradictory.
17. Mr Graham accepted that there were other witnesses who could speak to particular 1. However, the issue, in the later particulars, was whether or not there was dishonesty. The evidence of Ms 1 could not be tested by cross-examination.
18. The Committee heard and accepted the advice of the Legal Adviser who referred to the case of *Thorneycroft*. He pointed out that the relevant principles were contained in paragraphs [45] and [56]

In Paragraph [45] Mr Andrew Thomas QC, sitting as a Judge of the High Court said the following:

"For the purposes of this appeal, the relevant principles which emerge from the authorities are these:

1. *The admission of the statement of an absent witness should not be regarded as a routine matter. The FTP rules require the Panel to consider the issue of fairness before admitting the evidence.*
2. *The fact that the absence of the witness can be reflected in the weight to be attached to their evidence is a factor to weigh in the balance, but it will not always be a sufficient answer to the objection to admissibility.*
3. *The existence or otherwise of a good and cogent reason for the nonattendance of the witness is an important factor. However, the absence of a good reason does not automatically result in the exclusion of the evidence.*
4. *Where such evidence is the sole or decisive evidence in relation to the charges, the decision whether or not to admit it requires the Panel to make a careful assessment, weighing up the competing factors. To do so, the Panel must consider the issues in the case, the other evidence which is to be called and the potential consequences of admitting the evidence.*

In Paragraph 56 he determined that the Panel of the Nursing and Midwifery Council, whose decision was under scrutiny should have had regard to the following factors:

“(i) whether the statements were the sole or decisive evidence in support of the charges;

(ii) the nature and extent of the challenge to the contents of the statements;

(iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;

(iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;

(v) whether there was a good reason for the non-attendance of the witnesses;

(vi) whether the Respondent had taken reasonable steps to secure their attendance and

(vii) the fact that the Appellant did not have prior notice that the witness statements would be read.”

19. Since this was not a routine matter, the Committee retired and gave careful consideration to the application. The Committee had regard to the witness statement of Ms 1 and all other evidence surrounding the allegations that she was making. The Committee did not make findings of fact, but considered how the evidence of Ms 1 fitted in with all of the other evidence disclosed to it.

20. The Committee noted that Ms 1's witness statement concluded with a statement of truth but then concluded with a statement that *“I would not be willing to attend the fitness to practise hearing if asked.”*

21. The Committee noted that the witness statement was dated 20 October 2019. The Council had known, since then, that Ms 1 was unwilling to attend. They were aware, since March 2021 that Specsavers did not have contact details for Ms1. They employed tracing agents in May 2022. Although the Witness summons was delivered through her letter box on 8 June 2022 there is no indication of when she actually saw the summons. It is not clear how much time she would have had to obtain a medical certificate and certificate from her employer. The Committee considered that whilst the Council had made all reasonable efforts to secure attendance it could be said that she had a good reason for non-attendance. Having told the Council that she did not wish to attend in October 2019, the earliest she would have been aware of the Summons to attend the hearing would be twelve days before it commenced.

22. The Committee had careful regard to the evidence contained in the witness statement and, whether if all of it was accepted, what particulars it could prove.

23. The Committee noted the terms of particular 1:

*“On 5 July 2017, you wrote **“REDACTED”** in the section titled “Optician Details” on the form required to be completed as part of the DVLA assessment of Patient A;”*

24. It considered, that, on its own the facts of that particular may not, necessarily, give rise to a professional disciplinary concern. It was alleged that he had written a name in a box.
25. However particular 21 (a) alleges that the Registrant's conduct, in particular 1 was dishonest in that he forged a signature. Ms 1's statement contains a number of comments in support of the more serious allegation. She is said to have been the first person to notice that there was something wrong with a form. A brand of correction fluid (Tipp-ex) had been used to cover up a signature. Ms 1 said, in her witness statement, that this was not permitted on (DVLA) forms for driving licenses. In her statement she said that when she queried this with the Registrant he accepted using the Tipp-ex but gave an account which was different to the response he gave to Specsavers in 2018, in respect of the name he covered up and the reason for doing it. She asked another member of staff (Mr 5) to sign the form having repeated the explanation provided by the Registrant. The Committee were provided with a schedule of proposed admissions. The Committee noted that the Registrant does not accept the latter, dishonesty, particular.
26. Having regard to the witness statements of others the Committee formed the view that it would not be fair to admit this hearsay evidence. They considered that without cross-examination and questions by the Committee it would not be possible to resolve issues where her evidence appeared to be inconsistent with other witnesses.
27. Whilst the Committee weighed in the balance whether it could admit her evidence and determine later what weight, if any, to attach to it, the Committee did not consider that it would be fair to do so in the circumstances as outlined above.

Amendment to the Allegation

a. Registrant's Profession

28. After announcing its decision on the Hearsay application Ms Adeyemi indicated, to the Committee, that she wished to amend the allegation.
29. She explained that the Registrant was described, in the preamble to the Allegation, as a Registered Optometrist. It was clear from all of the papers that he was, in fact, a Registered Dispensing Optician. She invited the Committee to amend the allegation to change the professional registration of the Registrant to the correct one.
30. Mr Graham did not oppose this amendment.
31. The Committee heard and accepted the advice of the Legal Adviser who explained the scheme of Rule 46(20) of the Rules which states:

“(20) Where it appears to the Fitness to Practise Committee at any time during the hearing, either upon the application of a party or of its own volition, that—

(a) the particulars of the allegation or the grounds upon which it is based and which have been notified under rule 28, should be amended; and

(b) the amendment can be made without injustice, it may, after hearing the parties and consulting with the legal adviser, amend those particulars or those grounds in appropriate terms.”

32. The Committee formed the view that amendment was required to correct a clerical error in drafting and that there would be no injustice in amending the Allegation to include the Registrant’s correct designation.

b. Particulars 19 and 21 (c)

33. The Committee, having announced its decision to amend, the Chair drew to the attention of the representatives a concern that the Committee had regarding the wording of particular 21 (c).

34. Particular 21 (c) was in the following terms:

“Your conduct was misleading and/or dishonest in that:

.....

C . In respect of Charges 5 through 18, you exposed the practice to loss in order to provide free spectacles and/or accessories to associates of yours.”

35. The Chair also referred to particular 19 which stated:

“On or around 23 May 2017, you did the following in respect of Patient N:

a. Dispensed spectacles worth £25

b. Discounted the dispense so that Patient N was required to pay nothing in exchange for the spectacles.”

36. The concern of the Committee was that it was not clear why this particular had been excluded from particular 21(c). The facts of that particular were similar to the facts of particulars 5-18.

37. Ms Adeyemi invited the Committee to amend the particular by adding particular 19 to the list of particulars referred to in particular 21 (c).

38. Mr Graham opposed the amendment on the basis that the Council had been provided enough time to prepare the Allegation. He explained that there had been two preliminary meetings where the particulars of the Allegation were discussed.

39. The Committee heard and accepted the advice of the Legal Adviser.

40. The Committee retired to consider whether or not to allow the proposed amendment. It had regard to the submissions made on behalf of the Registrant and were unable to identify a material prejudice were the amendment to be made. The Committee considered that the purpose of the amendment was to correct a clerical error in the drafting of the Allegation. There was no logical reason for the omission of particular 19 from a list of similar particulars and the Committee decided to amend to include particular 19.

c. The nature of particulars 5 - 19

41. The Committee were concerned that particulars 5 to 19 contained allegations that neither reflected on the Council's case as set out in the Skeleton Argument nor did they reflect on the Registrant's case as set out in a witness statement from him dated 21 June 2022. It appeared to be common ground that the Registrant is said to have altered patient records to supply spectacles to parties unknown to the Council.
42. The Chair invited submissions from Ms Adeyemi, on this issue, in respect of particular 8. Particular 8 (c) was as follows:
- "Discounted the dispense so that Patient I was required to pay nothing in exchange for the spectacles."*
43. Ms Adeyemi invited the Committee to consider that the wording of the particular was in keeping with the facts of the case. Patient I's dispense was discounted and Patient I required to pay nothing. She indicated that she was not minded to amend the Allegation.
44. Mr Graham replied by saying that he considered that there was force in the Committee's concerns. He also expressed a concern that the Committee was being required to perform the Council's role.
45. The Committee heard and accepted the advice of the Legal Adviser.
46. The Committee retired to consider the position. It noted that the Rules allowed it to carry out amendments of its own volition in the event that it was dissatisfied with the manner that an allegation was particularised. It considered that the current particulars gave a false picture of what, the parties say, actually happened. The ordinary meaning of 8 c, and the other provisions where this form of words was used, was that Patient I required to pay nothing and received glasses in exchange. The Council were not seeking to prove that and the Registrant did not say that this happened.
47. The Committee reconvened the hearing and sought further clarification from Ms Adeyemi regarding the difference between particulars where the allegations differed from those in particular 8.
48. The Committee then retired to consider the position again. It formed the view, on the basis of the Council's submissions, that the particulars had been drafted so that regulatory concern, raised in particulars 5-19, were to be confined to that of the records of the patients. The more serious aspect of the Allegation was to be found in particular 21.
49. The Committee reconvened the hearing and the Chair indicated that the Committee was minded to amend particulars 5-19 to better reflect the Council's case. The Chair invited representations especially on the issue of whether it would be just to amend the particulars. It was suggested that the stem of each of the particulars could have "in respect of the record of [Patient]" added and that, by way of example, particular 8 (c), and all similar particulars could be amended as follows with the amended part in bold for emphasis:

*“Discounted the dispense so that **the record showed that Patient I was required to pay nothing in exchange for the spectacles.**”*

50. Ms Adeyemi indicated that the reluctance, on the part of the Council to amend, was because a three-person committee had sat and finalised the Allegation.
51. Mr Graham renewed his opposition. He indicated that in terms of Rule 29 (1) of the Rules the Council were obliged to serve on the Registrant *“finalised particulars of the allegation, sufficiently particularised to enable the registrant concerned to understand the allegation.”* This was to be done no later than six months after the case had been referred to the fitness to practise Committee. Mr Graham reminded the Committee that there had been two previous hearings dealing with the allegation.
52. Mr Graham accepted that, in terms of drafting, what was proposed made good sense.
53. The Committee retired to consider whether it should amend the particulars in the manner proposed by it. The Committee was mindful of Mr Graham’s submission to the effect that it was unjust for there to be amendments as late as the second day of this hearing, however the Committee considered that amending the particulars would bring clarity to what was being alleged and would reflect upon what the parties agreed actually happened. The Committee could not identify any prejudice to the Registrant and, accordingly, could not identify an injustice. The Committee also considered that it would be unjust for it not to intervene and redraft the particulars in a manner that reflected on both the evidence and what the parties said had actually happened.
54. Accordingly, the Allegation, that the Registrant would require to address was as follows:

Allegation (as amended)

That being a registered Dispensing Optician, the fitness to practise of Mr Christopher Parrish is impaired by reason of misconduct, in that:

1. *On 5 July 2017, you wrote **“REDACTED”** in the section titled “Optician Details” on the form required to be completed as part of the DVLA assessment of Patient A*
2. *Between 21 April 2016 and 12 September 2017, you claimed £27 of business expenses for “Stationery” or “Property on 16 separate occasions from **REDACTED**;*
3. *On or around 23 July 2016, you claimed £81 of business expenses for “printer cartridges” from **REDACTED**;*
4. *Between 05 October 2015 and 04 July 2017, you withdrew £1,163.28 in petty cash from **REDACTED** without archiving the relevant receipts to justify the withdrawals made;*
5. *On or around 20 April 2015, you did the following in respect of the records of Patient C:*
 - a. *Dispensed spectacles worth £338;*

- b. Discounted the dispense so that the record showed that Patient C was required to pay nothing in exchange for the spectacles;*
6. *On or around 01 September 2015, you did the following in respect of the record of Patient B:*
 - a. Modified their prescription;*
 - b. Dispensed spectacles worth £393; and*
 - c. Discounted the dispense so that the record showed that Patient B was required to pay nothing in exchange for the spectacles.*
7. *On or around 22 October 2015, you did the following in respect of the record of Patient C:*
 - a. Modified their prescription;*
 - b. Dispensed spectacles worth £129;*
 - c. Discounted the dispense so that the record showed that Patient C was required to pay nothing in exchange for the spectacles.*
8. *On or around 11 April 2016, you did the following in respect of the record of Patient I:*
 - a. Modified their prescription;*
 - b. Dispensed spectacles worth £519;*
 - c. Discounted the dispense so that the record showed that Patient I was required to pay nothing in exchange for the spectacles.*
9. *On or around 12 May 2016, you did the following in respect of the record of Patient K:*
 - a. Dispensed spectacles worth £49;*
 - b. Discounted the dispense so that the record showed that Patient K was required to pay nothing in exchange for the spectacles.*
10. *On or around 05 August 2016, you did the following in respect of the record of Patient J:*
 - a. Dispensed spectacles worth £149;*
 - b. Discounted the dispense so that the record showed that Patient J was required to pay nothing in exchange for the spectacles.*
11. *On or around 05 September 2016, you did the following in respect of the record of patient Patient E:*
 - a. Modified their prescription;*

- b. Dispensed spectacles worth £437; and*
 - c. Discounted the dispense so that the record showed that Patient E was required to pay nothing in exchange for the spectacles*
- 12. *On or around 06 October 2016, you did the following in respect of the record of Patient G:*
 - a. Modified their prescription;*
 - b. Dispensed spectacles worth £393;*
 - c. Discounted the dispense so that the record showed that Patient G was required to pay nothing in exchange for the spectacles.*
- 13. *On or around 26 November 2016, you did the following in respect of the record of Patient D:*
 - a. Dispensed spectacles worth £148;*
 - b. Discounted the dispense so that the record showed that Patient D was required to pay nothing in exchange for the spectacles.*
- 14. *On or around 20 December 2016, you did the following in respect of the record of Patient D:*
 - a. Modified their prescription;*
 - b. Dispensed spectacles worth £129;*
 - c. Discounted the dispense so that the record showed that Patient D was required to pay nothing in exchange for the spectacles.*
- 15. *On or around 22 May 2017, you did the following in respect of the record of Patient O:*
 - a. Dispensed spectacles worth £266;*
 - b. Discounted the dispense so that the record showed that Patient O was required to pay nothing in exchange for the spectacles.*
- 16. *On or around 10 July 2017, you did the following in respect of the record of Patient L:*
 - a. Dispensed spectacles and/or accessories worth £530;*
 - b. Discounted the dispense so that the record showed that Patient L was required to pay nothing in exchange for the spectacles.*
- 17. *On or around 19 September 2017, you did the following in respect of the record of Patient Q:*
 - a. Dispensed spectacles worth £197;*

- b. Discounted the dispense so that the record showed that Patient Q was required to pay nothing in exchange for the spectacles.*

18. On or around 08 September 2017, you did the following in respect of the record of Patient M:

- a. Dispensed spectacles worth £204;*
- b. Discounted the dispense so that the record showed that Patient M was required to pay nothing in exchange for the spectacles.*

19. On or around 23 May 2017, you did the following in respect of the record of Patient N:

- a. Dispensed spectacles worth £25*
- b. Discounted the dispense so that the record showed that Patient N was required to pay nothing in exchange for the spectacles.*

20. Your record-keeping was inadequate in that:

- a. In respect of Charge 4, you did not retain and file receipts to justify withdrawing £1,163.28 of petty cash;*
- b. You did not keep any, or any adequate, record to justify the discounts provided to:*

- i. Patient B*
- ii. Patient C*
- iii. Patient D*
- iv. Patient E*
- v. Patient G*
- vi. Patient I*
- vii. Patient J*
- viii. Patient K*
- ix. Patient L*
- x. Patient M*
- xi. Patient N*
- xii. Patient O*
- xiii. Patient Q*

- c. *You failed to record any, or any adequate, sight test records to explain the modification in prescription of;*
- i. *Patient B*
 - ii. *Patient C*
 - iii. *Patient D*
 - iv. *Patient E*
 - v. *Patient G*
 - vi. *Patient I*

21. *Your conduct was misleading and/or dishonest in that:*

- a. *In respect of Charge 1, you forged the signature of REDACTED;*
- b. *In respect of Charges 2 and 3, you misrepresented these expenses as business expenses while knowing that they were personal expenses;*
- c. *In respect of Charges 5 through 19, you exposed the practice to loss in order to provide free spectacles and/or accessories to associates of yours.*

AND that by reason of the matters alleged above your fitness to practise is impaired by reason of misconduct.

Admissions in relation to the particulars of the allegation

55. Following the allegation being read into the record Mr Graham informed the Committee that the Registrant admitted the following particulars:

1,2,3,4,6(b),6(c),7(b)7(c),11(b),11(c),14(b),14(c),21(b), and 21(c).

56. It was explained by Mr Graham that particular 21(c) was admitted in relation to particulars 6,7,11 &14 only.

57. The Chair announced that these particulars were found proved by way of admission.



Background to the allegations

58. The Registrant first registered with the Council as a Dispensing Optician on 4 September 2000.
59. The allegations relate to the period between June 2015 and September 2017 whilst the Registrant was a director of REDACTED trading as Specsavers.
60. In October 2017, concerns were raised about the Registrant's conduct. The concerns related to allegations that the Registrant provided spectacles free of charge to family and friends, causing financial loss to the business, that he carried out modifications of patient records and that he misused petty cash.

Unredaction of redacted material

61. During the course of the hearing Ms Adeyemi began to question Mr 2 about previous comments that he made regarding the DVLA form. It became apparent to the Committee that the comments, referred to in questioning, had been redacted in the copy of the written evidence that had been supplied to the Committee.
62. The Representatives retired, in the presence of the Legal Adviser to resolve this issue.
63. Since no agreement could be reached the hearing reconvened. Mr Graham submitted that, as a matter of logic it was for Ms Adeyemi to make an application for the removal of certain redactions. She explained that there had been email correspondence regarding proposed redactions. Mr Graham had written to her and proposed certain redactions on various paragraphs. She had responded by commenting on paragraph 1. Her response had been misinterpreted as she had meant to say paragraph 5.
64. Mr Graham opposed the application on the basis that the redaction had taken place and that the witness was providing opinion evidence and not fact.
65. The Committee heard and accepted the advice of the Legal Adviser. He advised the Committee that there was a tension between finality and progress in the proceedings and having a full exploration of all of the matters relevant to the allegation
66. The Committee retired to consider this matter. The Committee were sympathetic to the position Mr Graham found himself in. Whilst it was unsatisfactory for the documentation to be further revised the interests of justice required that this issue should be explored.
67. The Committee returned to the hearing room and the Chair announced that the Committee had determined that paragraph, described as 5 by the parties in their submissions, should be unredacted as follows:

“CP then forged my signature and printed REDACTED below the signature.”



Evidence

68. The Council provided live evidence from 3 witnesses:

- Mr 2 Ophthalmic Director, Specsavers REDACTED (at time of the Allegation)
- Mr 3 Retail Director, Specsavers REDACTED, (at the time of the Allegation)
- Mr 4 Financial Risk Support Consultant.

69. It was a matter of agreement between the parties that the Committee could consider the evidence contained in the witness statements of:

- Mr 5, a lead Optometrist at the REDACTED Branch at the time of the Allegation.
- Mr 6, an expert witness who produced two reports
- Mr 7, Senior Financial Risk Support Consultant
- The Registrant

Findings in relation to the facts

70. At the conclusion of the live evidence the Committee then heard submissions from the representatives regarding the approach it should take to the disputed facts.

71. Ms Adeyemi invited the Committee to find the disputed facts proved.

72. Mr Graham invited the Committee to find these facts not proved.

73. The Committee heard and accepted the advice of the Legal Adviser who referred to a number of cases including *AD v NMC [2014] CSIH 90* in support of his advice that the Committee had to consider how robust the investigation was that resulted in the Allegation being brought and the robustness of the Council's evidence in support of the Allegation. He also referred to the case of *Ivey v Genting Casinos [2017] UKSC 67* in relation to the test for dishonesty. The Legal Adviser reminded the Committee of the relevance of the Registrant's good character. The Committee's attention was also drawn to the relevant provisions in the Forgery and Counterfeiting Act 1981.

74. The Committee retired to consider the evidence both oral and documentary. It appreciated that the burden of proof was on the Council and that the standard of proof was on the balance of probabilities. The Committee considered each of the disputed particulars in turn.

75. Since the Registrant had admitted Particulars 1 to 4 the Committee first considered whether or not Charge 5 was proved:

Particular 5: On or around 20 April 2015, you did the following in respect of the records of Patient C:

a. Dispensed spectacles worth £338; (Proved)

b. Discounted the dispense so that the record showed that Patient C was required to pay nothing in exchange for the spectacles; (Proved)

76. In considering this particular, the Committee started by considering the general background. The Registrant was employed as a Dispensing Optician at Specsavers REDACTED. (“The Business”). It was not in dispute that he generally had little to do with front of store matters. He was mainly involved with contact lenses on a floor above. The Committee accepted the evidence of Mr 2 who explained that although the Registrant had the authority to deal with shopfront matters, such as discounting the prices of spectacles to zero and dealing with customer complaints, he was disinclined to do so. Specsavers is an organisation which is mainly made up of independent franchises. It operates a number of common policies throughout these franchises.

77. At the time of events set out in the Allegation, Specsavers had a policy known as NQNF (No Quibble No Fuss). If a customer was not satisfied with the product that had been dispensed it was open for them to visit any Specsavers store and obtain corrective treatment such as replacement lenses. They did not have to be a customer of the particular store that they visited. The store that they visited would carry out the work free of charge and it was customary to not invoice the store that issued the product. It was, however, necessary to identify the original store, in order to provide feedback on what had gone wrong. Specsavers used a computer software system known as “Socrates” which recorded all important individual patient information in various component sections.

78. Mr 2 and Mr 3 began to have concerns regarding the Registrant’s direct involvement with customers. On 20 September 2017, Mr 2 noticed a job in a blue order tray that contained an instruction to give the spectacles to the Registrant. A blue order tray is used when a patient’s spectacles order is processed. A chosen frame is placed in the tray whilst awaiting the ordered lenses to arrive. The patient concerned was Patient Q. The order was processed through the Socrates system with notes suggesting that the NQNF policy was invoked.

79. Having discussed the matter with Mr 3, Mr 2 began to form a suspicion that the Registrant had previously been involved with a number of transactions that also involved this policy.

80. The Registrant has admitted that he was involved in a complex scheme to supply spectacles free of charge to his associates. This included altering the records of existing patients to those of the person obtaining the free glasses. In his witness statement dated 21 June 2021 he said:

“I accept that in order to provide free spectacles to friends I needed to generate orders on the Socrates system. To do this I used the records of patients who were known to me such as close family members and who would not have been patients of the practise without their connection to me.”

81. In an earlier statement to the Council, dated 26 October 2017, he made a similar admission and continued by saying:

“I am confident that no harm could arise, as if these people did present to REDACTED for a sight test or dispensing it would only be with my knowledge and I would be in a position to intervene and interpret the previous records. Whilst I realise

that changing patient data is wrong, I only did so in situations where no harm could arise.”

82. In light of concerns being first raised on or after 20 September 2017 Mr 2 and Mr 3 obtained advice from Head Office. Their central concern was that records had been changed. Head Office provided advice regarding the dispensing that the Registrant had been involved with. There were a number of zero balance (£0.00) sales involving spectacles and contact lenses. Head Office also put Mr 2 and Mr 3 in touch with the Financial Risk Support team.
83. Two reports were provided by that team. Mr 7 was a Senior Financial Risk Support Consultant who provided a report dated 25 September 2017. It was followed up by Mr 4, who provided a fuller report dated 26 October 2017. Mr 4 gave evidence covering both reports, which he exhibited.
84. Although Mr 7’s report spoke only briefly of transactions involving Patient C, he made the observation that they were “*highly unusual*”.
85. Mr 4 explained the dispensing of two pairs of spectacles in his report. There was no record of Patient C having a sight test with the business. His examination of Socrates records revealed that two pairs of spectacles were dispensed using the Registrant’s user ID. The instructions, on each of the dispensing notes, indicated that each transaction was NQNF and each had the instruction “Give to CP”. One of the transactions indicated that the transaction was “Store 2 Store”. This was a representation that the transaction involved dealing with a customer complaint in respect of spectacles supplied by another store.
86. Accompanying Mr 4’s opinion were a number of printouts taken from the system. The Committee had regard to a Customer History Report showing a series of zero price transactions. The order history was produced disclosing that the dispenser was the Registrant. The Committee also accepted the evidence, from Mr 4’s report that the total retail value of the spectacles was £338.
87. The Committee also accepted that there was clear evidence that the price had been reduced to zero.
88. **The Committee therefore found Particulars 5 (a) and (b) proved.**
89. The Committee then went on to consider whether or not, in recording this transaction, the Registrant’s behaviour was misleading and/or dishonest and had exposed the practice to loss.
90. The Committee understood that it must adopt a two-stage test when considering dishonesty, on the basis of the case of *Ivey*.
1. *What was the registrant’s genuine state of mind regarding his act?*
 2. *Was the registrant’s act, in light of that state of mind, dishonest according to the standards of ordinary, decent people?*
90. The Committee appreciated that the first test was subjective, and which had to be determined by an analysis of the Registrant’s knowledge or belief, not whether a

genuinely held belief was reasonable. Reasonableness of the belief would affect the issue of whether the Committee considered this belief to be genuinely held or not.

91. The Committee heard evidence that Specsavers did not allow members of staff to provide free spectacles to friends and family, but they were permitted to dispense glasses provided the cost to the business of supplying them was paid.
92. The Committee considered that evidence of the Registrant dispensing glasses free of charge did not, of itself, mean that the Registrant had committed a dishonest act. The Registrant was permitted to reduce items to zero under the NQNF scheme. The onus of proof remained with the Council to provide sufficient evidence to satisfy it that these were not innocent transactions. There was no onus on the Registrant to prove the opposite.
93. The Registrant said in his witness statement that:

“Due to the passage of time I am unable to comment on the specifics of the transactions set out in the allegations and so I have relied upon the documents set out in the GOC bundle. I cannot comment on the specifics of the allegations as I am unable to identify the patients in question from the anonymised records.”

94. The Committee considered the evidence given by Mr 4 to be reliable. Whilst there was no dramatic prescription change in these two pairs of dispensed spectacles, there were clear notes made under the Registrant’s user ID of NQNF, ‘Store to Store’ and ‘Give to CP’. When viewed in light of the evidence that the Registrant did not involve himself in customer complaints and his own admissions to providing spectacles free of charge to friends and family by altering existing patient records, the Committee were satisfied on the balance of probabilities that these entries were both misleading and dishonest. In reaching this decision, the Committee formed the view that the Registrant must have known that what he was doing was dishonest and that it would clearly be regarded as dishonest by the standards of ordinary, decent people.
95. By virtue of the dishonest entries, the Committee was satisfied that the practice was exposed to loss in the form of missed revenue for spectacles which ought to have been paid for.
96. **In the circumstances, the Committee found Particular 21(c) proved in relation to Particular 5.**

Particular 6: On or around 01 September 2015, you did the following in respect of the record of Patient B:

- a. Modified their prescription; (Proved)***
- b. Dispensed spectacles worth £393; and (Proved by admission)***
- c. Discounted the dispense so that the record showed that Patient B was required to pay nothing in exchange for the spectacles. (Proved by admission)***

97. The Registrant admitted that he dispensed spectacles worth £393 and that he discounted the dispense so that the records showed that Patient B was required to pay nothing in exchange for the spectacles. The disputed issue was whether or not he modified Patient B's prescription.
98. Mr 4's report dealt with this issue. He reported that the Socrates system disclosed that Patient B had a sight test on 27 July 2014. On 1 September 2015 a spectacle sale was recorded where the dispenser ID was that of the Registrant and the note contained the instruction "Give to Chris". There was no record of a sight test yet the information in relation to Patient B's prescription had altered significantly. The Committee accepted evidence that it would be possible for the dispense to be altered by someone using the "modify rx" function on the Dispense module of Socrates in order to associate the transaction with Patient B's clinical record.
99. It was submitted, on behalf of the Registrant, that all that had been done was to make an order for spectacles. In the absence of other records, such as sight test records or an entry in the Testroom module in Socrates, according with the dispense, it could not be construed as a change of prescription on the part of the Registrant. The Committee did not accept this submission.
100. The Committee considered that this issue arises over different interpretations of the word "prescription". The interpretation that was the subject of submissions on behalf of the Registrant, was that a prescription was something which was recorded shortly after an eye test. The alternative interpretation was that the word included the whole administrative act commencing with the recording of the results of a sight test and concluding with the delivery of spectacles to the Patient.
101. The Committee preferred the wider interpretation. The Committee considered that the Registrant's interpretation was too narrow. A prescription was not simply the record of a sight test. The ordinary meaning of the word was that a prescription was something that had been prescribed for the Patient to receive. It considered that prescribing something was synonymous with ordering something. The Registrant had altered that which had been prescribed and dispensed glasses using the altered prescription.
102. The Committee considered that the situation was analogous to a doctor prescribing medicine. If a patient handed in a written prescription to a pharmacist, but the pharmacist provided a different drug and/ or dosage, with an accompanying label indicating what the new drug and/ or dosage was - that would be a change of prescription on the part of the pharmacist.
103. In this case the only contemporary record of Patient B's requirements was to be found in the record of what had been dispensed by the Registrant on 1 September 2015. In the event that Patient B ordered new spectacles, in the absence of a further eye test, they would have been made to that which was prescribed in the 2015 order and not July 2014. The Committee were therefore satisfied to the requisite standard that Particular 6 (a) was proved.
104. The Committee noted that the Registrant admitted that his conduct was misleading and dishonest in terms of Particular 21 (c) in relation to Particular 6.

Particular 7: On or around 22 October 2015, you did the following in respect of the record of Patient C:

- a. Modified their prescription; (Proved)**
 - b. Dispensed spectacles worth £129; (Proved by admission)**
 - c. Discounted the dispense so that the record showed that Patient C was required to pay nothing in exchange for the spectacles. (Proved by admission)**
105. As with Particular 6 the Registrant admitted dispensing spectacles worth £129 and altering the records to show that Patient C required to pay nothing. The only issue was whether or not a prescription had been modified.
106. The Committee looked again at Patient C's records and the report of Mr 4. On the dispense notes, with the Registrant's user ID, it was written 'CHRIS'S FRIEND POLISH EDGES DUE 24 OCTOBER TAKE EXTRA CARE OWN PRADA RIMLESS'.
107. The prescription relating to the glasses obtained in 2015 was unrelated to the earlier test. No sight test was recorded. The Committee determined that there had been a significant alteration in the prescription of Patient C and that had been done by the Registrant.
108. For the same reasons set out in respect of Particular 6(a) the Committee found Particular 7(a) proved on the basis that the Registrant did modify the prescription by altering the dispense record on the system using the 'modify rx' function.
109. The Committee noted that the Registrant admitted that Particular 7 was misleading and/ or dishonest as set out in Particular 21 (c).

Particular 8: On or around 11 April 2016, you did the following in respect of the record of Patient I:

- a. Modified their prescription; (Proved)**
 - b. Dispensed spectacles worth £519; (Proved)**
 - c. Discounted the dispense so that the record showed that Patient I was required to pay nothing in exchange for the spectacles. (Proved)**
110. In Mr 7's report it was noted that Patient I had an NHS sight test on 7 September 2014 which was recorded in the Socrates system. On 11 April 2016 a further sale was processed using the Registrant's user ID. The Dispense module disclosed that the order contained a significant alteration to the prescription. There is no sight test report explaining this radical alteration in the prescription. The dispense notes stated "GIVE TO CHRIS PARRISH". The customer history report showed that two pairs of varifocal spectacles were discounted from £519 to £0.00. They were marked as collected, using the Registrant's user ID on 6 September 2016.

111. The Registrant contested this particular on the basis that the Council produced limited information in support of it. The Council produced the records for the eye examination of Patient I but no further Records had been provided. All that had been provided was Mr 7's report detailing what he saw when he looked at the records in compiling his report.
112. The Committee considered that the Council had provided sufficient evidence to find all of this particular proved.
113. Although the evidence was mainly the indirect evidence given in Mr 7's report, (of what he saw on the Socrates system) and notwithstanding that the only part of the report which was corroborated, by documentary evidence, was the sight test for 7 September 2014, the Committee considered that it could rely upon this evidence. Mr 7 was a Senior Financial Risk Consultant whose job was to provide accurate reports.
114. Mr 7 reported a significant change in prescription between the sight test and what had been ordered using the Registrant's ID. The Committee gave consideration to the note requesting to give to Chris Parrish, the Registrant's own evidence admitting he had changed patient data to dispense free spectacles and the pattern of similar dispenses that formed part of the Particulars already found proved. It determined that the Registrant had modified the prescription and that he had dispensed spectacles worth £519 and discounted the dispense to £0.00.
115. The Committee then went on to consider whether or not this was misleading and/or dishonest in terms of Particular 21(c).
116. The Committee considered that this was misleading. Anyone scrutinising the records would form the view that Patient I had a different prescription to that prescribed in 2014. It also disguised a transaction where the recipient of the spectacles did not pay for the goods that were received.
117. The Committee went on to consider the issue of dishonesty. This was a transaction where there was clear evidence that the Registrant falsified records to provide spectacles for free. The Committee formed the view that the Registrant must have known that what he was doing was dishonest and that it would be regarded as dishonest by the standards of ordinary decent people.
118. **Accordingly, the Committee found that his actions in respect of this transaction were both misleading and dishonest, and exposed the practise to loss. Particular 21(c) in relation to Particular 8 was found proved.**

Particular 9: On or around 12 May 2016, you did the following in respect of the record of Patient K:

- a. Dispensed spectacles worth £49; (Proved)***
- b. Discounted the dispense so that the record showed that Patient K was required to pay nothing in exchange for the spectacles. (Proved)***

119. Mr 7 reported that the only transaction relating to Patient K was an order dated 12 May 2016. It was described by him as 'highly unusual'. The operator code for the transaction was described as 'associated with the Registrant' as it was the contact lens clinic generic user ID: 'CL clinic'. The note accompanying the prescription stated "GIVE TO CHRIS PARRISH". The records disclosed that the total sum for the dispensed spectacles was £49 but the records showed that this was discounted so that Patient K was required to pay nothing.
120. It was suggested on behalf of the Registrant that there was insufficient evidence. There was limited documentation supplied to confirm the accuracy of Mr 7's report. The Council have produced a screenshot of the order which confirmed the date and that the spectacles were to be given to the Registrant. The Committee accepted Mr 7's report as accurate. The Committee noted that the screenshot provided evidence which indicated that the dispenser's user ID was 'CL clinic.' the Registrant was a member of the Contact Lens Clinic. The Committee considered whether or not any other member of that clinic, who had the right to process the software, could have been involved. The Committee formed the view that it would only have been the Registrant who processed this transaction because of the instructions on the note, for the spectacles to be provided to the Registrant. This was sufficient to satisfy it that he was responsible for the transaction.
121. The Committee then went on to consider the issue of whether Particular 21(c) was engaged. It adopted the same reasoning as it did with regard to the earlier particulars. There was clear evidence that the Registrant modified records to provide spectacles for free. The Committee formed the view that the Registrant must have known that what he was doing was dishonest and that it would be regarded as dishonest by the standards of ordinary, decent people.
122. **Accordingly, the Committee found that his actions in respect of this transaction were both misleading and dishonest and exposed the practice to loss. Particular 21(c) in relation to Particular 9, was proved.**
123. **Particular 10: On or around 05 August 2016, you did the following in respect of the record of Patient J:**
- a. **Dispensed spectacles worth £149; (Proved)**
 - b. **Discounted the dispense so that the record showed that Patient J was required to pay nothing in exchange for the spectacles. (proved)**
124. In Mr 7's report it was noted that the customer details recorded the home address of Patient J as being the address of the business, ie **REDACTED** Specsavers. There was no record of either a sight test or historic purchases. This was described as a 'highly unusual transaction' with a 'lack of any additional information'. There was an order dated 5 August 2017. The total retail value of the spectacles was £149 but the records indicated that the balance had been reduced to £0.00 on the patient's records. The transaction was under the till code associated with the Registrant, that being a generic user id for the Contact Lens Clinic. A review of the orders history disclosed a note stating "GIVE TO CHRIS PARRISH". The

Committee was satisfied that the Registrant had been responsible for the transaction.

125. It was suggested on behalf of the Registrant that there was insufficient evidence for this particular. There was limited documentation supplied to confirm the accuracy of Mr 7's report. There was a screenshot of the order which confirmed the date and that the spectacles were to be given to the Registrant. The operator code associated with the transaction was associated to the Registrant. The Committee accepted Mr 7's report was accurate. The Committee found this particular proved.
126. The Committee then went on to consider whether or not Particular 21(c) was engaged and adopted the same methodology set out previously.
127. The provision of an address which was not that of the Patient, in addition to there being no explanation for the discount, was sufficient to satisfy the Committee that the Registrant knew he was acting dishonestly and would be regarded as dishonest by the standards of ordinary, decent people.
128. **Accordingly, the Committee found that his actions in respect of this transaction were both misleading and dishonest and exposed the practice to loss. Particular 21(c) in relation to Particular 10, was proved.**

Particular 11: On or around 05 September 2016, you did the following in respect of the record of patient Patient E:

- a. **Modified their prescription; (proved)**
 - b. **Dispensed spectacles worth £437; and (proved by admission)**
 - c. **Discounted the dispense so that the record showed that Patient E was required to pay nothing in exchange for the spectacles (proved by admission)**
129. The Registrant admitted dispensing spectacles worth £437 and discounting the dispense to show that Patient E was required to pay nothing. However, he denied that he modified the prescription of Patient E.
 130. The Committee had regard to Mr 4's report. The Socrates system disclosed that Patient E had a sight test carried out by Mr 5 on 23 April 2015. The prescription was recorded in the Testroom module of Socrates. A further test was carried out by Mr 5 on 9 September 2016. The prescription was also recorded in the Testroom module.
 131. The Socrates history disclosed that spectacles were dispensed using Patient E's identity, recorded by the Registrant's user identity on 5 September 2016. The prescription relating to the dispense for 5 September 2016 bore no relation to the tests carried out by Mr 5. The only reason that the prescription would have been altered would have been the Registrant using the "modify rx" function. The dispensing notes stated "remake non tol gesture of goodwill". In light of the history

of the results of Patient E's eye examinations this could not have been a remake for this patient.

132. The Committee considered the submissions on behalf of the Registrant that he did not change the prescription. Whilst the Testroom module for the Patient's sight test showed the test results for 23 April 2015 and 9 September 2016 there was no record for 5 September 2016. The Committee did not consider this to sufficiently undermine the Council's case. For reasons set out in the earlier determinations, where this issue arose, it formed the view that the Registrant had modified the Patient E's prescription when dispensing. **The Committee accordingly found Particular 11 (a) proved.**
133. The Committee noted that the Registrant admitted that this was misleading and/ or dishonest as set out in Particular 21 (c).
134. ***Particular 12: On or around 06 October 2016, you did the following in respect of the record of Patient G:***
- a. ***Modified their prescription; (Proved)***
 - b. ***Dispensed spectacles worth £393; (Proved)***
 - c. ***Discounted the dispense so that the record showed that Patient G was required to pay nothing in exchange for the spectacles (Proved)***
135. Mr 7 reported that Patient G had a sight test conducted on 11 September 2016. The results of that test were available on the Testroom module of Socrates. A copy of the test results was produced by the Council. Patient G's records disclose that he obtained two pairs of spectacles which were dispensed on 11 September 2016. Patient G paid for them at a total cost of £179.
136. There was then a subsequent spectacle sale on 6 October 2016 which was processed using the Registrant's user ID. The prescription was unrelated to the sight test that had been carried out one month before. The dispense notes said "NQNF GIVE TO CP" The customer history report disclosed that the full retail value of the transaction was £393 but that they had been discounted to £0.00 on the patient's records.
137. Mr 7 reported that Patient G then bought another pair of spectacles on 9 October 2016. A different member of staff dispensed these spectacles and they were made using a slightly modified version of the 11 September 2016 test prescription. Mr 7 noted that there was a slight alteration to that prescription in the subsequent genuine order. He surmised that the likely explanation was that there had been an "input error" in restoring the original prescription manually into Socrates. Patient G paid for the full price of his order (£79.50) by credit card.
138. The Committee found this particular proved. There was evidence that the Registrant had altered the prescription, dispensed spectacles worth £393 and that he had then discounted the transaction to record that the patient had to pay nothing.

139. The Committee then went on to consider whether Particular 21(c) was engaged in relation to whether or not the activity was misleading and/or dishonest and exposed the practice to loss. It adopted the methodology set out in relation to Particular 5. It considered that the transaction involved the use of another patient's records which were modified to obtain spectacles for free on behalf of someone who was not a patient. This was misleading. The prescription was modified under the Registrant's user ID, notes were made in the same pattern as before, namely recording 'NQNF' and 'give to Chris Parrish' in circumstances where it was unusual for the Registrant to involve himself in customer complaints. The Committee concluded he knew he was acting dishonestly, and his actions were dishonest according to the standards of ordinary, decent people.
140. **Accordingly, it found that the Registrant's actions were misleading, dishonest and exposed the practice to loss. Particular 21 (c) was found proved in relation to this Particular.**

Particular 13: On or around 26 November 2016, you did the following in respect of the record of Patient D:

- a. Dispensed spectacles worth £148; (Proved)***
- b. Discounted the dispense so that the record showed that Patient D was required to pay nothing in exchange for the spectacles. (Proved)***

141. The Committee had regard to Mr 4's report and the order history of Patient D. The order history showed that the Registrant was the dispenser for an order dated 26 November 2016. His user ID had been used. The notes stated "REDACTED own frame enclosed NQNF from REDACTED Give to Chris P".
142. The customer history disclosed the retail value of the goods was £148 and that the customer records showed that the transaction was discounted to £0.00
143. **The Committee found Particulars 13 (a) and (b) proved.**
144. It went on to consider whether the Council had provided sufficient evidence to satisfy the Committee that Particular 21 (c) was proved. The fact that there was no sight test conducted in store was not enough. The transaction was entered as 'NQNF from REDACTED'. There is no evidence of any enquiry with the REDACTED branch to confirm or deny the accuracy of this entry, as suggested should happen in Mr 7's report. On the face of the entry the transaction was capable of being a genuine one. The Committee considered that the Council had failed to discharge the burden of proof.
145. **In these circumstances the Committee found this Particular not proved in so far as it related to Particular 21 (c).**

Particular 14: On or around 20 December 2016, you did the following in respect of the record of Patient D:

- a. Modified their prescription; (proved)**
 - b. Dispensed spectacles worth £129; (proved by admission)**
 - c. Discounted the dispense so that the record showed that Patient D was required to pay nothing in exchange for the spectacles. (Proved by admission).**
146. In this Particular the Registrant admitted dispensing spectacles worth £129 and discounting the dispense so that the record showed that Patient D was required to pay nothing in exchange for the spectacles. He denied modifying the prescription.
147. The Committee had regard to Mr 4's report. The Socrates system disclosed that there had not been a sight test, at the business, for Patient D. The Socrates records disclosed that a pair of spectacles were sold to Patient D on 26 November 2016. On the dispense note there was an entry saying '... own frame enclosed; NQNF from REDACTED; Give to Chris P'.
148. The dispense module disclosed that the spectacles were dispensed, to a particular prescription, on that day using the Registrant's username and ID. They were collected the following day. That transaction disclosed that the tender amount was zero having been discounted from the retail value of £148.
149. The November transaction does not form the subject matter of this particular.
150. This particular relates to a transaction that took place on 20 December 2016. On that date a further spectacle sale was processed. The dispensing took place using the Registrant's user ID. The dispense note contained the message "CHRIS'S FRIEND". The prescription for this dispense was completely unrelated to the previous dispense of one month before. The Committee formed the view that this was another occasion where the Registrant had altered the prescription using the "modify rx" function.
151. The Committee had regard to the submission on behalf of the Registrant to the effect that ordering spectacles to a different specification did not involve altering the prescription. The Committee did not accept this position, as set out earlier in this determination. **It found part (a) of this Particular proved on the basis of its earlier approach.**
152. The Committee noted that the Registrant admitted this Particular in relation to Particular 21 (c).

Particular 15: On or around 22 May 2017, you did the following in respect of the record of Patient O:

- a. Dispensed spectacles worth £266; (proved)**
- b. Discounted the dispense so that the record showed that Patient O was required to pay nothing in exchange for the spectacles. (proved)**

153. The Committee had regard to the Report of Mr 7 and had regard to the printout of the order history which the Council produced.
154. There was clear evidence that the Registrant dispensed spectacles worth a total retail value of £266 using a code associated with him. The notes for each part of the order state "Chris P friend". There was no sight test associated with this transaction and no explanation for the prescription in the order. The Committee considered that although another authorised member of the Contact Lens Clinic could have processed the transaction, the accompanying notes satisfied it that the Registrant was responsible.
155. The balance that the patient had to pay was reduced from £266 to £0.00, with no additional information regarding the discount.
156. The Committee was satisfied that the Registrant had dispensed glasses worth £266 and then discounted them to £0.00 so that the patient's record showed there was nothing to pay. **Accordingly, it found Particulars 15 (a) & (b) proved.**
157. The Committee then considered whether Particular 21 (c) was engaged in relation to whether or not the activity was misleading and dishonest. It adopted the methodology set out in relation to Particular 5. It considered that the transaction involved the Registrant's use of patient records to obtain spectacles for free on behalf of someone who was not a patient, and that the transaction bore the same hallmarks as other dishonest transactions. **Accordingly, it found Particular 21 (c) proved in relation to this particular.**

Particular 16: On or around 10 July 2017, you did the following in respect of the record of Patient L:

- a. Dispensed spectacles and/or accessories worth £530; (proved)***
- b. Discounted the dispense so that the record showed that Patient L was required to pay nothing in exchange for the spectacles. (proved)***
158. The Committee had regard to Mr 7's report. Patient L had no prior history but had undergone a sight test and been prescribed spectacles which had a total value of £530. They were dispensed using a code associated with the Registrant. The order history, in the notes section, stated "Give to Chris – due 17/7/17".
159. The date of the dispense was 10 July 2017. The cost of the transaction to the patient was reduced to zero using a code associated with the Registrant. The Committee considered whether another member of the Contact Lens Clinic could have processed the transaction. It formed the view that this was not probable in light of the instructions contained in the notes section. Accordingly, it determined that the Registrant was responsible for the processing of this transaction.
160. The Committee also considered that there was no obvious reason for the discounting of the spectacles to nil. It had not been entered as a NQNF transaction. It was also unlikely to be applicable as the transaction involved the provision of new spectacles following a sight test.

161. The Committee was satisfied the Registrant dispensed spectacles worth £530 and then altered the records of the patient to disclose that no sum was payable. **Accordingly, it found this Particular proved.**
162. The Committee then went on to consider whether Particular 21(c) was engaged in relation to whether or not the activity was misleading and dishonest. It adopted the methodology set out in relation to Particular 5. It considered that the transaction involved the manipulation of a patient's records to obtain spectacles for free on behalf of someone who was an associate. **Accordingly, it found Particular 21 (c) proved in relation to this Particular.**

Particular 17: On or around 19 September 2017, you did the following in respect of the record of Patient Q:

a. Dispensed spectacles worth £197; (Proved)

b. Discounted the dispense so that the record showed that Patient Q was required to pay nothing in exchange for the spectacles. (Proved)

163. Mr 7 reported that on 19 September 2017 a dispense was processed for spectacles worth a total of £197 and that the cost was discounted to zero by the till operator. There was no record of any prior history with the business, especially; no record of a sight test. The note section stated "GIVE TO CHRIS NQNF poor frame fit". The Committee also had regard to the other note dated 26 September 2017 which stated "Px came to collect store to store NQNF as others were a poor fit." This was another transaction where the Contact Lens Clinic ID had been used. As with previous Particulars the Committee was satisfied that it was more likely than not that the Registrant was responsible for processing this transaction. This was because the instructions on the note named the Registrant.
164. The Committee was satisfied that the Registrant did dispense spectacles and discounted the dispense so that the record showed that Patient Q was required to pay nothing. **Accordingly, it found Particulars 17 (a) and (b) proved.**
165. In considering whether or not Particular 21 (c) was engaged, the Committee had regard to the records produced by the Council in respect of Patient Q, including the various notes made by a user ID associated with the Registrant. It also had regard to the evidence of Mr 2, who had already challenged the Registrant about his entry of the 19 September 2017, and who subsequently observed the Registrant on CCTV on 23 September 2017, leaving the store with the spectacles produced in line with the dispense entry of 19 September 2017.
166. The Committee paid particular regard to the subsequent entry under the user ID associated with the Registrant for 26 September 2017, which went on to summarise that the patient had returned to store and now wanted to keep the original poor fitting spectacles as spares and that a deal had been done allowing for them to pay half price under 'GT' (Golden Ticket). The Committee considered that this was a fictitious entry designed to cover the Registrant's actions in creating the dispense on 19 September 2017. It accepted the evidence of Mr 2 that Patient Q did not return to store on 26 September 2017, as he viewed the CCTV footage on that day, having been alerted to a possible modification of patient records by

the Registrant. It was the evidence of Mr 2 that the Registrant then paid £100 into the till, took out £1.50, registering a payment of £98.50, which is half the price of the spectacles produced. The Committee drew a reasonable inference based upon the evidence that in taking these actions the Registrant was seeking to mislead and knew he was acting dishonestly. He was dishonest according to the standards of ordinary, decent people.

167. The Committee accordingly found 21 (c) proved in relation to Particular 17.

Particular 18: On or around 08 September 2017, you did the following in respect of the record of Patient M:

a. Dispensed spectacles worth £204; (Not proved)

b. Discounted the dispense so that the record showed that Patient M was required to pay nothing in exchange for the spectacles. (Not proved)

168. Mr 7 reported that on 8 September 2017 Patient M had spectacles dispensed worth £204. He also reported that the balance on this transaction had been reduced to nil. The person reducing the balance used a code associated with the Registrant. The Committee noted that the Council provided records of a sight test dated 2 September 2016 in respect of Patient M. Unlike the other transactions, referred to in particulars 5-17, there was no other evidence linking this transaction to the Registrant, as there was no record produced of the notes on Socrates. In all other cases there was clear evidence linking the transaction to the Registrant. In this case there was no suggestion, in the form of a note, that the glasses should be given to him other than as mentioned in Mr 7's report. The Committee was unable to eliminate the possibility that another employee may have been involved.

169. Furthermore, the Committee took into account that Mr 7 reviewed the whole transaction history with Patient M in his report, which the Committee have accepted, and concluded: 'It is possible that the 2 subsequent sales processed at £0.00 are indeed related to NQNF as stated in the notes.' These sales included the 8 September dispense. No further enquiries were made into this possibility.

170. In the circumstances the Committee found Particulars (a) and (b) not proved. Therefore, it did not consider Particular 21(c) in relation to it.

Particular 19: On or around 23 May 2017, you did the following in respect of the record of Patient N:

a. Dispensed spectacles worth £25 (Not proved)

b. Discounted the dispense so that the record showed that Patient N was required to pay nothing in exchange for the spectacles. (Not proved)

171. The Committee was not satisfied that the Council had proved that the Registrant was involved. It was clear that on 27 May 2017 Patient N had spectacles worth £25

dispensed. These were then discounted by the till operator. Whilst the Registrant could have been involved in the dispensing, the user ID was the generic Contact Lens Clinic. Mr 7 reported that there were no notes recorded in the notes section of the order history. This transaction differed from other transactions where a note, indicating that the Registrant would collect, was present in the order history.

172. The Committee could not eliminate the possibility that another member of staff was involved. **It found Particulars (a) and (b) not proved. Therefore, the Committee did not go on to consider Particular 21(c) in relation to it.**

Particular 20: Your record-keeping was inadequate in that:

a. In respect of Charge 4, you did not retain and file receipts to justify withdrawing £1,163.28 of petty cash; (Not proved)

b. You did not keep any, or any adequate, record to justify the discounts provided to: (Not proved)

i. Patient B

ii. Patient C

iii. Patient D

iv. Patient E

v. Patient G

vi. Patient I

vii. Patient J

viii. Patient K

ix. Patient L

x. Patient M

xi. Patient N

xii. Patient O

xiii. Patient Q

c. You failed to record any, or any adequate, sight test records to explain the modification in prescription of:

i. Patient B

ii. Patient C

iii. Patient D

iv. Patient E

v. Patient G

vi. Patient I

(Proved in its entirety)

173. In respect of Particular 20(a), (b) & (c), the Committee had regard to the Expert Reports of Mr 6. He provided a Report dated 21 December 2021 in respect of sub particular (c) and an Addendum Report dated 9 March 2022 in respect of the sub particulars (a) and (b).
174. The Committee first considered the Addendum Report. It set out Mr 6's qualifications as an expert in an Appendix to his Report.
175. The Committee was satisfied that he was an expert and were assisted by the contents of his report in making informed decisions on these sub particulars.
176. Mr 6 was of the view that there was no professional duty incumbent upon the Registrant to maintain and file receipts for the purposes of justifying every petty cash withdrawal. The recording of petty cash transactions was a financial record and not part of the dispensing record. Since there were many ways of running a petty cash account the matter was one for the individual business and not for the profession. If there was a complaint about the adequacy of this type of financial record keeping it would be a matter for the employer alone.
177. Mr 6 was also of the view that the discounting scheme under NQNF was a commercial choice for the organisation involved. The record of transactions where there was discounting under NQNF is a financial record and not part of the dispensing record. If there was a complaint about the adequacy of the record keeping in this regard it would be a matter for the employer alone.
178. The Committee accepted the reasoning of Mr 6. **It found sub particulars (a) and (b) not proved.**
179. The Committee went on to consider sub particular (c) and noted that Mr 6 gave careful consideration to this issue in his first report dated 21 December 2021. The Committee followed the reasoning of Mr 6 and accepted his conclusions. The Committee considered that it required his expertise in order to make a proper informed decision on the issue of clinical record keeping.
180. The Committee noted that all of the patients listed in sub particular (c), had patient records which showed modified prescriptions not corresponding to their sight test records. Mr 6 indicated that Dispensing Opticians are required to follow ABDO (Advice and Guidance on Professional Conduct for Dispensing Opticians). ABDO provides advice concerning what information should be recorded in each patient record. In light of this the Committee was satisfied that the Registrant was under a duty to record sight tests on the patient records of the individuals involved.
181. Mr 6 concluded his report by stating "Recording of one patient's record in another patient's record is far below the standard".

182. The Committee were mindful of the admissions made by the Registrant in his written statements in which he accepted that he had used the method of recording one patient's dispensing in another patient's record as a way to give free spectacles to his associates. The Committee found this was far below the standard expected of a reasonably competent Dispensing Optician.
183. In the circumstances the Committee was satisfied that the record keeping in respect of all of these patients was inadequate. **It found Particular 20(c) proved.**

Particular 21: Your conduct was misleading and/or dishonest in that:

a. In respect of Charge 1, you forged the signature of REDACTED; (Proved)

184. The Committee reminded itself that the Registrant had admitted Charge (Particular) 1 which was:

"On 5 July 2017, you wrote "REDACTED" in the section titled "Optician Details" on the form required to be completed as part of the DVLA assessment of Patient A"

185. Particular 21(a) relates to two pieces of writing in the same section of the form. It was not in dispute that the DVLA requires the results of eye tests, of certain individuals, to be disclosed to it as part of the licensing process. Whilst a test can be conducted by a Dispensing Optician it has to be signed off by a Registered Optometrist.
186. The Registrant accepted, in his witness statement, that he performed a visual acuity test, on Ms 9, on the evening of 5 July 2017. The part of the form that required an Optometrist to sign is headed "Optician Details". There is space for a signature and provision for the name of the party signing in the area below the signature.
187. The Registrant accepted, in his witness statement, that he wrote (printed) Mr 2's name in the area below and he admitted Charge (Particular) 1.
188. He did not suggest that anything was entered into the area above where a signature should be. He made no comment concerning this issue in either his witness statement or his earlier statement. He accepted that he concealed Mr 2's name from the area below using Tipp-ex.
189. It is not in dispute that the form was left with Ms 1 for the following day and she arranged for Mr 5 to sign it. Mr 5 signed the form. Mr 5 admitted signing the form in his witness statement. Mr 5 said, in his witness statement that:
- 'I felt reassured that he [CP] had made an honest mistake....'*
- 'I had no suspicion or reason to look under the tippex. I trusted CP....'*
190. Mr 2 was on holiday at the material time. This issue only came to light at the time the issues concerning the discounting of spectacles arose.
191. It was Mr 2's evidence that there was Tipp-ex in the area for the signature as well as the area for details of who signed. Mr 2 was able to see, by holding the

document up to light, that his name had been printed in the area below. He also considered that there was something that looked like a signature in the area above. He explained in live evidence that the area showed “REDACTED” printed and the signature section showed an A with a squiggle on it. He confirmed that this was not his signature. Mr 2 confirmed that he would not have been able to sign the document as he was in Spain.

192. The Council did not produce witness evidence of anyone who saw him writing in the section of the form for signatures. Mr 2 identified a signature under Tipp-ex that was not his. The Registrant was involved in the preparation of the document. The Committee was asked to draw an inference from all of the surrounding facts and circumstances.
193. In his statement to the Council dated 26 October 2017 and in his witness statement dated 21 June 2022 the Registrant said that he had put Mr 2’s name on the form intending it to be countersigned by Mr 8. Mr 8 was an Optometrist who carried out locum work in the business. He then considered this procedure to be incorrect and covered Mr 2’s name with correction fluid.
194. In his earlier statement the Registrant said:

“Had I intended to forge a signature on the form I would have been unlikely to do so with [Mr 2’s] name as he was out of the country at that time on holiday.”
195. The Committee were provided with a copy of an enlarged part the DVLA form which appeared to bear two signatures and the names of two parties underneath. Although the Committee was not provided with the original it was satisfied that it presented an accurate picture of the form.
196. The Committee found that there could be no other explanation for the writing of Mr 2’s name below where a signature should be other than the fact that the area above contained something that purported to be the signature of Mr 2. The Committee accepted Mr 2’s evidence that there was something resembling a signature beneath the Tipp-ex and that the signature section showed an A with a squiggle on it.
197. Ms Adeyemi submitted that there was an irresistible inference to be drawn from even the fact that the Registrant accepted that he printed Mr 2’s name in the space below. The Committee agreed with this submission. There was clear evidence that there was a signature above where Mr 2’s name was printed. The form was left by the Registrant having had Tipp-ex applied to it. The Committee concluded it was unlikely that anyone else would have any reason to sign a name and then apply Tipp-ex.
198. The Committee took into account the fact that the Registrant was of previous good character and that the allegation was sufficiently serious to make it less likely that the Registrant would have done what was alleged. It also took into account that no handwriting expert was asked to comment on the writing. However, the Committee did not consider that there was any other credible explanation for the presence of a Tipp-exed signature in the relevant section of the form and accordingly found that the Registrant had entered a signature purporting to be that of Mr 2.

199. The Committee then went on to consider whether this meant that there had been a forgery of Mr 2's signature. The Committee accepted that "Forgery" is a technical legal term derived from the Forgery and Counterfeiting Act 1981.

200. Section 1 states:

"A person is guilty of forgery if he makes a false instrument, with the intention that he or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his own or any other person's prejudice."

201. Section 8 defines "instrument":

"(1) Subject to subsection (2) below, in this Part of this Act "instrument" means

(a) any document, whether of a formal or informal character;"

202. Section 9 defines "false":

"An instrument is false for the purposes of this Part of this Act—

(a) if it purports to have been made in the form in which it is made by a person who did not in fact make it in that form;

203. The Committee noted that the Council are not alleging that the Registrant used a false instrument. That would have resulted in a separate particular based upon Section 4 of the Act.

204. The Committee were satisfied that the Registrant forged the signature of Mr 2. The document was of a formal character. It was purported to have been made by Mr 2 who did not, in fact, sign it. At the time it was created it would have been with the intention that the Registrant would use it to induce the DVLA to accept it as genuine. This would be to the prejudice of the DVLA who would process the form on the basis that it contained a true signature.

205. The Committee also considered that the document was misleading. At the time of it being created it was misleading, albeit there was no evidence that anyone was actually misled. The use of Tipp-ex was evidence of a cover up that the Committee took account of when determining the issue of forgery and dishonesty.

206. The Committee formed the view that the Registrant must have known that what he was doing was dishonest and that it would be regarded as dishonest by the standards of ordinary decent people. His decision to use Tipp-ex was a clear indication that he knew what he did was wrong soon after he had created the document. **Therefore, Particular 21(a) was found proved.**

Particular 21(c): Your conduct was misleading and/or dishonest in that:

In respect of Charges 5 through 19, you exposed the practice to loss in order to provide free spectacles and/or accessories to associates of yours.

207. The Registrant admitted this Particular, at the outset, in relation to Particulars 6, 7, 11 and 14. The Committee have considered this Particular for each of the outstanding Particulars between 5 and 19 as they considered those in turn.
208. **The Committee found Particular 21(c) proved in relation to Particulars 5, 8,9,10,12,15,16 and 17.**
209. **It found Particular 21 (c) not proved in relation to Particulars 13, 18 and 19.**

Findings in relation to Misconduct and Impairment

Preliminary issue

210. After the Committee announced its decision on facts the Chair enquired whether the representatives had any observations to make with regard to the Committee considering the issues of misconduct and impairment separately or together.
211. Mr Graham, on behalf of the Registrant, indicated that his preference would be for both issues to be heard together. He further informed the Committee that there would be no live witness evidence at this stage. He informed the Committee that he had sent through for the Committee to read; a Skeleton Note of Argument, a reference and the first decision of the Interim Orders Committee.
212. Ms Adeyemi indicated that she too would prefer that the issues of misconduct and impairment be considered together.
213. The Committee heard and accepted the advice of the Legal Adviser. He explained that although Rule 46 set the default position for these matters to be considered separately the Committee had the power to alter that position. In particular the preamble to Rule 46 states “unless the Committee determines otherwise”.
214. The Committee determined that, in light of the submissions made by the representatives, it would be better, from the perspective of case management to hear both matters together. This would not alter the requirement that it could only move on to considering whether or not there was current impairment in the event that it considered that there had been past misconduct.
215. The Committee has heard submissions on behalf of the Council and the Registrant. Both representatives assisted the Committee by referring to written skeleton arguments.
216. Ms Adeyemi invited the Committee to find that there had been misconduct in respect of all of the particulars found proved. She referred to the case of *Roylance v GMC (No2) [2000] 1 AC 311* and suggested that the Committee should consider whether or not there had been a significant falling short from the standards expected of a Registrant. In considering whether there had been misconduct the Committee had to exercise its professional judgement. In determining misconduct, the Committee should have regard to the Council’s Standards of Practice for

Optometrists and Dispensing Opticians, effective from April 2016. (The Standards). She submitted that the Registrant had departed from a number of these standards

217. Ms Adeyemi then invited the Committee to consider that the Registrant's fitness to practise was currently impaired. She referred the Committee to *CHRE v NMC and Grant [2011] EWHC 927 (Admin)* and submitted that all four limbs of the test set out in that case were engaged. She invited the Committee to consider that the Registrant had not demonstrated sufficient remediation or insight.
218. Mr Graham reminded the Committee that the issue of misconduct was one for its own professional judgement and conceded that the standards referred to on behalf of the Council were engaged, with the exception of 16.5.
219. He invited the Committee to consider that there was no current impairment.
220. He referred to the case of *R (Cohen) v GMC [2008] EWHC 581* regarding the issue of remediation. He submitted that there were a number of factors demonstrating that the Registrant had remediated. The Registrant promptly repaid the monies the subject of this investigation and investigation costs in the sum of £8,325.00
221. Mr Graham further submitted that the Registrant has been the subject of an interim order. That interim order has been in place since 30 November 2018 and continues, is now on the 9th interim order review. From early 2019, until the Covid pandemic in March 2020, the Registrant was in work subject to supervision. There was appropriate compliance with the conditions of practise and appropriate discharge of his duties and responsibilities.
222. The Registrant's supervisor was REDACTED, who was approved by the GOC. He provided a reference for the Committee. He stated: "*I would have no concerns in the future with Christopher working as either our employee or a work colleague. He gave me no reason to doubt his clinical competence, skills or honesty moving forward.*"
223. Mr Graham further submitted that the Registrant was engaged in a high standard of work in all relevant areas and demonstrated a high level of competence.
224. Mr Graham updated the Committee on REDACTED. He informed the Committee that the Registrant was currently working in a non-Optical setting.
225. The Committee heard and accepted the advice of the Legal Adviser. He referred to the leading cases of *Roylance, Cohen and Grant*. In addition, he referred to *PSA v HCPC and Doree [2017] EWCA Civ 319; GMC v Awan [2020] EWHC 1553 (Admin)* and *Towuagbantse v GMC [2021] EWHC 681 (Admin)*.

Misconduct

226. The Committee were mindful that there was no burden or standard of proof. It had to exercise its professional judgement in considering whether or not there had been misconduct. It would only then go on to consider impairment in the event that it determined there had been misconduct.

227. The Committee considered the issue of misconduct on the basis of *Roylance*. It was not enough for there to be a falling short of the standards expected of the Registrant. The Committee had to be satisfied that there was a serious falling short of these standards.
228. The Committee had regard to the Standards in place at the time of the conduct, and considered that the Registrant's conduct involved breaches of the following standards:
- *Standard 8.1: Maintain clear, legible and contemporaneous patient records which are accessible for all those involved in the patient's care.*
 - *Standard 16: Be honest and trustworthy;*
 - *Standard 16.1: Act with honesty and integrity to maintain public trust and confidence in your profession;*
 - *Standard 16.5: Be honest in your financial and commercial dealings ...*
 - *Standard 17: Do not damage the reputation of your profession through your conduct;*
229. The Committee considered each of the particulars found proved and addressed the issue of whether they individually involved a falling short of the standard expected of the Registrant.
230. The Committee did not consider that the Registrant's actions in Particular 4 amounted to misconduct. The Registrant admitted to various petty cash withdrawals without archiving receipts. This Particular was tied in to Particular 21(a). Since Particular 21 (a) was not proved, this conduct did not amount to professional misconduct.
231. The Committee also considered that, although Particular 13 was proved, it was not proved in relation to the dishonesty set out in Particular 20 (c). Since the Council failed to prove that there was anything wrong with this transaction the Committee did not make a finding of misconduct in respect of this Particular.
232. The Committee next went on to consider Particular 1 and 21(a). The Committee had previously determined that these allegations related to the same course of conduct. On 5 July the Registrant wrote **REDACTED** in the section entitled "optician details" for a form that required to be completed as part of a DVLA assessment. The Committee had already determined that the Registrant forged a signature in the adjacent box. The Committee accordingly considered that each of these actions were intrinsically linked and amounted to misconduct, as forging a document was conduct falling far short of the standards of the profession.
233. The Committee then went on to consider Particulars 2 and 3 in conjunction with Particular 21(b). The Registrant had claimed these expenses and misrepresented them as business expenses when he knew that they were personal expenses. The Committee considered that there had been misconduct in respect of both of these particulars. The claiming of expenses in this way was over a prolonged period of

time and was dishonest. This conduct was serious and fell far short of professional standards.

234. The Committee then went on to consider the remaining particulars, all of which related to a scheme which exposed the practise to loss as set out in Particular 21(c). In respect of all these particulars (5,6,7,8,9,10,11,12,14,15, 16 and 17) the scheme involved manipulating the Socrates system to dispense spectacles for associates free of charge. In addition, the Registrant modified prescriptions in respect of Particulars 6,7,8,11,12, and14. The Committee considered that there had been misconduct in respect of each and all of these particulars. The Registrant had been involved in a complex, premeditated and long-term dishonest scheme of dispensing spectacles for free at a cost to the practice. In addition, it involved the alteration of prescriptions, which carried a high risk of harm to the patients whose records were altered. This conduct breached the Standards identified and the fundamental tenets of the profession which require registrants to act honestly and to make the care of patients their first concern. Such conduct fell far short of what the profession expects of its Registrants.

Impairment

235. Having found that there has been misconduct, the Committee then went on to consider the issue of current impairment.

236. It had regard to the material submitted on behalf of the Registrant and accepted the advice, based on the case of *Doree* that the Registrant was not required to attend the hearing, and provide evidence in order to demonstrate insight. The question of impairment was for the Committee to determine in exercising its professional judgement.

237. The Committee considered the remediation issues raised. Although dishonesty was more difficult to remediate than clinical failings it was nevertheless capable of remediation. The Committee took account of the Registrant's admissions to parts of the allegation, his acceptance that his actions amounted to serious misconduct and his written expressions of remorse. However, the Committee was concerned that the Registrant had demonstrated limited remediation, or insight into his misconduct.

238. Although the Registrant did not attend the hearing, the Committee had regard to his witness statement, dated 21 June 2022 and his earlier statement dated 2 May 2018. Each contained his reflections on what happened, but provided the Committee with no clear picture of why it happened other than stating that **REDACTED**.

239. The Committee were further concerned that across the statements provided there was a tendency by the Registrant to minimise his dishonest behaviour, describing his actions as merely 'inappropriate', and requiring a greater strength of character to say no, rather than fundamentally breaching the central tenets of his profession.

240. In his 2018 Statement he said:

"Whilst my action may be perceived as dishonest, at no time did I set out to mislead or deceive. My actions were misguided."

In his June 2022 Statement he stated:

"I would like to add that I at no point set out to benefit financially myself..."

241. However, the Committee noted that there were a large number of transactions through petty cash which he misrepresented as business expenses when they were in fact, personal expenses. The Committee were not provided with any evidence of the Registrant's current probity other than the positive reference from REDACTED. It concluded that the Registrant has not shown insight into his dishonest conduct.
242. Although REDACTED provided a positive reference as to the quality of his work his professional competence has never been an issue.
243. The Committee had regard to the fact that the Registrant has repaid the financial loss suffered by the practice. However, that, of itself, did not reassure the Committee with regard to the risk of repetition.
244. The Committee had regard to the following questions raised by Dame Janet Smith in her 5th Shipman Report, as endorsed in the case of *Grant*:

"Do our findings of fact in respect of the [Registrant's] misconduct, show that [his] fitness to practise is impaired in the sense that [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 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 profession;*
 - d. has in the past acted dishonestly and/or is liable in the future to be dishonest.*
245. The Committee first considered limb a). The Committee considered that the Registrant displayed little insight into this issue. In his witness statement he stated that:

"Thankfully, no harm was caused to any patient or was likely to be caused as the patients whose records I inappropriately used in this way would not attend the Practice without my knowledge. If they did attend I would know and would be able to intervene to ensure that care to them was not compromised."

246. The Committee considered this response was ill thought out. It failed to address the issue of what would happen if a patient attended when he was not in the practice. There were any number of situations that could have arisen where patient records could be accessed and acted upon by others. There were a number of patients whose records were altered by the Registrant at a time where he acknowledges he was finding it difficult to operate on a day-to-day basis. There was a clear risk of harm being caused to patients should the wrong prescription have been dispensed. Furthermore, the Committee determined there was a future risk of unwarranted harm to patients as it concluded there was a risk of repetition given the lack of remediation and insight.

247. The Committee also considered limbs b) and c) and concluded, as already set out that the Registrant has brought the profession into disrepute and breached fundamental tenants of the profession. The Committee could find little evidence of the Registrant reflecting on the impact on public confidence in the profession that his actions would have had, nor any detailed understanding of the impact upon his fellow directors in business where he held a position of trust. Accordingly, it could not rule out a risk that he would be liable in future to bring the profession into disrepute and breach fundamental tenets.
248. The Registrant has also engaged limb d) in that his misconduct was characterised by premeditated dishonesty over a prolonged period of time. The Committee considered that the Registrant may be liable to act dishonestly again, as it could find little remediation or insight into his dishonest conduct.
249. Across all four limbs, the Committee were not satisfied that the Registrant's expression of confidence that these actions would never happen again, was substantiated by any meaningful evidence of remediation or insight.
250. It concluded that the Registrant's fitness to practise was currently impaired in relation to public protection.
251. The Committee also considered that in any event it was required to make a finding of misconduct on the basis of the wider public interest. The misconduct involved altering prescriptions and manipulating records for a significant period of time. In addition, there was dishonest conduct in claiming personal expenses as business expenses and in the forging of an important DVLA document.
252. This sustained level of dishonesty required a finding of impairment to be made to maintain the confidence of the public in both the profession and the Council as a regulator. A finding of impairment was also necessary to uphold proper standards of conduct and behaviour.
253. Public confidence in the profession would not be maintained if a finding of current impairment were not made.
254. Accordingly, the Committee determined that the Registrant's fitness to practise is impaired by reason of his misconduct.

Sanction

255. Following the Committee announcing its decision on misconduct and current impairment, the parties were provided with an opportunity to consider the issue of sanction in light of that decision.
256. When the hearing resumed the following morning, the following, Ms Adeyemi invited the Committee to consider sanction. She invited the Committee to have regard to the 2021 Indicative Sanctions Guidance ('the 2021 Guidance'). She also invited the Committee to have regard to the Skeleton argument. She submitted the Committee had to follow the 2021 Guidance by starting with the least restrictive sanction and considering each sanction upwards. She indicated that suspension was the appropriate sanction.

257. In inviting the Committee to make a determination of suspension Mr Graham referred the Committee to his skeleton argument for the impairment stage. He submitted that much of what was said in that document was applicable. Having regard to the 2021 Guidance the most appropriate and proportionate sanction would be suspension with a review where it advised the Committee to have regard to the scale of the dishonesty.
258. The Committee heard and accepted the advice of the Legal Adviser. He reminded the Committee under reference to the case of *Doree* that the 2021 guidance was simply guidance. It did not have the force of a statute nor was it to be regarded as something that set a tariff. It was a means to providing a fair and transparent result. Part 2.2 of the guidance made it clear that it was not a source of legal advice and that there were one or two matters that he required to comment upon that were pertinent to the facts of this case.
259. The Case of *Lusinga v NMC [2017] EWHC 1458 (Admin)* made it clear that the Committee required to adopt a nuanced approach to the finding of dishonesty. It should consider the scale of dishonesty and where it appeared on that scale.
260. He referred the Committee to the case of *O v NMC [2015] EWHC 2949*. The Committee should, if it is considering suspension and erasure, consider both issues together and consider the applicability of mitigating and aggravating factors at each stage.
261. The Legal Adviser concluded by referring to part 21.31 of the 2021 Guidance. That provision made reference to the case of *HK v General Pharmaceutical Council [2014] CSIH 61*. He pointed out that the decision of the Extra Division of the Inner House was overturned, on appeal, by the Supreme Court under reference to *[2016] UKSC 169*. Accordingly, that part of the Guidance should be disregarded.

Committee deliberations

262. The Committee appreciated that in considering sanction there was no burden of proof and that it had to reach its decision based upon its own professional judgement and based upon the 2021 Guidance. The Committee had regard to the introduction to the Guidance which contained a reminder of the over-arching objective of the Council. The Committee had equal regard for each of its limbs. It was the responsibility of this Committee to make fair, consistent and just decisions that fulfil the over-arching objective.
263. Throughout its decision making, the Committee had regard to the principle of proportionality, and weighed the interests of the Registrant with the public interest. It appreciated that it is often appropriate in serious cases to give greater weight to the public interest, than to any consequences of sanction for the Registrant. The primary purpose of a sanction was to achieve the over-arching objective. Even if a sanction may have a punitive effect on the Registrant it would still be appropriate if its purpose was to achieve the overarching objective.
264. The Committee started by identifying what it considered to be the aggravating and mitigating factors in the case.

Aggravating factors (part 14.3 of the 2021 Guidance).

- The Committee had already determined that the Registrant lacked insight into the gravity of his failings, particularly with regard to the fundamental failings in carrying out his basic duty to maintain clear and accurate patient records. Despite the passage of some considerable time, insight in this area was still underdeveloped.
- The Registrant was dishonest. it was persistent, repeated and covered up. Part of his dishonesty was for personal gain. The Practice suffered loss in respect of his dishonesty. Another aspect of his dishonesty involved forgery.
- His actions involved serious breaches of trust. There was a breach of trust involving the practice. There was a further breach of trust with Patients. They were entitled to expect that patient records would be accurate and adequately reflect upon the examinations that had been made of their eyes.
- Although no patient suffered there was a risk of harm as a result of his unauthorised alteration of patient records.

Mitigating factors (part 14.2 of the 2021 Guidance)

- The Registrant was a person of otherwise good character.
- The Registrant has expressed remorse and regret for his misconduct. He has repaid the sums that the practice lost.
- The Registrant has displayed a strong commitment to remaining in the profession. He has demonstrated full engagement with his regulator and the regulatory process.
- Following the imposition of an interim order the Registrant worked under supervision without incident. There has been no repetition.

265. The Committee noted that paragraph 8.2 of the 2021 Guidance required it to have regard to personal mitigation. The Registrant advanced by way of personal mitigation that **REDACTED**, that may have been an explanation, for his misconduct. However, the Committee also had to take into account paragraph 22.5 of the 2021 Guidance which states:

“Where the fact finding Committee has concluded that an individual was dishonest, notwithstanding mental health issues or workplace related pressure, the weight to be attached to those mental health and working environment issues in assessing the appropriate sanction will inevitably be less than is to be attached to other aspects of the dishonesty found, such as the length of time for which it was perpetrated, whether it was repeated and the harm which it caused, all of which must be of more significance. “

266. The Committee noted that it required to consider the seriousness of the Registrant's dishonesty and evaluate where it stood on the scale of dishonesty. The Committee took into account that there were several different instances of dishonesty involving forgery, misrepresenting personal expenses as business expenses and manipulating records to obtain free spectacles. The dishonest activity was persistent covered up and lasted for a period of over two years. It involved breaches of trust with both the practice and the patients as well as compromising patient safety. In all these circumstances it considered the dishonesty to be at the top end of the scale.
267. In its evaluation of the proportionate and appropriate sanction which upheld the overarching objective, the Committee considered the aggravating and mitigating factors it had identified and gave them appropriate weight when reaching its decision.
268. The Committee considered the sanctions available to it from the least restrictive to the most severe.
269. It considered whether to take no further action but considered that this would not be appropriate. It would not satisfy the public interest in a case as serious as this, with the aggravating factors identified. Furthermore, the public would not be protected.
270. The Committee then went on to consider a financial order but determined that such an order was not appropriate either by way of a substantive order or in addition to any order that it could make. Such an order was not sought by the Council. The Registrant had repaid the practice for the losses that he had caused. There was, in any event, no information provided with regard to the ability of the Registrant to pay. The Committee determined that such an order was an inappropriate sanction as it was not relevant to the misconduct found proved and it would neither protect the public nor satisfy the public interest.
271. The Committee then went on to consider conditional registration. It did not consider that such an order would protect the public nor would it satisfy the public interest, having regard to the seriousness of the case and the weight it placed upon the aggravating factors identified. There were no easily identifiable, purely clinical skills which could be improved and monitored via conditional registration.
272. The Committee was also unable to formulate any conditions that could be devised to address the issue of dishonesty. It would not be possible to formulate conditions that were appropriate, proportionate, workable or measurable. Considering the Committee's concern regarding the Registrant's level of insight, and the other aggravating factors it has identified, it concluded that the seriousness of the case would not be met by conditions.
273. In considering whether or not it should suspend the Registrant the Committee also deemed it necessary to consider the issue of erasure. This was because paragraph 19.2 d of the guidance, which deals with decision making required it to:

"...explain why the Committee feel that a particular sanction is the most appropriate sanction for them to apply..."

274. Unless the Committee considered both sanctions it would not be possible to explain why and how it had alighted upon the most proportionate and appropriate sanction.

275. The Committee, in considering whether or not to suspend the Registrant's registration, considered the aggravating and mitigating factors set out in the earlier paragraphs. It had regard to paragraphs 21.29 of the 2021 Guidance in order to assess whether any of the factors set out in that provision were engaged:

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

- 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..."*

276. The Committee had already determined that this not a single instance of misconduct It did consider this was a situation where lesser sanctions were not sufficient but concluded that factor (a) was not engaged.

277. The Committee had careful regard to the wording of factor (b). It considered that the expression "*harmful deep-seated*" should apply to any attitudinal problems and not simply personality problems. It considered that this was the plain meaning of this provision. As such factor (b) was partially engaged. However, the Committee was reminded of, and gave considerable weight to the aggravating factors it had identified, particularly in relation to the underdeveloped insight, which led in part to the Committee's earlier conclusion that there remained a risk of harm in the future. It concluded that factor (b) was engaged in a limited way.

278. The Committee had regard to the fact that, although the Registrant only worked for a short time after the interim order was imposed, and has not worked since then, there was no suggestion of other similar concerns. Accordingly, factor (c) was engaged.

279. The Committee considered that factor (d) was related to the concerns it identified when considering factor (b). The Registrant's level of insight was not sufficiently developed and the Committee have determined that there was a risk significant enough for it to make a finding that the Registrant would, in the future, put patients at risk of harm. As such factor (d) was not engaged.

280. The Committee considered these factors in conjunction with the preamble to paragraph 21.29 of the 2021 Guidance:

"Consider: Does the seriousness of the case require temporary removal from the register? Will a period of suspension be sufficient to protect patients and the public interest?"

281. The Committee considered the two questions in turn. Whilst the seriousness of the case suggested that the temporary removal of the Registrant from the Register was an option, it gave rise to the question as to whether removal from the Register should be temporary or permanent when all the relevant guidance had been considered. In answering the second question, the Committee concluded that having found some of the factors for suspension to be engaged only in a limited or qualified way, it was required to go on to consider the guidance in relation to erasure.

282. The Committee next considered whether or not erasure was the appropriate sanction and had regard to the aggravating and mitigating features as well as the factors set out in part 21.35 of the 2021 guidance:

*“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):* (The Committee has added the bold emphasis).

- 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. “*

283. The Committee considered that factors (d) and (e) were not relevant.

284. In relation to factor (a) the Committee concluded that there had been a serious departure from the standards expected of the Registrant. Accordingly, factor (a) was engaged.

285. The Committee considered that the Registrant created a risk of harm to patients irrespective of the fact that no harm resulted. The Committee had already identified that patients were put at an unwarranted risk of harm and that there remained a future risk of harm to the public. Accordingly, factor (b) was engaged.

286. The Committee determined that there was an abuse of a position of trust. There was also a violation of the rights of patients in this case. They had the right to expect their records to be accurate at all times. This right was violated by the creation of prescriptions that bore no relation to the results of any examination conducted upon them. Accordingly, factor (c) was engaged.
287. The Committee had already determined that the Registrant's dishonesty was at the top end of the scale. It had already identified a concern with regard to the insight shown in relation to dishonesty. It found that the dishonesty was persistent or covered up. However, concluded that factor (f) was engaged.
288. The Committee did not consider that factor (g) was applicable.
289. The Committee considered whether factor (h) was engaged. It had previously identified that there were problems with the Registrant's insight being inadequate and considered that this could be described it as "persistent". It did note with concern the significant amount of time that had passed in which full insight could have been demonstrated but was not.
290. The Committee noted that a significant number of factors in favour of erasure were engaged, and could not identify any reason to depart from them.
291. The Committee also had regard, in considering this issue, to the preamble to paragraph 21.35 of the 2021 guidance which states:

Consider: Is erasure the only sanction which will be sufficient to protect patients and the public interest? Is the seriousness of the case compatible with ongoing registration? Can public confidence in the profession be sustained if this registrant is not removed from the register?

292. The Committee considered all three of the issues raised. Despite his continued engagement with the regulatory process the Registrant remains a risk to patients. The risk is not in respect of clinical skills. The Committee were considered that any right-thinking member of the public would be concerned if the Registrant were permitted to remain on the Register. A well-informed member of the public would be concerned that the Registrant had been guilty of various instances of dishonesty which were persistent and covered up. That well informed member of the public would also be concerned that the Registrant had created misleading and inaccurate alterations to the patients' files. They would have concerns regarding the exposure, of patients, to risk arising from all of these actions and that the continuing exposure to risk some years after the events had not diminished. The Committee formed the view that public confidence in the profession would not be sustained if the Registrant remained on the Register. The seriousness of the case was incompatible with ongoing registration.
293. The Committee were careful to take into account the mitigating factors it had identified in reaching the conclusion that erasure was the appropriate and proportionate sanction. The Committee recognised the Registrant's long-term commitment to the profession of optometry. It appreciated that his continued participation in the regulatory process has been throughout the course of a long period of time. However, it could not ignore the serious nature of that misconduct and the fact that the Registrant is yet to provide an insightful explanation of how

this misconduct occurred. As such, it gave greater weight to the aggravating factors it had identified than the mitigating. The Committee had regard to the issue of proportionality and accepted that the order it would make would have a fundamental impact on the Registrant's ability to work in his chosen profession as well as affecting his status, both financially and reputationally. It considered that the protection of the public and wider public interest concerns that it had already identified outweighed the interests of the Registrant.

294. In all of the circumstances the Committee directed that the Registrant's name should be erased from the Register.

Immediate Order

295. The Committee heard submissions from Ms Adeyemi on behalf of the Council and from Mr Graham for the Registrant. It has accepted the advice of the Legal Adviser.
296. The Committee decided to impose an immediate suspension order for the following reasons. Since the Committee had already determined that there were significant public protection issues such an order was necessary for the protection of the public. That being the case such an order was also in the public interest. To do otherwise would be contrary to the earlier substantive decision of the Committee.

Revocation of interim order

297. The Committee hereby revokes the interim order for conditional registration that was first imposed on 30 November 2018.

Chair of the Committee: Jayne Wheat



Signature:

Date: 30 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.