

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

GENERAL OPTICAL COUNCIL

F(23)18

AND

TAJINDER GHATTAORA (01-26738)

**DETERMINATION OF A SUBSTANTIVE HEARING
02-03 OCT, 5 OCT AND 09 – 13 OCT 2023**

Committee Members:	Dr Pamela Ormerod (Chair/Lay) Ms Alice Robertson Rickard (Lay) Ms Asmita Naik (Lay) Mr David Cartwright (Optometrist) Ms Sarvat Fida (Optometrist)
Clinical adviser:	Dr Desmond Dunleavy
Legal adviser:	Ms Jennifer Ferrario
GOC Presenting Officer:	Ms Tope Adeyemi
Registrant present/represented:	Present and not represented.
Registrant representative:	N/A
Hearings Officer:	Ms Arjeta Shabani
Facts found proved:	All
Facts not found proved:	None
Misconduct:	Found for particulars 1 to 4
Impairment:	Found
Sanction:	Two month Suspension Order (without a

	Review)
Immediate order:	None

ALLEGATION

The Council alleges that you, *Tajinder Ghattaora 01-26738*, a registered optometrist:

1. *On an unknown date during 2021 you;*
 - a. *Created a false receipt using a receipt belonging to another patient who paid £340.00 for glasses by sticking together the top part of your receipt and the bottom half patient's receipt and;*
 - b. *Created a false receipt using a receipt belonging to another patient who paid the value of £437.50 by sticking together the top part of your [redacted] receipt and the bottom half of the patient's receipt.*
2. *On or around 24 May 2021 you knowingly submitted a false claim form for spectacles dated 30 April 2021 for yourself to Simply Health a third-party insurance provider for the value of £340; and/or*
3. *On or around 22 July 2021 you knowingly submitted a false claim form for spectacles on behalf of your [redacted] dated 17 July 2021 to Simply Health a third-party insurance provider for the value of £437.50; and/or*
4. *Your actions as described in (1) (2) and 3 above were dishonest in that you knew:*
 - a. *the receipt confirming the amount paid for did not belong to you and was created by you with the intention to show you had purchased the spectacles and/or,*
 - b. *the information you provided to Simply Health was incorrect; and/or*
 - c. *that the claim forms submitted were false as you had not purchased any spectacles; and/or*
 - d. *you submitted the claim forms in an attempt to gain money from the insurance provider for your own personal gain.*
5. *[redacted]*

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

- I. Misconduct; and*
- II. [redacted]*

ALLEGATION (as amended)

The Council alleges that you, Tajinder Ghattaora 01-26738 , a registered optometrist:

- 1. On an unknown date during 2021 you;*
 - a. Created a false receipt using a receipt belonging to another patient who paid £340.00 for glasses by sticking together the top part of your receipt and the bottom half patient's receipt and;*
 - b. Created a false receipt using a receipt belonging to another patient who paid the value of £437.50 by sticking together the top part of your [redacted] receipt and the bottom half of the patient's receipt.*
- 2. On or around 24 May 2021 you knowingly submitted a false claim form for spectacles dated 30 April 2021 for yourself to Simply Health a third-party insurance provider for the value of £340; and/or*
- 3. On or around 22 July 2021 you knowingly submitted a false claim form for spectacles on behalf of your [redacted] dated 17 July 2021 to Simply Health a third-party insurance provider for the value of £437.50; and/or*
- 4. Your actions as described in (1) (2) and 3 above were dishonest in that you knew:*
 - a. the receipt confirming the amount paid for did not belong to you and was created by you with the intention to show you had purchased the spectacles and/or,*
 - b. the information you provided to Simply Health was incorrect; and/or*
 - c. that the claim forms submitted were false as you had not purchased any spectacles; and/or*
 - d. you submitted the claim forms in an attempt to gain money from the insurance provider for your own personal gain.*

5. [redacted]

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

- I. Misconduct; and/or
- II. [redacted]

DETERMINATION

Admissions in relation to the particulars of the Allegation

1. The Registrant admitted particulars 5 of the Allegation, namely that he has the [redacted]. In accordance with the Rules this particular was therefore found **Proved** by reason of the Registrant's admission.
2. The Registrant initially indicated that he would be admitting all particulars of the Allegation and subsequently chose to deny the particulars save for particular 5.

Background to the Allegations

3. The Registrant is a registered and practising optometrist and has been qualified to practise since 2012.
4. In 2021, the Registrant was employed by Boots Opticians in the [redacted] branch.
5. On 10 August 2021, Simply Health, an insurance company, contacted the manager of the [redacted] branch to query two receipts that had been submitted by the Registrant, each one for a claim regarding a pair of spectacles. The insurance company was not connected to Boots and the claims had been submitted by the Registrant using his own private health insurance policy. Upon making some enquiries the insurance company suspected that the receipts had been submitted fraudulently and informed the manager at Boots of this.
6. Boots conducted an internal investigation including a disciplinary hearing and during the investigation the Registrant in a formal meeting said that on 24 May 2021 he had put two receipts together to look as though it was one receipt and had taken a picture and sent it to Simply Health to claim money back towards a pair of spectacles. The false receipt had contained the Registrant's name for his recent sight test and an order number from a random customer. On the 22 July 2021 he said that he had carried out a similar act, but this time had used his [redacted] sight test and coupled it with another customer's order number. He accepted that on both occasions he had submitted the

receipts to Simply Health to obtain cashback from his insurance policy and said that he had done so because [redacted].

7. Boots found that the Registrant's actions amounted to gross misconduct, and he was dismissed. The Registrant is currently working for Specsavers as an Optometrist.
8. It is alleged that the Registrant created the false receipts, submitted them to Simply Health and in doing so, acted dishonestly because he knew what he was doing at the time.
9. It is also alleged that the Registrant has the [redacted]. The Registrant has admitted this allegation and the Committee found this proved in accordance with rule 46(6) of The General Optical Council (Fitness to Practise) Rules 2013.
10. The Committee was not clear on how The General Optical Council ('the Council') put its case in relation to the [redacted] and Ms Adeyemi was asked to explain this. The Committee noted that the Council's bundle contained a [redacted]. Ms Adeyemi said that the Council did not rely upon the report from [redacted]. Ms Adeyemi was asked by the Committee to expand on the Council's position but declined to do so.
11. The Registrant said that he relies upon the [redacted] at the fact-finding stage because his response to the allegations is that he carried out the acts as a direct consequence of his [redacted].

Preliminary issues

12. Declaration of Interest

13. Prior to the allegations being read, a member of the Committee (Mr Cartwright) declared that he had worked for Boots Opticians for a period of time, latterly in 2012. He said that the name of one of the people mentioned in the bundle who was not a witness in the case was vaguely familiar to him but he had had no direct dealings with them.
14. The Registrant asked for some guidance from the Legal Adviser and guidance was provided in private, in the presence of Ms Adeyemi.
15. In the hearing the Registrant said that he felt uneasy, that as a person with a [redacted] it made him uncomfortable, he wished that it had been raised previously and he objected to the member of the Committee remaining in the hearing.
16. The Chair of the Committee asked the Registrant how he was intending to respond to the allegations as it may assist the Committee in deciding whether

there was any bias or potential for bias. The Registrant said that he was going to admit the allegations as they currently appeared.

17. The Committee was provided with advice from the Legal Adviser and accepted that advice. She referred the Committee to paragraph 11 of the GOC Indicative Hearings and Sanction Guidance ('The Guidance') and to the case of ***Porter v Magill [2002]*** and advised that the question for the Committee is, whether a fair minded and well-informed observer having considered the facts would conclude that there was a real possibility that the Committee is or will be biased.
18. The Committee determined that it was not necessary for the member of the Committee to recuse himself because the connection is historic and remote. The Committee further determined that in light of this, it is unlikely that any reasonable and well-informed member of the public will find actual or apparent bias.

19. Privacy

20. On behalf of the Council, Ms Adeyemi applied for the hearing to be heard in private where the evidence or submissions relate to the Registrant's [redacted]. The Registrant agreed.
21. The Committee was provided with advice from the Legal Adviser and accepted that advice. [redacted] is being considered (Rule 25(3)). She also referred the Committee to paragraph 10.4 of The Guidance in relation to considering the interests of other persons concerned with the hearing, in this instance the Registrant's [redacted].
22. The Committee determined that it would hear any evidence pertaining to the Registrant's [redacted], in private and the rest of the hearing will take place in public.

23. Application to Amend

24. Prior to the allegations being read, Ms Adeyemi applied to amend the basis upon which the Council alleges impairment.
25. The amendment applied for was to insert 'or' after the words 'Misconduct and'
26. Ms Adeyemi submitted that in applying for this amendment, the Council were seeking to clarify that the statutory ground being relied on was misconduct or in the alternative, the Registrant's [redacted].
27. [redacted].

28. Ms Adeyemi said that having reviewed the charges that she is not seeking to make any amendments other than the amendment that is before the Committee. She said that she will be inviting the Committee in due course to make findings of fact based upon the evidence.
29. The Registrant said that he had no objection to the application but wanted the Committee to understand that his position is that his conduct was a consequence of his [redacted].
30. The Chair asked the Registrant whether he intended on relying upon his [redacted] as a defence or mitigation and the Legal Adviser advised the Committee that the Registrant ought to be offered guidance on this issue from the Legal Adviser to which the Registrant and the Committee agreed.
31. The Legal Adviser provided guidance in private, in the presence of Ms Adeyemi.
32. The Registrant subsequently told the Committee that he had not understood prior to receiving guidance from the Legal Adviser about the implications of the application pursued by the Council or how to formally respond to the allegations. Having received guidance he said that he objected to the application on the grounds that it is very last minute, and it will be advantageous to the Council.
33. The Committee was provided with advice from the Legal Adviser and accepted that advice. She referred the Committee to Rule 46(20) of the FTP Rules 2013 and advised that an amendment can be made at any time during the hearing where to do so would not cause any injustice to the Registrant. The Legal Adviser said that the Committee should balance the interests of both parties and take into account whether either party will be placed at a disadvantage if the application is granted and if so whether that disadvantage is justified.
34. The Committee determined that it would allow the application to amend because the application would not alter the Council's case, the Council will not be seeking to adduce any additional evidence and the Registrant has been aware of the matters that he is facing for several months. The Committee was mindful of its duty to uphold the overriding objective of public protection specifically the need to uphold proper professional standards and decided that this outweighed any disadvantage caused to the Registrant in granting the application.
35. Admissions
36. When the Legal Adviser provided guidance to the Registrant in the absence of the Committee and in the presence of Ms Adeyemi, in relation to the application to amend there was also a discussion about whether the Registrant intended to rely on his alleged [redacted] as a defence to the allegations or as mitigation.

37. Prior to the allegations being read, the Registrant told the Committee that he had changed his position and would be denying all the particulars save for particular 5. When the Chair asked the Registrant if he was denying particulars 1, 2 and 3 as well as 4, the Registrant said that he was.

Findings in relation to the Facts

38. The Committee carefully considered the Council's bundle which consisted of 218 pages and a bundle provided by the Registrant consisting of 16 pages. The Council's bundle included but was not limited to witness statements, notes pertaining to the internal investigation carried out by Boots, and an [redacted] dated 30 March 2023 provided by the Council. The Registrant's bundle included but was not limited to [redacted].
39. Witnesses for the Council Witness A and Witness B attended the hearing remotely and provided oral testimony.
40. The Registrant provided oral testimony. During questions he told the Committee that he had provided a witness statement to the Council prior to the hearing. The Committee requested sight of this (undated) witness statement which was provided during the Registrant's testimony. The Registrant said that he had submitted the statement to the Council in April 2022 to which the Council agreed.
41. Ms Adeyemi and the Registrant made closing submissions. On behalf of the Council Ms Adeyemi said that in relation to particulars 1a and 1b of the Allegation, the Committee should find these proved because the Registrant during his evidence accepted that he created a false receipt on or around the 24 May 2021 and 22 July 2021. She said that to find these matters proved the Committee need not concern itself with the Registrant's state of mind. In relation to particulars 2, 3 and 4 of the Allegation Ms Adeyemi submitted that there is no evidence that the Registrant's [redacted] rendered him incapable of knowing right from wrong or from knowing what he was doing at any one time. She said that it is unlikely that his actions were impulsive because there was evidence of pre-meditation, and he did not correct his actions at any time. She said that the Committee ought to find on the evidence that he was culpable and reminded the Committee that the conduct had not been isolated but had taken place twice.
42. [redacted].
43. [redacted]
44. The Committee accepted the advice of the Legal Adviser. The Legal Adviser provided her advice in writing and in summary, she reminded the Committee that the burden of proof lies with the Council in respect of the facts, and that the standard of proof is the balance of probabilities pursuant to Rules 39 and 38 respectively. The Committee was reminded to consider each of the

particulars of the allegation separately and to consider all the evidence. The Legal Adviser informed the Committee of the test for dishonesty as laid out in the case of ***Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 76***. The Legal Adviser also referred to the case of ***Sun v General Medical Council [2023] EWHC 1515 (Admin)*** because the Registrant is relying on a [redacted] in relation to the alleged dishonesty. The Committee was advised to consider the [redacted] evidence provided by both parties in determining whether on a balance of probability, the Registrant's [redacted] impacted his judgement and if so whether he knew what he was doing at the time. The Committee was also advised to consider the conduct of the Registrant in the lead up to and during the specific incidents to assist them in assessing dishonesty. The Legal Adviser invited the Committee to consider the previous good character of the Registrant particularly when considering the allegations involving dishonesty in line with ***Khan v GMC [2021] & Sawati v GMC [2022]***.

45. In considering each particular of the Allegation in turn, which involved assessing the evidence of each of the relevant witnesses including the [redacted] practitioners and the documentary and oral testimony, the Committee found all the Council's witnesses to be credible and reliable and accepted their evidence. The factual evidence was not essentially challenged as to what had taken place. Neither witness appeared to harbour any malice towards the Registrant indeed each spoke warmly of the Registrant's clinical skills and his customer interactions. They expressed a degree of sympathy for his situation. A summary of their evidence is as follows:
46. Witness B, an employee of Boots, has the role of managing five Boots Optician stores. He told the Committee that he was asked to internally investigate the Registrant's conduct on 12 August 2021 and prior to this had not met him. He said that the Registrant's line manager had been contacted by Simply Health, an insurance company, regarding potentially fraudulent claims by the Registrant.
47. Witness B exhibited a record of an investigation meeting that took place with the Registrant and during the hearing referred to the record (exhibit KK/01). He told the Committee that during the hearing, the Registrant admitted creating and submitting the false receipts and said that he had acted in this way due to [redacted]. Witness B said that he could recall the meeting.
48. During his evidence Witness B said that in the investigation hearing the Registrant had been very clear about his actions. He explained that he had found the bottom half of the receipt relating to a random customer and had folded it with his own sight test receipt which had his own name on it to make it appear to be one receipt. On the second occasion that he had used his [redacted] recent sight test receipt with her own name on it and another customer receipt. That having made the receipts look as one, he had taken a photo of them and sent them to the insurance company to claim cashback in line with his insurance policy.

49. When Witness B was asked whether the Registrant had said that he acted impulsively, Witness B told the Committee that all he could recall was the Registrant saying that he had [redacted] and for this reason he did not explore whether the Registrant's actions had been impulsive. Witness B said that another reason why he did not consider exploring whether the Registrant had acted impulsively was due to the pre-meditation that he considered to be present and the fact that the Registrant said that he had carried out the actions on two occasions.
50. Witness B said that during the internal investigation the Registrant said that he had a [redacted]. Witness B told the Committee that he read through the Registrant's personnel file briefly to see if there was anything recorded of relevance and said that as far as he could recall there was nothing. He said that the file is stored in the workplace, and that no information in the file had stood out for him.
51. Witness B was asked about whether there were any implications for the patients whose receipts had been used by the Registrant and Witness B said that as far as he was aware there were not.
52. During his evidence Witness B told the Committee that the Registrant had been very upset during the meeting and appeared to be very remorseful. He said that he was confident after listening to the Registrant's version of events that he had created the false receipts and submitted them to the insurance company with a claim form.
53. Witness A, a dispensing Optician at Boots Opticians and a manager of four practices told the Committee that he was asked to chair a disciplinary hearing involving the Registrant and prior to this had not met the Registrant. On 20 August 2021, Witness A said that he read the investigation papers prior to conducting the disciplinary hearing. He told the Committee that the insurance company Simply Health was not affiliated to Boots.
54. Witness A exhibited a record of the disciplinary hearing with his evidence and during the hearing referred to the record (exhibit DA/01). He said that the Registrant explained what he had done on the 24 May 2021 and 22 July 2021. The Registrant had told him that he had printed a receipt relating to himself and folded it with a receipt relating to a purchase by a customer and sent it to the insurance company claiming that he had purchased spectacles. Witness A said that he did not challenge the Registrant about his actions because the Registrant was very clear about what he had done. Witness A told the Committee that he could not recall whether he had seen the receipts himself and he was confident that they had been artificially created once he had listened to the Registrant.
55. When Witness A was asked during the hearing about any mention of the Registrant's [redacted] during the disciplinary hearing, Witness A said that when the Registrant raised issues with his [redacted], that he took some time to look through the Registrant's personnel file to see if there was any mention of a [redacted]. He told the Committee that he could not recall seeing anything

of relevance. Witness A said that he was unaware of any discussions that the Registrant may have had previously with his line manager regarding his [redacted].

56. The Registrant gave oral testimony. He told the Committee that he had a private medical policy with the insurance company which did not cover the total cost of [redacted]. The policy entitled him to cash back towards certain treatments including the purchase of spectacles, to a maximum value per pair of £250 and he had expected to receive £500 in total. He said that he created the receipts and submitted the false claims but did not know what he was doing at the time. He said that he had been struggling with his [redacted] since being [redacted] and although he had told his line manager in late 2020 about his [redacted] that save for advising him to take a week off work, that she had offered no further support. He told the Committee that his [redacted]. He said that when placed under stress he would move into a [redacted] when he was required to [redacted] this was when he submitted the false claims. He said that he did not think about it after submitting the first claim and had forgotten about it when he submitted the second one. He said that he deleted the pictures of the two receipts from the work laptop because they contained information that he did not wish anyone else to see. The Registrant said that during the internal disciplinary investigation by Boots that all he could think about was [redacted], he was scared, and this is why he admitted the wrongdoing with no mention of having been unaware of his actions. When asked about how he acted impulsively having submitted false claim forms on two occasions, he said that when the instalments were requested it sent him into shock and he acted impulsively. The Registrant said that he was working with patients prior to and after submitting the false claims on the two days but looking back he was [redacted].

57. [redacted].

58. [redacted].

Allegation 1: On an unknown date during 2021 you,

- a. *Created a false receipt using a receipt belonging to another patient who paid £340.00 for glasses by sticking together the top part of your receipt and the bottom half patient's receipt and,*
- b. *Created a false receipt using a receipt belonging to another patient who paid the value of £437.50 by sticking together the top part of your [redacted] receipt and the bottom half of the patient's receipt.*

Proved

59. The Committee found 1a and 1b proved.

60. The Committee considered the evidence of the Registrant very carefully and found that by virtue of his own evidence, he had admitted creating the false receipts on both occasions.
61. It was noted by the Committee that the Registrant had admitted creating the false receipts on both occasions during the internal investigation meeting, during the disciplinary and appeal hearing at Boots and during this hearing. He had provided a consistent account on all occasions of how he had created the false receipts and had been very clear in his description. The Committee found that there was no reason to doubt the Registrant's account and accepted that he had created the false receipts on both occasions. The Committee decided that the Registrant's state of mind was not relevant to particulars 1a and 1b.

Allegation 2:

On or around 24 May 2021 you knowingly submitted a false claim form for spectacles dated 30 April 2021 for yourself to Simply Health a third-party insurance provider for the value of £340; and/or

Proved

62. The Committee found this particular proved.
63. The Committee considered the evidence of the Registrant very carefully and found that by virtue of his own evidence, he had admitted submitting a false claim form to the insurance company for spectacles for himself on the date alleged.
64. It was noted by the Committee that the Registrant had admitted submitting the false claim form during the internal investigation meeting, during the disciplinary and appeal hearing at Boots and during this hearing. He had provided a consistent account on all occasions of how he had submitted the claim form and had been very clear in his description.
65. The key issue for the Committee was whether the Registrant had submitted the false claim form knowingly. The Committee carefully considered the [redacted] evidence and the actions of the Registrant in the lead up to and during the submission of the false claim form.
66. [redacted].
67. The Committee considered the evidence in the lead up to and during the submission of the false claim forms and whether there was evidence of the Registrant having acted impulsively. The Committee noted that it was not disputed by the Registrant that he was at work on the day in question, there was no evidence of him being unfit to carry out his work or having acted irrationally in the clinical context. The Registrant had been systematic and

prepared when he used the receipt from his own sight test the previous day and had acquired the receipt of a customer by walking to the part of the store where customer receipts were kept in a tray and selecting one. [redacted] of £250 and he had been aware at the time that if he submitted a claim for spectacles to the insurance company, that the maximum they would have paid to him was £250. He had taken the time to create a false receipt, taken a photo using an instore camera, uploaded it to his work computer, navigated his way to the insurance company's website, entered some details about the claim onto a claim form, clicked on the appropriate box to indicate that he understood the declaration of truth and clicked on the submit button. The Registrant deleted the photo of the receipt as it had been uploaded to a work computer. He had then continued with his working day.

68. The Committee found that there was a wealth of evidence to support a pre-meditated state of mind and with this evidence, the [redacted] and the length of time involved in carrying out the various actions the Committee rejected the Registrant's evidence that his actions were impulsive or that he had been unaware of what he was doing at the time.
69. The Committee concluded on the evidence that the Registrant had thought about how to raise £250 to pay for the next instalment towards [redacted] and had knowingly submitted the false claim form to receive £250 from the insurance company.

Allegation 3:

On or around 22 July 2021 you knowingly submitted a false claim form for spectacles on behalf of your [redacted] dated 17 July 2021 to Simply Health a third-party insurance provider for the value of £437.50; and/or

Proved

70. The Committee found this particular proved.
71. The Committee determined that this allegation was very similar to Allegation 2 and the only difference was that the alleged false claim form contained a claim for spectacles for the Registrant's [redacted], and the date of the alleged submission was almost two months later. Having recognised the similarities with Allegation 2, the Committee went on to consider this allegation independently, and on the evidence available to them.
72. The Committee considered the evidence of the Registrant very carefully and found that by virtue of his own evidence, he had admitted submitting a false claim form to the insurance company for spectacles for his [redacted] on the date alleged.
73. It was noted by the Committee that the Registrant had admitted submitting the false claim form during the internal investigation meeting, during the disciplinary and appeal hearing at Boots and during this hearing. He had

provided a consistent account on all occasions of how he had submitted the claim form and had been very clear in his description.

74. The key issue for the Committee was whether the Registrant had submitted the false claim form knowingly. The Committee carefully considered the [redacted] evidence and the actions of the Registrant in the lead up to and during the submission of the false claim form.
75. [redacted].
76. Upon consideration of the Registrant's actions in the lead up to and during the alleged submission of the false claim form, the Committee could find no evidence of impulsive behaviour. The Registrant told the Committee during his evidence that his [redacted] had had a sight test on the 22 July 2021, and he had used the receipt for payment of the sight test, together with a random customer receipt that he had taken out of a tray at the rear of the store, to produce a false receipt. He had created a false receipt by folding one receipt over the other and had taken a picture of it with an instore camera, uploaded it to his work computer, navigated his way to the insurance company's website, entered some details about the claim onto a claim form, clicked on the appropriate box to indicate that he understood the declaration of truth and clicked on the submit button. The Registrant deleted the photo of the receipt from his work computer and then continued with his working day.
77. The Committee found that there was a wealth of evidence in the planning, preparation and repetition using the same methodology to support a pre-meditated state of mind. With this evidence, the [redacted] evidence and the length of time involved in carrying out the various actions the Committee rejected the Registrant's evidence that his actions were impulsive or that he had been unaware of what he was doing at the time.
78. The Committee concluded on the evidence that the Registrant had thought about how to raise £250 to pay for the next instalment towards [redacted] and had knowingly submitted the false claim form to receive £250 from the insurance company.

Allegation 4:

Your actions as described in (1) (2) and 3 above were dishonest in that you

knew:

- a. the receipt confirming the amount paid for did not belong to you and was created by you with the intention to show you had purchased the spectacles and/or,*
- b. the information you provided to Simply Health was incorrect; and/or*

- c. *that the claim forms submitted were false as you had not purchased any spectacles; and/or*
- d. *you submitted the claim forms in an attempt to gain money from the insurance provider for your own personal gain.*

Proved

- 79. The Committee found this particular proved in relation to sub-paragraphs 4a to 4d.
- 80. In relation to 4a, 4b and 4c, the Committee determined that the factual content was admitted by the Registrant. The key issue was whether he had known what he was doing at the time such that his conduct had been dishonest.
- 81. For 4d, the Committee considered whether there had been any personal gain by the Registrant before they considered whether he had acted dishonestly. The Registrant during his evidence had told the Committee that he had obtained the money not for himself but to [redacted]. The Committee found that the Registrant had been consistent with this explanation of his conduct during the internal investigation by Boots and in his written statement that had been provided to the Council prior to the hearing. The Committee accepted this explanation from the Registrant as being his primary motivation for creating the false receipts and submitting the false claim forms.
- 82. The Registrant told the Committee that in total he had intended to receive £500 from submitting the two false forms. The Committee determined that in obtaining this money, it had been obtained for the Registrant's own personal gain and he had had control over how to make use of it. The fact that he asserted that he decided to use it to [redacted] did not negate that the money had been provided to the Registrant. The Committee determined that the false claim forms had been submitted for the Registrant's own personal gain.
- 83. The key issue for the Committee in relation to 4d was whether the Registrant had known what he was doing at the time such that his conduct had been dishonest. This was the same for 4a, 4b and 4c.
- 84. Upon considering this issue the Committee had regard to the two-stage test laid out in ***Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 76***. The Committee determined that in relation to its factual findings for particulars 2 and 3, the Registrant subjectively knew in his mind that he was submitting false claim forms.
- 85. The Committee went on to consider particulars 1a and 1b and whether the Registrant had known at the time that he was creating false receipts. The Committee considered the [redacted] evidence and the Registrant's conduct during the lead up to and the actual creation of the two receipts and submission of the two forms and determined on a balance of probability that he had known what he was doing at the time.

86. [redacted].
87. Having considered the [redacted] evidence and the actions of the Registrant, the Committee determined for 4a, that the Registrant knew what he was doing when he created the false receipts, and he had created them to suggest that on the two occasions he had purchased spectacles for himself and his [redacted].
88. For 4b, the Committee determined that when the Registrant submitted the false information on the claim forms to the insurance company on the two occasions, that he had known what he was doing and that the information had been false.
89. For 4c, the Committee determined that when the Registrant submitted the false claim forms to the insurance company on the two occasions, that he had known what he was doing.
90. For 4d, the Committee accepted the explanation provided by the Registrant that he had claimed the money on the two occasions to assist primarily in paying [redacted]. The Committee went on to find that when the Registrant submitted the false claim forms to the insurance company on the two occasions, that he had known what he was doing.
91. The Committee found that the actions of the Registrant in relation to paragraphs 4a – 4d had been pre-meditated, a deliberate course of action and had been repeated on a second occasion approximately two months later. The Registrant's evidence that he was unaware of his actions on both occasions is inconsistent with the [redacted] evidence and the Registrant's pre-meditated conduct.
92. With that in mind, the Committee went on to consider the second limb of the dishonesty test in *Ivey* namely, would the Registrant's conduct on the evidence be considered dishonest by the standards of ordinary decent people?
93. The Committee determined that for each paragraph 4a to 4d, an ordinary decent person would consider the Registrant's actions to be dishonest. The Committee considered the Registrant's previous good character but notwithstanding this found the Registrant's conduct to be dishonest for the reasons set out above.

Misconduct

94. Having found the facts alleged proved, the Committee next considered whether the facts found proved at particulars 1 to 4 amounted to the statutory ground of misconduct.
95. The Committee heard submissions on misconduct on behalf of the Council from Ms Adeyemi. She said that there is no statutory definition for misconduct and referred the Committee to the case of *Roylance v GMC [2000] 1 AC 311* which she said described misconduct as a word of general effect involving an

act or omission which falls short of what would be proper in the circumstances. The conduct must be serious. Ms Adeyemi said that in creating false receipts and submitting the claims, the Registrant's conduct was a significant departure from the professional standards.

96. Ms Adeyemi submitted that honesty and integrity are fundamental tenets of the optometry profession and said that case law provides that misconduct should follow a finding of dishonesty. She cited the case of **PSA v HCPC v Ajeneye [2016] EWHC 1237 (Admin)** which stated that deliberate dishonesty must come at the high end of the scale of misconduct and if dishonesty has occurred more than once it may illustrate a tendency to act dishonestly.
97. Ms Adeyemi went on to say that the Registrant's conduct should fall towards the higher end of the scale of seriousness because his actions were pre-meditated, he received £500, and his actions involved multiple breaches of trust including using genuine customer receipts to assist him in the dishonest acts. She said that the Registrant had acted in breach of standards 14.6, 16, 16.1 and 17 of the Standards of Practice for Optometrists and Dispensing Opticians ('the Standards').
98. The Committee heard submissions from the Registrant. He said that he is not denying that the acts amount to misconduct, he apologises for his actions, and he understood that the Committee will decide for itself whether the conduct amounts to misconduct. He submitted that at the time of the conduct he had been experiencing poor [redacted], he had been concerned for [redacted]. He said that until that time he had been an honest and trustworthy person. The Registrant said that he fully understood why the professional standards are in place, that he acted in breach of the standards and that it would create a negative impression for members of the public if they were not aware of the full circumstances. He went on to say that he understood how acts of dishonesty can have a significant effect on public confidence in the profession. The Registrant said that if the public knew that he had repaid the £500 to the insurance company; that he had carried out the acts to obtain money towards his [redacted]; he had been of previous good character and there had been no repeat behaviour, that they would view his conduct differently. He pointed out that the insurance company in question accepted his mitigation and did not put him on a blacklist and having received the money by way of reimbursement in full, they decided to take no further action. He says that he has learnt techniques to help with [redacted] in order to avoid repetition of the misconduct. He also said that his current employer has confidence in him and trusts him to act as a pre-registration supervisor.
99. The Committee received and accepted advice from the Legal Adviser. The Legal Adviser referred to the Council's Hearings and Indicative Sanctions Guidance which at paragraph 15.1 provides that impairment may be based on misconduct. Referring to paragraphs 15.5 to 15.9 of the Guidance the Legal Adviser highlighted to the Committee that as there is no statutory definition of misconduct, the Committee should exercise its own judgement. The Legal Adviser advised the Committee to consider previously decided cases

including the guidance on misconduct from the judgement in the case of ***Roylance v GMC [2000] 1 AC 311***:

'misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word 'professional' which links the misconduct to the profession .. Secondly the misconduct is qualified by the word 'serious.' It is not any professional misconduct which will qualify. The professional misconduct must be serious.'

100. The Legal Adviser also referenced ***Nandi v GMC [2004] EWHC 2318 (Admin)*** where the Court referred to ***Roylance*** and described misconduct as:

'a falling short by omission or commission of the standards of conduct expected among medical practitioners, and such falling short must be serious such that it would be regarded as deplorable by fellow practitioner.'

The Committee's decision on misconduct

101. The Registrant's conduct as proved, involved him dishonestly using customer receipts to create false receipts and false claims to an insurance company to obtain money. The dishonesty had occurred on two separate occasions and on each occasion the Registrant had received £250 from the insurance company. The Committee agreed that the Standards identified by Ms Adeyemi in her submissions were engaged which were as follows:

14.6 Only use the patient information you collect for the purposes it was given or where you are required to share it by law.

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

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

102. The Committee determined that each of these standards had been breached by the Registrant. The Committee found that to assist him in carrying out the acts of dishonesty, the Registrant had used materials in the workplace including customer receipts and his work computer. The Committee found that to use the customer receipts in this manner significantly breached the trust placed in him by his employer and customers of the store. The Committee also considered that the dishonesty had occurred on two separate occasions approximately two months apart, and it had been planned. The Committee took into account the Registrant's admission that his actions amounted to misconduct.

103. It was the Committee's view that the Registrant's actions which included dishonesty were a significant departure from the professional standards

expected, was sufficiently serious to amount to misconduct and that fellow practitioners would regard it as deplorable.

104. The Committee subsequently determined that the facts found proved at particulars 1 to 4 amounted to misconduct.

Impairment

105. Having determined that the facts found proved at particulars 1 to 4 amounted to misconduct, the Committee went on to hear evidence and submissions on impairment including the admitted particular 5 relating to the [redacted].

106. The Committee heard oral testimony in person from Witness C, a witness for the Registrant. Witness C told the Committee that he met the Registrant in 2006/2007 when he was working as a locum Optometrist and the Registrant began working at the same practice as a student Optometrist. They worked together until 2014 when the Registrant went to live and work in Australia, and they have not worked together since. Witness C said that during the period 2006/7 to 2014, he would have seen the Registrant two or three times a week and they became friends and kept in touch after the Registrant moved to Australia and upon his return to the UK. Witness C said that since the Registrant began working for Specsavers in September 2021, they have not worked together but have seen each other at conferences or courses most latterly in March 2023.

107. Witness C told the Committee that he is aware of the allegations, specifically that on two occasions the Registrant had created a false receipt and submitted a false claim to an insurance company to obtain money. He said that in his view this was behaviour that was very out of character. He described the Registrant as confident until he was the [redacted] around May 2020. Witness C said that the Registrant told him about his [redacted] either weeks or months after he received it and they have spent time talking about it since. He said that the Registrant had been a proud man and felt unable to ask for help prior to the incidents involving dishonesty but since the incidents has changed his approach and contacts Witness C when he needs guidance either work related or personal. Witness C described the Registrant as honest and trustworthy and by way of an example told the Committee that when some Optometrists working together may 'cherry pick' their patients that is, select the easiest. Witness C has never known the Registrant to do this. When he was asked about [redacted], Witness C said that the Registrant knows that he can contact him as and when he needs to.

108. The Committee heard further oral testimony from the Registrant following which he was asked questions by Ms Adeyemi and by the Committee. During his evidence the Registrant said that in 2020 after the [redacted].

109. The Registrant told the Committee that he has been [redacted]. The Registrant said that whilst he accepts that his actions were wrong, he also believes that had Boots Opticians reacted properly to him raising concerns

about [rather] rather than brushing his concerns aside, that with support and [redacted], he may not have acted as he did.

110. The Registrant went on to say that he now has an extended network of support including his current employer, [redacted] and Witness C. [redacted]. He said that in 2021 when he carried out the acts of dishonesty that he was blocked from thinking like an ordinary person because of his [redacted]. Since then, he said that he has attended courses on ethics in the healthcare profession, data protection and dishonesty although he went on to say that he left the course on dishonesty half way through because he felt sick.
111. The Registrant said that he has reflected on the wider public perception and how his conduct will impact negatively on public confidence in the profession for which he apologised unreservedly. He said that if the public knew about why he acted dishonestly that they would look at the situation differently. He told the Committee that since working for Specsavers in 2021 there had been no repeat conduct and he was supported with his [redacted] and talks to his manager about stressful matters as and when he needs to. The Registrant made reference to the testimonials that had been provided in his bundle.
112. [redacted].
113. Ms Adeyemi made submissions to the Committee and invited it to consider paragraphs 16 for determining impairment and 17 of the Indicative Hearings and Sanction Guidance to assist in assessing the impact of dishonesty. Ms Adeyemi drew the Committee's attention to paragraph 17.1 which cites defrauding an insurance company at part (a) as an example of dishonesty. Ms Adeyemi highlighted that the guidance provides that dishonesty is particularly serious in terms of impairment as it may undermine confidence in the profession.
114. Ms Adeyemi submitted to the Committee that there were many positive steps that had been taken by the Registrant since the two incidents had occurred including obtaining [redacted], he had repaid the money to the insurance company, and he has worked since with no other issues. She said that the character references and cards from colleagues and patients presented by way of testimonials do not assist the Registrant as they are primarily concerned with clinical care and the Council has not questioned the Registrant's clinical competence. Ms Adeyemi said that the Council submits that the Registrant has shown limited insight and reflection because the Registrant maintains that Boots Opticians could have prevented his dishonest conduct and he has not taken all available measures to manage [redacted]. She said that for these reasons there is a risk of repeat conduct.
115. In terms of the statutory grounds relied upon to demonstrate current impairment, Ms Adeyemi told the Committee that the primary ground relied upon is misconduct and the Council rely in the alternative on the Registrant's [redacted]. She said that whilst the Registrant appears to be trying to manage his [redacted] there is no concrete evidence of remediation. Ms Adeyemi referred the Committee to the case of **Council for Healthcare Regulatory**

Excellence v Nursing and Midwifery Council, Paula Grant, and submitted that it may be appropriate for the Committee to make a finding of current impairment on the basis that it is in the public interest to do so. She said that the wider public may be sympathetic to the circumstances of this case but would also be concerned if there were a finding of no impairment.

116. The Registrant made submissions to the Committee. He invited the Committee to look forwards and to consider the case of **Blakely v GMC [2019]** which provides that the Committee should consider whether the practitioner understands the gravity of the findings and the impact on public perception when assessing impairment. He said that he has accepted the seriousness of his wrongdoing, he understands the damage to public confidence but maintains that if a member of the public knew all the circumstances they would look at the matter differently. He said that he has full insight, he has taken proper steps to try and remediate his dishonesty and will not repeat the conduct. He reminded the Committee that over two years has passed since the two incidents, there has been no recurrence and he is now managing his [redacted] which reduces the risk of any repetition. The Registrant referred to the GOC decision of Bhavik Ghandi on 26 September 2023 where that Committee found that the Registrant had fully remediated himself in similar circumstances. He said that he is not impaired by reason of his [redacted] and highlighted that he has learned with [redacted] help how to manage his [redacted] and he has extended his support network including by working with [redacted]. He reminded the Committee that [redacted] considers him to be fit to practise, that his actions had been uncharacteristic, and he has accepted his wrongdoing and learned from it. He told the Committee that he has channelled his frustration with Boots Opticians into working with employers and employees [redacted]

117. [redacted]

118. The Committee accepted the advice of the Legal Adviser which included the reference to established principles laid out in the cases of **Cohen v GMC [2008] EWHC 581 (Admin)**, **Council for Healthcare Regulatory Excellence v NMC and Paula Grant [2011] EWHC 927 (Admin)**. The Legal Adviser summarised for the Committee's benefit the approach formulated by Dame Janet Smith in her Fifth Report from the Shipman case, cited in approval in Grant, namely whether the Registrant:

- (a) *Has in the past acted and/or is liable in the future to act so as to put a patient(s) at unwarranted risk of harm; and/or*
- (b) *Has in the past 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; and/or*
- (d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

119. The Legal Adviser referred the Committee to paragraphs 16.1 to 16.7 of the Guidance and in particular highlighted paragraphs 16.1 and 16.4 and the relevant factors for the Committee to consider both on a personal level and in the public interest, when determining impairment. The Legal Adviser also referred to the case of **PSA v GMC [2019] EWHC 927 (Admin)** where it was decided that to find no impairment in a case where dishonesty had been proven would often be regarded as unreasonable.
120. The Committee were referred to the cases of **Sawati v GMC [2022]** and **Towuagbantse v GMC (2021)** and were advised that when considering the criteria for impairment that it should not use against the practitioner at impairment stage that he had denied the allegations.
121. The Legal Adviser also provided advice in relation to the statutory ground of [redacted] as relied upon as an alternative to misconduct by the Council. The Committee was advised to consider paragraphs 15.12 to 15.14 of the guidance. In relation to paragraph 15.13, the Legal Adviser reminded the Committee that it had found particular 5 of the Allegation proven due to the admission from the Registrant and rule 46(6) of the Rules [redacted]. The Legal Adviser advised the Committee to consider the documentary evidence together with the relevant oral testimony and consider the non-exhaustive list at paragraph 15.14 namely,
- (a) [Redacted],
 - (b) [redacted], and
 - (c) [redacted].

The Committee's decision on impairment

122. The Committee bore in mind the Council's overarching objective as set out at paragraph 1.1 of the Guidance and gave equal consideration to each of its limbs as set out below:

'To protect, promote and maintain the health, safety and well-being of the public, the protection of the public, the protection of the public by promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct.'

123. The Committee first considered the questions endorsed in **Grant** in relation to past behaviour. It concluded that in planning to and creating false receipts and submitting false claim forms to obtain money that he was not entitled to on two separate occasions, that in the past the Registrant had brought the profession into disrepute; breached more than one of the fundamental tenets of the profession and acted dishonestly.

124. Following on from the consideration of past behaviour the Committee went on to consider the questions to be asked from the case of **Cohen** as follows:

- (a) Whether the conduct leading to the charges is easily remediable?

- (b) If it is whether it has been remedied, and then,
- (c) Whether it is likely to be repeated?

125. The Committee considered that dishonest conduct is difficult but not impossible to remediate. To assist with this assessment, the Committee considered whether the Registrant had shown insight into his misconduct. The Committee considered the submissions made by Ms Adeyemi that the Registrant had demonstrated partial insight. The Committee noted that the Registrant had taken responsibility for his actions and had been consistent in this approach during the internal investigation with Boots Opticians. The Registrant at the preliminary stage of the hearing said that he was intending to admit the allegations and after discussions in the hearing and with the Legal Adviser changed his position and denied particulars 1 to 4. The Committee recognised that in the absence of legal representation that he may not have understood how to proceed and acknowledged that notwithstanding his change in position he always accepted that he had created the false receipts and submitted the false claim forms. He had been frustrated with the lack of support from Boots and the Committee took into account that he had channelled this frustration into raising [redacted] awareness with the charity that he now works with. The Committee found that the Registrant had demonstrated an understanding of the seriousness of the misconduct and had reflected on the damage caused by his actions to public confidence in the profession. He repeatedly expressed remorse which the Committee considered to be sincere. He accepted that public confidence in the profession had been damaged by his failure to maintain professional standards and due to a serious breach of trust with his employer. For these reasons the Committee determined that the Registrant had shown good insight.
126. Having found good insight, the Committee went on to find that the Registrant's conduct was remediable. The Committee considered the steps that he had taken to remediate and noted that he attended an ethics and data protection course and half a day at a course relating to dishonesty. The Committee also noted that he had obtained professional help to manage his [redacted]; he had extended his support network to include professional medical practitioners; he is working with [redacted]. The Committee reminded itself of the evidence provided by the Registrant including the cases that he referred to, the evidence of Witness C and the content of the testimonials provided by the Registrant. The Committee having regard to the evidence determined that the Registrant had demonstrated that his conduct had been sufficiently remediated.
127. The Committee considered whether there was any risk of repetition of the conduct and in light of the evidence found that the risk was very low. For this reason, the Committee determined that the Registrant's current fitness to practise on the basis of misconduct was not impaired in terms of the personal element of impairment.
128. The Committee then considered the wider public interest element of impairment and whether public confidence in the profession would be

undermined if a finding of impairment were not made. It reminded itself of the overarching objective particularly promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards. The Committee had found the Registrant's conduct to be pre-meditated; it had occurred on two occasions; he had used customer receipts to facilitate the misconduct; the misconduct had been for personal gain; the [redacted] evidence did not suggest that he did not know right from wrong at the material time and he had breached the trust of his employer. The Committee determined that a well-informed reasonable member of the public whilst sympathetic to his plight in light of his circumstances would nevertheless be concerned to learn of his conduct and public confidence in the profession would be damaged. The Committee concluded that the limbs of the overarching objective relating to public confidence and the upholding of professional standards were engaged.

129. The Committee concluded that the Registrant's fitness to practise is currently impaired by reason of misconduct on public interest grounds because of the overarching objective of promoting and maintaining public confidence in the profession and proper professional standards.

130. Having found particular 5 proved, the Committee went on to consider whether the Registrant's current fitness to practise is impaired by reason of his [redacted]. It concluded that there was insufficient evidence for it to find current impairment on this ground.

Sanction

131. The Committee heard oral submissions from Ms Adeyemi during which she reminded the Committee that the purpose of sanctions was not to punish but to serve the overriding objective of public protection maintaining public confidence and upholding proper professional standards. She said that the Committee should exercise its own judgement when considering which sanction to impose. She referred the Committee to the Hearings and Indicative Sanctions Guidance ('the Guidance'), in particular paragraphs 21.3 and 21.5 when she said that the Committee should consider the least restrictive sanction first and move in an ascending order, beginning with the taking of no further action. Ms Adeyemi submitted that there were no exceptional circumstances in this case to justify taking no further action.

132. Ms Adeyemi invited the Committee to consider the aggravating and mitigating factors in this case and to impose a sanction that was proportionate. She said that a financial penalty or conditions of practice order would be insufficient and submitted that an appropriate and proportionate penalty would be a suspension order for no more than six months. She said that a Suspension Order would demonstrate the seriousness of the misconduct and satisfy the public interest element of the overriding objective. Ms Adeyemi invited the Committee to direct a review hearing if it decided to impose a Suspension Order, to enable a

reviewing Committee to ascertain the Registrant's circumstances and to decide whether his current fitness to practise remains impaired.

133. The Registrant made oral submissions to the Committee and referred throughout his submissions to the Guidance. He said that he agreed with the Council that to take no further action as a sanction would not reflect the seriousness of his misconduct. He said that a Conditions of Practice Order would be inappropriate because his clinical competency had not been in question. The Registrant invited the Committee to consider imposing a financial penalty on the basis that it would reflect the seriousness of his misconduct and uphold public confidence in the profession. He asked the Committee to consider imposing a financial penalty that could be paid to a children's charity. The Registrant went on to say that he understood that a Suspension Order may be appropriate due to the seriousness of his actions, and he invited the Committee to consider a short suspension period of one month. The Registrant in response to questions from the Committee explained the impact the fitness to practise process had had on his financial situation and the ways that he had found to adapt to this. He said that a Suspension Order would have an impact on his financial circumstances, and he was the only person earning a salary in his family and that he had [redacted] to support. He said that his current employer was aware that he may be suspended and had indicated that they would support him in any way possible. The Registrant was asked by the Committee about the impact on his practise if he were suspended and he said that patient care would be affected and that the pre-registration Optometrist that he was supervising may have their training delayed. The Registrant asked the Committee not to erase his registration and reminded it that he had accepted his wrongdoing for which he had apologised.
134. The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Guidance and the purpose of imposing a sanction which included protecting the public including promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards. She advised that the Committee must come to its own independent view and there was no burden or standard of proof at this stage of the proceedings.
135. The Legal Adviser advised the Committee that the sanction to be imposed should be appropriate and proportionate, balancing the Registrant's interest with the public interest and that whilst the purpose is not to punish the Registrant that it may have a punitive effect. In addition to identifying the aggravating and mitigating factors, the Committee was advised to assess its conclusions on the acts of dishonesty, to then consider the extent of the dishonesty and its impact on the Registrant's character and most importantly its impact on the wider reputation of the profession and the public perception of the profession. The Legal Adviser highlighted the case of ***Bolton v Law Society [1994]*** which provided that the reputation of the profession is more important than the impact for the individual member.

136. The Committee was advised to consider the least restrictive sanction first and if not appropriate or proportionate, move to the next available sanction in ascending order. The Legal Adviser invited the Committee to consider the next more restrictive sanction if there is one, before settling on a particular sanction to enable the Committee to satisfy itself that the sanction being considered is the most appropriate and proportionate.

The Committee's decision on Sanction

137. In reaching its decision, the Committee took into account the submissions by Ms Adeyemi, the submissions from the Registrant, the facts found proved and its previous decisions on misconduct and impairment.

138. Throughout its deliberations the Committee had regard to the overarching objective, particularly the promoting and maintaining of public confidence and the promoting and maintaining of proper professional standards.

139. The Committee considered the following to be aggravating factors:

- (a) The misconduct occurred whilst the Registrant was at work. It involved the use of workplace materials and resources.
- (b) The dishonesty occurred on two separate occasions and the second dishonest action was very similar to the first.
- (c) The dishonesty on both occasions was pre-meditated.
- (d) The misconduct was for personal gain and the Registrant obtained £500.
- (e) The dishonesty involved defrauding an insurance company.
- (f) There had been a breach of trust involved in the dishonesty in that the Registrant had breached the trust of his employer.

140. The Committee considered the following to be mitigating factors:

- (a) At the time of the dishonesty, the Registrant had been experiencing significant difficulties with [redacted] and this had impacted on his judgement.
- (b) [redacted].
- (c) The misconduct did not have any implications for patients and their records.
- (d) The motive behind the acts of dishonesty related to the Registrant's [redacted]
- (e) During the internal investigation by his former employer the Registrant admitted creating the two false receipts and claim forms straight away and has demonstrated remorse.
- (f) The Registrant has repaid the monies to the insurance company and no further action was taken by the insurance company.

- (g) There has been no recurrence of the misconduct and over two years has passed.
- (h) The Registrant has fully engaged with the fitness to practise process throughout.
- (i) The Registrant has no previous fitness to practise matters recorded.
- (j) Testimonials have been provided which are supportive of the Registrant including oral testimony from Witness C who described the misconduct as out of character.
- (k) The Registrant accepted the findings of the Committee on the facts and at the impairment stage and has informed the Committee that he has learned from his actions.
- (l) The Registrant's current employer is aware of the proceedings, has provided a supportive testimonial and according to the Registrant's submissions, is prepared to support him as much as possible with the outcome.

141. It was the Committee's assessment that while dishonesty is serious, an informed and reasonable member of the public would be concerned about the Registrant's actions but would not consider it to be at the most serious end of the spectrum of dishonesty. The Committee reminded itself that whilst impairment had been found in this case, it had been found on the basis of the public interest element only and it had determined that the risk of repeat conduct was low.

142. The Committee first considered taking no action. It determined that there were no exceptional circumstances to justify so doing. Taking no action would not protect the wider public interest or reflect the seriousness of the misconduct.

143. The Committee gave consideration to imposing a financial penalty. Upon consideration of the aggravating factors of the misconduct it decided that a financial penalty would not be sufficient in protecting the wider public interest element of the overarching objective because of the seriousness of the misconduct.

144. The Committee considered imposing a period of conditional registration and determined that this would be inappropriate in the circumstances because the Registrant's clinical competency had not been in question. It also determined that having regard to the nature of the misconduct that it would not be possible to formulate workable conditions.

145. The Committee next considered a Suspension Order and the relevant sections of the Guidance and determined that parts a – d of paragraph 21.29 were engaged, given the aggravating factors identified. The Committee noted that it had determined that a lesser sanction would be insufficient; there was no evidence of attitudinal problems; there had been no recurrence and the Registrant had demonstrated good insight. The Committee found that the Registrant had taken positive steps to remediate his behaviour, had engaged

with the regulator and accepted the findings of the Committee during the hearing. The Committee noted that the imposition of a Suspension Order may cause the Registrant personal hardship and attached appropriate weight to this. The Committee considered the case of ***Bolton v Law Society [1994]*** which provided that *'the reputation of the profession is more important than the fortune of any individual member.'*

146. The Committee determined that a period of suspension would reflect the seriousness of the misconduct and redress any damage to public confidence in the profession and would uphold proper professional standards.
147. In deciding on the length of the suspension, the Committee considered the seriousness of the misconduct and balanced this with the mitigating factors. It decided that a short suspension would be appropriate and proportionate in the circumstances. The Committee noted that the Registrant was a competent clinician, had the support of his current employer and there was a public interest in him returning to practice as soon as appropriate. The Committee had found that there was a low risk of repetition of the misconduct and current impairment had been decided only on the grounds of public interest.
148. To assist the Committee with its decision, the Committee went on to consider whether the criteria for the sanction of erasure were met and considered paragraphs 22.4 – 22.6 of the Guidance. The Committee decided that the circumstances did not merit a finding that the Registrant's behaviour was fundamentally incompatible with continued registration.
149. The Committee was satisfied having made this decision that the appropriate and proportionate sanction was a period of suspension for two months.
150. The Committee considered whether it was necessary to direct a Review of the Suspension order. It considered paragraphs 21.23 – 34 of the Guidance and reminded itself that impairment had been found only on the grounds of public interest. The Committee determined that in these circumstances and with particular reference to the mitigating factors, there were no matters relating to the Registrant's practice or conduct that required to be reviewed prior to the Registrant safely returning to practise. The issue of public interest had been addressed by the imposition of a two month Suspension Order. The Committee therefore directed that no review of its Suspension Order was required.

Immediate Order

151. The Committee went on to consider whether having made a direction for a two month Suspension Order, it should make an immediate Order under section 13I of the Opticians Act 1989.
152. Ms Adeyemi advised that the Council did not seek such an order and the Registrant did not respond.
153. The Committee had regard to its prior decisions, in particular its decisions on impairment and sanction. The Committee considered that, there being no

public protection concerns and given its reasoning for directing a sanction of a two month Suspension Order, that no Immediate Order was necessary.

Chair of the Committee: Pamela Ormerod

Signature

Date: 13 October 2023

Registrant: Tajinder Ghattaora

Signature

Date: 13 October 2023

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</p>

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).

Further information about the PSA can be obtained from its website at www.professionalstandards.org.uk or by telephone on 020 7389 8030.

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.