



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

GENERAL OPTICAL COUNCIL

F(22)22

AND

MOHAMMED ZADA (01-28961)

**DETERMINATION OF A SUBSTANTIVE HEARING
22 MAY – 26 MAY 2023**

Committee Members:	Ms Rachel O’Connell (Chair/Lay) Ms Vivienne Geary (Lay) Mr Nigel Pilkington (Lay) Ms Sanna Nasrullah (Optometrist) Ms Catherine Collin (Optometrist)
Clinical adviser:	Dr Desmond Dunleavy
Legal adviser:	Mr David Mason
GOC Presenting Officer:	Dr Francis Graydon
Registrant present/represented:	Yes and not represented
Registrant representative:	N/A
Hearings Officer:	Ms Abby Strong-Perrin Mr Lee Wood (Friday cover)
Facts found proved:	Particulars 1 and 2
Facts not found proved:	N/A
Misconduct:	Found
Impairment:	Impaired
Sanction:	6 Month Suspension – (Without Review)
Immediate order:	No



Preliminary issues

Privacy applications

1. An application was made by Dr Graydon on behalf of the Council under Rule 25 of the General Optical Council (Fitness to Practise) Rules 2013 (as amended) (the Rules) REDACTED the hearing should take place in private.
2. The Registrant consented to the application made by Dr Graydon REDACTED.
3. The Legal Adviser referred the Committee to Rule 25(1) of the Rules. He advised that under that Rule hearings were to be held in public and that this accorded with the principle that the public interest required justice to be administered in public. The Legal Adviser advised that the Committee would have to consider whether in relation to particular issues the interests of individuals outweighed the public interest.
4. The Legal Adviser referred the Committee to Rule 25(3) which required hearings to be in private where the Registrant's REDACTED was considered by the Committee. He also referred the Committee to Rule 25(2) which gave the Committee a discretion to conduct the hearing in private where it considered it necessary 'in all the circumstances, including the public interest.' The Legal Adviser advised that this Rule could apply to the application to hear the case in private REDACTED were under consideration, or to the Registrant's application related to REDACTED.
5. The Committee resolved that the whole of the application in relation to privacy should be heard in private.
6. The Committee referred to Rule 25(3) and accepted that it was required to hold the hearing in private when the Registrant's REDACTED was being considered.
7. The Committee considered the GOC's application that the hearing should be in private where REDACTED were under consideration. It concluded, in accordance with the guidance, that matters relating to REDACTED would be heard in private. REDACTED
8. The Committee considered that the Registrant's application for privacy where his REDACTED fell clearly within its discretion under Rule 25(2). REDACTED

ALLEGATION (as amended)

The Council alleges that you, Mohammed Waheed Zada (01-28961), a registered optometrist:

1. *On the 9th March 2021 you falsified your GP's signature on an Adult Health form which you submitted to the REDACTED*

2. Your action in 1 above was dishonest in that you knew the signature provided was false.

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

DETERMINATION

Admissions in relation to the particulars of the allegation

9. The Allegation was read into the record in accordance with Rule 46(4). The Chair enquired of the Registrant under Rule 46(5) whether he wished to admit any of the particulars of the Allegation. The Registrant admitted particulars 1 and 2 of the Allegation and under Rule 46(6) of the Rules the Chair announced that those particulars were found proved.

Amendment of the Allegation

10. In the course of the GOC's submissions on misconduct and impairment, it was noted that the form signed by the Registrant in the name of his GP was dated 9 March 2021, not 3 March 2021, as contained in particular 1 of the Allegation.

11. The Committee decided that although the Registrant had admitted particular 1 of the Allegation, it would amend that particular by substituting 9 March 2021 for 3 March 2021. It accepted the advice of the Legal Adviser that as the GOC was not required to prove the date of the alleged misconduct, it was open to the Committee to amend the particular.

Background to the Allegation

12. The Registrant is an optometrist, having been registered with the GOC on 13 October 2015.

13. On 8 May 2021 the Registrant self-reported the following to the GOC:

"Dear GOC,

I would like to self report a mistake I made in my private life. I filled in a form relating to my REDACTED to save time booking an appointment with my GP. I massively regret it and have apologized to the GP who has accepted my apology.

I also self reported to the NHS fraud who accepted my apology and have dismissed the case as I REDACTED and there was no malicious intent/financial gain. Is there anything I would need to tell you?

There was never any police involvement and I've not been charged with anything.

I would like to keep practicing as an Optometrist and I appreciate the significance of honesty in this whole process.

Kind regards

Waheed Zada

14. The form referred to by the Registrant was an adult health report form REDACTED. The form required the signature of a doctor. The Registrant completed part C of the form relating to clinical information which was to be completed by a doctor. He signed the document twice in the name of his GP.
15. REDACTED contacted the Registrant's GP practice on 23 April 2021 to query some of the content of the health form. Staff at the GP's practice informed the agency that the form had not been completed by the GP. On 28 April 2021 the Registrant wrote to his GP apologising to him for his actions, which he admitted in full. He said that he had tried to obtain an appointment to see the GP to have the form completed but had encountered problems in doing so. The Registrant also said that he had made enquiries about obtaining an appointment to see a doctor privately to complete the form, but that the cost was beyond his means.
16. On 29 April 2021 the Registrant sent an email to REDACTED, with which he was registered, to report his actions over him signing the form.
17. At the time of these events, the Registrant was a 3rd year medical student at the REDACTED. On 29 April 2021 the Registrant self-reported his conduct over the form to the University. On 30 June 2021 a Fitness to Practise Committee of the University found that the Registrant's fitness to practise was impaired by misconduct with reference to the General Medical Council's (GMC) guidance on Achieving Good Medical Practice: guidance for medical students and GMC and Medical Schools' Council (MSC) guidance: Professional behaviour and fitness to practise: guidance for medical schools and their students. The Registrant was expelled from the MB ChB course.
18. The Registrant has continued to practise as an optometrist.

Adjournment application

19. At the outset of the second day of the hearing, following the GOC's submissions on misconduct and impairment, the Registrant told the Committee that whilst he was able and prepared to deal with the issue of misconduct, he was only '80%' sure that he was able to then deal with his case on impairment. The Registrant asked for a 24 hour adjournment to enable him to present his case.
20. Dr Graydon informed the Committee that the GOC's position on an adjournment was that as the Registrant was representing himself, he should have the

opportunity to present his case properly and that if the Registrant needed more time to prepare the GOC had no objection.

21. The Legal Adviser advised the Committee that although the Rules referred to issues of misconduct and impairment as distinct stages the Committee had agreed with the GOC and the Registrant at the outset of the hearing, to hear from both parties on those issues at the same time, mainly to assist the unrepresented Registrant. He advised that the Committee could now decide to hear the issues of misconduct and impairment separately if that facilitated the Registrant, as he was now suggesting. The Legal Adviser advised that as the Registrant was not sure at this stage if he was able to deal with impairment, the position could be reviewed after he had dealt with misconduct. The Legal Adviser advised that the Committee should take into account that the Registrant was representing himself in difficult circumstances.
22. The Committee considered the issues before it by exercising its discretion to consider adjourning the hearing at any stage of its own motion under Rule 36(1).
23. The Committee concluded that the appropriate course was for it to adjourn the hearing until 9.30 on Wednesday 24 May 2023, which would give the Registrant almost a full day to prepare his case on both misconduct and impairment. It considered that this would avoid two presentations by the Registrant which might be to a degree repetitive and that this course would give time for the Registrant to prepare his case on those issues to his best advantage. Whilst the Committee recognised the need for the hearing to proceed expeditiously, it found that there was an overriding requirement to allow the Registrant to present his case as well as possible. It also considered that in granting an adjournment in this way time might ultimately be saved. The Committee considered that proceeding with the hearing in this way would give it the opportunity to consider the issues in a way which was fair to both parties.

The Committee's findings regarding misconduct and impairment

Submissions

24. The Committee heard submissions from Dr Graydon on behalf of the Council and evidence and submissions from the Registrant in person.

GOC submissions

25. Dr Graydon made submissions by reference to his Skeleton Argument. He submitted that the issue of whether the Registrant's admitted behaviour amounted to misconduct was a matter for the Committee's judgement and that there was no burden or standard of proof.
26. In the course of his submissions, Dr Graydon referred the Committee to the case of *Remedy UK Ltd v GMC* [2010] EWHC 1245:

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

Dr Graydon submitted that the conduct of the Registrant fell into the second category of misconduct, conduct in the Registrant's private life.

27. Dr Graydon referred the panel to the case of *Roylance v GMC* [2001] AC 311 where Lord Clyde said that:

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.

He submitted that the misconduct had to be serious to amount to serious professional misconduct and that the Registrant's conduct in this case amounted to serious misconduct. Dr Graydon submitted that forging a doctor's signature on a significant application might have long term consequences for a number of people.

28. The Committee was referred by Dr Graydon to standards set out in the GOC's Standards of Practice for Optometrists and Dispensing Opticians 2016:

16 – Be honest and trustworthy

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

29. He submitted that these standards apply to registrants in their private life.

30. Dr Graydon submitted that others knew of the Registrant's misconduct, including NHS Fraud and the REDACTED. He submitted that the Registrant's conduct brought the profession into disrepute.

31. In relation to impairment, Dr Graydon submitted that this was again a matter for the Committee's judgement. He referred the Committee to the case of *Cheatle v GMC* [2009] EWHC 645 (Admin) and submitted that whilst the Committee had to consider whether the Registrant's fitness to practise is currently impaired, it must take account of the events of the past.

32. Dr Graydon referred the Committee to the case of *CHRE v NMC & Grant* [2011] EWHC 927 (Admin):

The tribunal should consider whether their] findings of fact in respect of the [registrant's] misconduct...show that his fitness to practise is impaired in the sense that he:

i 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;

ii. Has in the past brought and/or is liable in the future to bring the...profession into disrepute;

iii. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession;

iv. Has in the past acted dishonestly and/or is liable to act dishonestly in the future.

He submitted that in considering whether the Registrant's fitness to practise is currently impaired, the Committee should consider ii to iv of the factors referred to.

33. Dr Graydon referred the Committee to the case of *Cohen v GMC* [2008] EWHC 581;

It must be highly relevant in determining if...fitness to practise is impaired that first [the] conduct which led to the charge is easily remediable, second that it has been remedied, and third that it is highly unlikely to be repeated.

He submitted that dishonesty is less easy to remedy than clinical or competence issues. Dr Graydon submitted that dishonesty reflects an attitudinal problem and that without meaningful and complete insight it was difficult to conclude that the Registrant's fitness to practise was not currently impaired. Dr Graydon referred the Committee to a reflective document written by the Registrant dated 16 May 2023. He said that the Registrant appeared to place in part responsibility on the GP's surgery for him not being able to obtain an appointment to have the form completed by a doctor. Dr Graydon submitted that this demonstrated that the Registrant's insight was limited.

34. Dr Graydon submitted that the Committee should in addition to considering whether the Registrant's personal fitness to practise was impaired, also consider the public interest in maintaining standards in the profession and protecting its reputation. He submitted that the public would be concerned to know that the Registrant had forged a doctor's signature on an important document and that confidence in the profession would be undermined if the Committee did not find that his fitness to practise is currently impaired.

The Registrant's evidence and submissions

35. The Registrant chose to address the Committee having taken an affirmation. The Committee proceeded as the Registrant is unrepresented on the basis that it should take what he said as both evidence and submissions.
36. The Registrant began by addressing the issue of misconduct. He admitted serious misconduct and went on to explain why he made that admission and his understanding of the seriousness of his misconduct. He began by saying that he 'wholeheartedly' agreed with the GOC's submission that his behaviour amounted to serious misconduct and said that he wanted to add his own dimension. The Registrant said that he had been extremely upset for over two years about his conduct. He referred to what the public would think about a person telling lies, of which they would disapprove, and said that the public would be 'aghast' if the name of a doctor, as in this case, was 'defrauded'.
37. The Registrant said that the form he had filled out fraudulently was concerned with REDACTED. He continued that it was shameful that an adult man had resorted to dishonestly signing a form referring to his own REDACTED in those circumstances. The Registrant said that his conduct was 'immoral'
38. The Registrant said that what he had done was not just 'scribbling' his name on a piece of paper and that it was deeper and had ramifications for others, all of whom were innocent. In this context, the Registrant referred to Dr Graydon's submission that he had attempted to partly blame the GP's receptionist for his conduct and said that everyone involved in what he had done was innocent, apart from himself.
39. The Registrant said that the REDACTED. He said it was the most 'egregious' form of dishonesty.
40. The Registrant went on to say that the public sector has been stretched for years and REDACTED. The Registrant said that he wanted to put on record his apologies to the REDACTED
41. The Registrant said that he had been 'engrossed' in shame and remorse and acknowledged that what he had done could not be repaired. He referred to the GP whose signature he had misused, who having gone to medical school in order to help people, set up in practice and served the Registrant and his family, and the shame he felt at 'defrauding' his name.
42. The Registrant referred to his REDACTED at the time of these events. He said that it was not an excuse and that he had brought shame REDACTED. The Registrant said that he had been taught standards as an optometrist and as a medical student and that he had known at the time that his actions were wrong. He went on to say that he owed an apology to all of the patients he had seen or would see, who were entitled to expect him to be honest and to be able to trust him in their most vulnerable moments. The Registrant said that it was essential that the public had confidence in his honesty, candour and integrity. He acknowledged that he had to be trusted to place the interests of patients before his own and that he would try to act impeccably in serving the public.
43. The Registrant admitted that he had not confessed to what he had done until he was caught and referred to the REDACTED
44. The Registrant recognised, he said, that he had placed the doctor at the REDACTED, who countersigned the form he completed, under stress and that

she had been obliged to consult her indemnity providers. He acknowledged that his actions had caused her to certify that REDACTED.

45. In relation to misconduct, the Registrant reiterated that he admitted that his actions amounted to serious misconduct. He then moved on to address the Committee on impairment.
46. The Registrant said that he admitted that his fitness to practise is impaired on the basis that the Committee should find it impaired to protect the reputation of the profession. He said that the public was entitled to know the gravity of what he had done and that the regulator was protecting the public. The Registrant said that the public was entitled to trust his integrity and would expect him to be of good character in his private life. He continued by saying that the public's confidence in the profession would be undermined if his fitness to practise was not found to be impaired.
47. The Registrant said that the issue of impairment was complex and involved the passage of time. He referred to the case of *Grant* and the questions set out there. The Registrant said that he admitted bringing his profession into disrepute, that he had breached a fundamental tenet of his profession and that he had acted dishonestly. He said there were no 'ifs and buts' but that he believed he would not act dishonestly in the future. The Registrant said that in over two years since these events no allegation of dishonesty had been made against him. He said that the 'antagonising' factors were in his own character and that he was not perfect then and was not perfect now. The Registrant referred to his tendency to take the 'easy path' and that he had been 'selfish and arrogant' which had caused his 'disastrous' actions. He said that he had not let his acts define his character and had developed insight into what he had done. The Registrant said that he did not blame his actions on REDACTED and that he hoped the Committee had not given up on him and that it was for it to decide if he was impaired. He continued by saying that the public should see him punished for his actions but that public confidence, not punishment, was the goal.
48. The Registrant referred the Committee to the REDACTED
49. The Registrant told the Committee that at the time of these events he was undergoing REDACTED
50. The Registrant said that he hoped that he could remain on the Register so that he could advance the public interest in his work and that he hoped the Committee could balance the public interest with his attempts to be a better person. He told the Committee that being a better person was most important to him.
51. When questioned by Dr Graydon about his misconduct, the Registrant agreed that he had signed part C of the form which should have been completed by his GP. He said that it was a spur of the moment decision. Dr Graydon asked the Registrant questions over how long he had spent filling in the form to which the Registrant replied that he had a mental block and could not say how long it was. The Registrant disagreed with Dr Graydon's suggestion that he had taken some time to find his GP's GMC registered number; he said it had only taken him a matter of seconds. The Registrant also agreed with Dr Graydon when he suggested that the Registrant had only confessed to what he had done when he had been found out. He said that he was '100%' wrong and lacked insight at the time but that he had known right from wrong. The Registrant agreed that he was in breach of sections 16 and 17 of the GOC's standards.

52. In relation to impairment, the Registrant agreed when questioned that the form he had completed REDACTED and said that he had not taken it seriously at the time. He said that he had dishonoured the process and had 'bulldozed' his way through. The Registrant also agreed with Dr Graydon's suggestion that he might not have REDACTED. In response to a question from the Committee, the Registrant provided detail as to voluntary work he had undertaken. He worked with 'Feeding Brum' and he had run a session for colleagues on professional ethics. He also explained that he had offered services to the GP whose signature he had falsified and to speak to REDACTED Medical School students about his experiences, but these offers had not been taken up.

Advice of the Clinical Adviser

53. Dr Dunleavy told the Committee that it was difficult for him to advise the Committee as the Registrant REDACTED

Legal advice

54. The Committee accepted the advice of the Legal Adviser. The Legal Adviser advised that the issues of misconduct and impairment were a matter for the Committee's judgement and that there was no burden or standard of proof. He advised that the Committee should first consider whether the findings of fact proved by the Registrant's admissions amounted to misconduct. The Legal Adviser said that these were distinct issues and that the Committee would have to decide upon them individually, although it had heard the evidence and submissions together.

55. The Legal Adviser advised that that the misconduct would have to be serious to amount to the statutory grounds of misconduct. He referred the Committee to the cases of *Remedy UK* and *Roylance* and advised that the Committee should decide whether the Registrant's admitted actions fell below the standards expected of him in the circumstances. The Legal Adviser advised that the Committee should take account of the standards laid down by the GOC and the standards which the public would expect of a professional person in his private life.

56. The Legal Adviser advised that if the Committee found that the Registrant's conduct amounted to serious misconduct, it should then consider whether the Registrant's fitness to practise is currently impaired. He advised that in doing so, the Committee would have to consider the events of the past. The Legal Adviser advised that although the events they were considering had been the subject of proceedings brought against the Registrant by REDACTED, it was for the Committee to decide the issues without influence from that process. In particular, he said, the University had dealt with impairment in 2021 and that the Committee was concerned with the Registrant's current fitness to practise.

57. The Committee was referred by the Legal Adviser to the cases of *Grant* and *Cohen* and advised that the Committee should consider the questions posed in those cases when deliberating. The Legal Adviser also advised that the Committee's decisions should be guided by the need to protect the public and the public interest in maintaining standards in the profession and in protecting its reputation

58. The Legal Adviser advised that the Committee would have to consider whether the public interest required it to find the Registrant's fitness to practise impaired in the public interest. He advised that the efforts made by the Registrant to remedy his misconduct and other factors personal to him might be outweighed by the need to protect the public interest. He referred the Committee to the case of *Yeong v GMC* [2009].

Where a FTPP considers that the case is one where the misconduct consists of violating such a fundamental rule of the professional relationship between medical practitioner and patient and thereby undermining public confidence to the medical profession, a finding of impairment of fitness to practise may be justified on the grounds that it is necessary to reaffirm clear standards of professional conduct so as to maintain public confidence in the practitioner and in the profession, in such a case, the efforts made by the medical practitioner in question to address his behaviour for the future may carry very much less weight than in the case where the misconduct consists of clinical errors or incompetence.

The Committee's decisions on misconduct and impairment

59. The Committee took fully into account all of the written material before it from the GOC and the Registrant, the submissions made by Dr Graydon and the combined evidence and submissions of the Registrant. It accepted the advice of the Clinical and Legal Advisers.
60. The Committee approached its consideration of misconduct and impairment on the basis that they are entirely separate issues and that submissions and evidence in relation to both had been taken together largely to assist the Registrant and to avoid repetition in his evidence and submissions. It accepted that although the Registrant had made admissions in relation to both, it was for the Committee to decide whether the Registrant's actions amounted to misconduct on the facts found proved, and if so, whether his fitness to practise was as a result impaired. It accepted the advice that it should not take into account the result of the proceedings brought against the Registrant by **REDACTED** as this Committee was concerned with current impairment: the University process took place much closer in time to the issues this Committee now had to consider.
61. It was clear to the Committee that the Registrant had unequivocally admitted that his behaviour amounted to serious misconduct. It noted that the Registrant had repeatedly said that he admitted that his fitness should be found to be impaired to satisfy the public interest in protecting the reputation of the profession. It also noted that he had at times said that whether he was impaired was a matter for the Committee. The Committee took this to mean that whilst the Registrant recognised the need to uphold the reputation of the profession, the ultimate decision was for the Committee. It therefore proceeded on the basis that the Registrant had admitted both his misconduct and that his fitness to practise was impaired. Despite those admissions, the Committee considered both issues with great care.

62. In relation to misconduct, the Committee was in no doubt that the Registrant's actions amounted to serious misconduct. The facts admitted by the Registrant related to him falsifying the signature of his GP to verify a form which REDACTED. Whilst it was not suggested that the Registrant had made any false representations over his REDACTED in the form and had not in that sense REDACTED.
63. The Committee referred to the cases of *Remedy UK*, *Nandi* and *Roylance* and found that the Registrant had fallen below the standards expected of him in the circumstances. The Committee accepted the submission that although the Registrant's conduct took place in his private life, it was capable of being professional misconduct. It found that the Registrant was in breach of the following GOC's Standards of Practice 2016:
- 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.
- The Committee also found that the Registrant's conduct would be described as 'deplorable' by members of the profession.
64. The Committee having found serious misconduct by the Registrant, then turned to the question of whether as a result his fitness to practise is currently impaired. The Committee referred to the case of *Grant* and considered that the factors set out at ii to iv in the guidance were met in the Registrant's case so far as the past was concerned but not for the future. The Committee also considered the three questions referred to in *Cohen* and concluded that whilst remedying dishonesty was much more difficult than remedying clinical deficiencies, the Registrant had, through extensive remediation, succeeded in doing so. It found therefore that it was highly unlikely that the Registrant would repeat his actions.
65. The Committee was impressed by the efforts made by the Registrant to understand his dishonesty and its root causes. It accepted that whilst it did not excuse his conduct, he was at the time REDACTED, that the Registrant had explored the factors which had led to his misconduct carefully and thoroughly and had recognised the serious error he had made and its consequences for others. The Committee was satisfied that the Registrant had demonstrated an unusual level of insight and that his fitness to practise was no longer impaired on the personal component.
66. As is required by the cases of *Yeong* and *Grant*, the Committee went on to consider whether it was necessary for it to find that the Registrant's fitness to practise is currently impaired in the public interest. The Committee took the public interest to be the need to demonstrate that standards of conduct in the profession were maintained so as to protect its reputation. It considered the need expressed in *Yeong* to consider whether the efforts made by the Registrant to remedy his personal deficiencies were outweighed by the need to protect public confidence in the profession.
67. It was clear to the Committee that the public would be astonished and deeply concerned if the regulator did not take action where the Registrant had been found to have acted as he did. The public, like the Committee, would find that falsely signing a form which was part of the important process REDACTED

required to be marked by a finding of impairment, despite all that had been done by the Registrant to remedy his misconduct. It was clear to the Committee that in this context the public interest outweighed the Registrant's personal interests.

68. The Committee concluded that the Registrant's fitness to practise is currently impaired on public interest grounds.

Sanction

69. Dr Graydon made submissions on sanction on behalf of the GOC. He said that the GOC had considered the content of the Committee's decision on misconduct and impairment and that its position was that it now sought the Registrant's erasure from the Register. Dr Graydon said that the Skeleton Argument which had been provided to the Committee was based on the papers and that the live evidence in the case had caused the GOC to alter its position on sanction.
70. Dr Graydon referred to the overarching objective of the GOC, to protect the public, which he said included maintaining public confidence in the profession. He submitted that the purpose of a sanction was not to punish the Registrant, but was to protect the public. Dr Graydon submitted that the Committee should take into account the principle of proportionality when considering what sanction was appropriate and should weigh the interests of the Registrant with those of the public. He said that the public interest was paramount. He submitted that the Committee should consider each of the sanctions available to it in ascending order of seriousness.
71. Dr Graydon referred the Committee to the GOC Indicative Sanctions Guidance (ISG). He referred the Committee to the passage in the ISG dealing with dishonesty. He also referred the Committee to the passage from the case of *Bolton v Law Society* [1994] 1 WLR 512 set out in the Skeleton Argument. Dr Graydon reminded the Committee that its decision that the Registrant was impaired was only on the public interest ground.
72. Dr Graydon also referred the Committee to the passage from the case of *PSA v NMC* [2015] EWHC 1887 set out in the Skeleton Argument. He submitted that dishonesty will always have an impact on the public and that the Committee should consider the effect in this case on the public and on the Registrant's character.
73. Dr Graydon referred to the aggravating factors in the case, set out in the Skeleton Argument. He said that when questioned by him, the Registrant had not provided evidence that he had had second thoughts about completing or submitting the form. Dr Graydon submitted that the Registrant had caused harm to others, including the GP whose name he forged and the doctor who had countersigned the application REDACTED. He said that harm had been caused to REDACTED, as its time had been wasted and that reputational harm had been caused to the profession.
74. Dr Graydon submitted that the Committee should consider the seriousness of the Registrant's dishonesty. He reminded the Committee that the Registrant had described his own conduct as 'immoral' and had said that it was an 'egregious' form of dishonesty.
75. Dr Graydon referred the Committee to the mitigating factors set out in the Skeleton Argument. He said the Registrant had no option other than to self refer

- his conduct to the GOC. Dr Graydon also referred to the REDACTED and said it was for the Committee to decide what weight to place upon it.
76. Dr Graydon referred to the evidence given by the Registrant which he said was more 'refined' than previously. He said that this was the basis for the GOC changing its position over what sanction to invite the Committee to impose.
 77. Dr Graydon then referred the Committee to the sanctions open to it in ascending order of seriousness. He referred the Committee to the ISG and said that the misconduct in this case was too serious for the Committee to take no action, as it involved damage to the reputation of the profession.
 78. Dr Graydon then referred the Committee to the sanction of a financial penalty. He said that this was not an appropriate sanction as there was no financial gain to the Registrant. He also referred to the sanctions of conditions and educational conditions, which he said were not appropriate where dishonesty was involved and were not in any event proportionate.
 79. Dr Graydon then referred the Committee to the sanction of suspension and to relevant passages in the ISG. He referred to the 'immoral' nature of the Registrant's conduct and said that this was only part of the circumstances of the case. Dr Graydon said that suspension was not an appropriate or proportionate sanction as it would not maintain confidence in the profession.
 80. Dr Graydon submitted that erasure from the Register, the ultimate sanction, was appropriate in this case. He referred the Committee to the relevant part of ISG. He said that there had been a serious departure from the standards set out in the GOC standards 16 and 17. He submitted that actual and potential harm had been caused by the Registrant's conduct and that it was 'key and critical' to the case that erasure was the only means of protecting the reputation of the profession.

The Registrant's submissions

81. The Registrant began his submissions by apologising and expressing remorse again for his misconduct. He referred the Committee to its decision on misconduct and impairment and its references to his remediation and remorse.
82. The Registrant said that despite what he had done by way of remediation, as recorded by the Committee, and that remediation was the 'cornerstone' of sanction, he recognised that the public interest had to be considered and that he recognised that he could not go 'Scot free'.
83. The Registrant referred the Committee to the passage in the ISG dealing with when the Committee might, having found impairment, not impose a sanction. He said that he recognised that this would not mark the seriousness of his misconduct which related to REDACTED.
84. The Registrant asked the Committee to take into account his two years of effort to remediate his misconduct, REDACTED at the time of the events and the REDACTED. He said that despite all of that, the public interest weighed heavily.

85. The Registrant submitted that a financial penalty was not appropriate or relevant to what he had done. He submitted that the same applied to the sanction of conditions and educational conditions.
86. Turning to the sanction of suspension, the Registrant referred the Committee to the ISG at 21.29:

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

- a. A serious instance of misconduct where a lesser sanction is not sufficient.*
- b. No evidence of harmful deep-seated personality or attitudinal problems.*
- c. No evidence of repetition of behaviour since incident.*
- d. The Committee is satisfied the registrant has insight and does not pose a significant risk of repeating behaviour.*
- e. In cases where the only issue relates to the registrant's health, there is a risk to patient safety if the registrant continued to practise, even under conditions.*

87. The Registrant submitted that a to d of the factors referred to there applied in his case. He accepted that his misconduct was serious and said that whether he had a personality or attitudinal problem was a matter for the Committee. The Registrant said there had been no repetition of his dishonesty and that the Committee had found that he had shown significant insight.
88. The Registrant submitted that this was the least most punitive sanction which the Committee could impose that would be sufficient to reflect his misconduct. He referred to having been erased from the medical school and that erasure from the GOC Register would be only further punishment on him. REDACTED. He said that his only remit was in the medical sector and that this was his only way to contribute to society and care for his family. The Registrant submitted that a long suspension of erasure would deprive the public of his services and that in his career as an optometrist he had served about 9000 patients without complaint.
89. The Registrant said that the public had to know that he had suffered punishment, but that his aim was to contribute to the public by practising as an optometrist. He said that if he was erased and later applied to be reinstated to the Register the main requirement would be to show insight, which the Committee had found he had demonstrated now.
90. The Registrant said that he agreed that a suspension for nine months was appropriate in his case.

91. At the end of the Registrant's submissions Dr Graydon said that he would need to question the Registrant about a reference he had made in his submissions to an Agreed Panel Disposal (APD). After taking advice from the Legal Adviser, the Committee concluded that as the Registrant was not under oath there was no basis for him to be cross-examined and that in its consideration of the appropriate sanction, it would disregard the reference to the APD.

Legal advice

92. The Legal Adviser advised the Committee that the question of what sanction was appropriate was a matter for its judgement. He advised that the purpose of sanctions was not to be punitive, although they may have that effect, but were intended to protect the public and the public interest. The Legal Adviser advised the Committee that it should apply the principle of proportionality and that any sanction it imposed should be the minimum necessary to protect the public and the public interest. He said that the Committee should be guided by the GOC's ISG.
93. The Legal Adviser referred the panel to the Skeleton Argument with which it had been provided and the submission there on behalf of the GOC that the appropriate sanction was one of a nine-month suspension with a review. He advised that the Registrant had an expectation that the GOC would make its final submissions on that basis. The GOC had altered its position, Dr Graydon had said, because of what the Registrant said in evidence. The Legal Adviser advised that the Committee should consider what weight to give to the GOC's submission that the appropriate sanction was erasure in those circumstances.
94. The Legal Adviser said that the Committee should consider what, if any, mitigating factors applied in this case. He advised that the Committee should beware of double counting aggravating factors by referring to the reasons for its findings of misconduct and impairment as aggravating factors.
95. The Legal Adviser referred the Committee to the sanctions which it should consider in ascending order of seriousness. He advised that when considering a sanction, it could consider the next more serious sanction to decide if it was appropriate.
96. The Legal Adviser advised that the Committee should consider in relation to each sanction the guidance set out in the ISG and to the principles and legal authorities referred to.

Decision of the Committee on sanction

97. In considering what was the appropriate sanction, if any, to impose on the Registrant, the Committee took full account of its earlier findings on misconduct

and impairment, the submissions made on behalf of the GOC and those made by the Registrant. It accepted the advice of the Legal Adviser

98. The Committee referred throughout its decision making on sanction to the ISG. It took fully into account the principle of proportionality. It first considered the mitigating and aggravating factors in the case. In doing so it took care not to double count the factors leading to its findings of misconduct and impairment. The Committee found the following mitigating factors to be present:

- The Registrant had self-referred to the GOC
- The Registrant had no previous regulatory findings against him
- At the time he signed the form the Registrant REDACTED
- The Registrant had admitted his misconduct prior to this hearing
- There was no evidence of any clinical failings in the Registrant's practise
- The content of the testimonials the Registrant had provided to the Committee
- The Registrant's significant remorse and apologies, for example to the GP whose name he had used

99. The Committee found the following aggravating features to be present:

- The Registrant had falsely signed the medical form in two places
- The circumstances around the Registrant signing the form REDACTED
- The Registrant's misconduct might have led to the Registrant REDACTED
- The Registrant had entered medical information in the form which was not the result of a medical consultation
- The Registrant had only admitted his misconduct when caught

100. The Committee having considered mitigating and aggravating features, then considered the sanctions open to it in ascending order of seriousness. It took fully into account at every point that its finding of impairment was made on public interest grounds only.

101. The Committee first considered whether it was appropriate for it to take no further action in the case. It referred to ISG at 21.3. The Committee concluded that taking no action against the Registrant's registration would not meet the mark the gravity of his misconduct or the need to take sufficient action to maintain public confidence in the profession.
102. The Committee then considered whether a financial penalty order was appropriate. It referred to ISG 21.9. The Committee found that this would not be an appropriate sanction as the Registrant had sought financial gain by his actions and that it would, in any event, not meet the public interest needs of the case
103. The Committee then considered whether an order of conditional registration or educational conditions would appropriate sanctions. It referred to the ISG at 21.15, 21.25 and 21.26. The Committee was satisfied that these would not be appropriate sanctions. It had found no clinical or practise issues which the Registrant had to address and the Committee would be unable to formulate workable and appropriate conditions where the sole misconduct in the case was dishonesty. In any event, the Committee did not consider that an order of conditions would meet the need to maintain confidence in the profession.
104. The Committee then considered whether imposing a period of suspension on the Registrant would be an appropriate sanction. It referred to ISG at 21.29. It found that factors a to d met the circumstances of the case and its findings over misconduct and impairment. The Committee has recorded throughout that it found the Registrant's misconduct to be serious, as it involved dishonesty in the context of the important process of REDACTED . The Committee has also found that the Registrant has made considerable efforts to remedy his misconduct and that he had considerable insight into his misconduct. It was satisfied that the Registrant had no deep-seated personality or attitudinal problems. The Committee accepted that there has been no repetition by the Registrant of the misconduct.
105. The Committee took fully into account the ISG's guidance on dishonesty. It accepted that the Registrant's misconduct was serious and was aggravated by it being in the context of REDACTED. However, having considered whether erasure would be an appropriate sanction, by reference to ISG 21.35, it considered that erasure would be a disproportionate sanction. The Committee had no evidence that the Registrant's clinical practice was deficient and it took fully into account the testimonials on his behalf which spoke of his competence and dedication to his profession and patients. It accepted that the fate of an individual is secondary to the need to maintain confidence in the profession. The Committee also accepted that there is a public interest in allowing a competent and safe practitioner to return to practice. It concluded that an order of suspension was appropriate and proportionate to satisfy the public interest in maintaining confidence in the profession whilst also meeting the public interest in retaining the services of a useful member of the profession.

106. Having decided that the appropriate sanction was one of suspension, the Committee then considered what was an appropriate and proportionate period of suspension. In doing so it considered what was the appropriate period to mark the seriousness of the Registrant's misconduct and to meet the public interest. The Committee considered that a period of six months suspension was appropriate and proportionate to meet those needs. It took into account the personal circumstances the Registrant had outlined and that a period of suspension would have an impact on his ability to provide for his family. Applying the principle of proportionality, the Committee was satisfied that a period of six months suspension reflected a fair balance between the public interest and the interests of the Registrant and was sufficient to mark the seriousness of his misconduct.

107. The Committee considered whether a review should take place at the end of the period of suspension. As the Committee had not found any clinical deficiencies which the Registrant should remedy during his suspension, and as it was satisfied that the Registrant had fully remedied his misconduct and had sufficient insight, the Committee did not find that a review was necessary or that it would serve any purpose. It took account of the Registrant's submission that a period of uncertainty until a review took place would be undesirable for him and would not achieve any useful purpose. The Committee considers that at the end of his suspension the Registrant will be able to resume in practice without further restriction.

Immediate suspension

108. Dr Graydon on behalf of the GOC submitted that the Committee should make an order of immediate suspension. Dr Graydon submitted that the Committee had now found that the Registrant's fitness to practise is impaired and that it was in the public interest to make an immediate order as members of the public would be shocked if the Registrant were now allowed to practise without restriction.

109. The Registrant submitted that the public interest is of the most importance. He told the Committee that he had been practising without restriction throughout these proceedings.

110. The Legal Adviser advised that the combined effect of sections 13I(3) and 25G(1) of the Optician's Act was that the order of suspension made by the Committee would not come into effect until 28 days from the day the order was served, which as the Registrant was present would be today, or the resolution of an appeal. The Registrant would be able to practise without restriction until either the 28 days expired or an appeal was disposed of if not restricted from doing so.

111. He advised that the Committee could under s13I(1) make an immediate order of suspension where:

- It was necessary to do so to protect the public
- It was otherwise in the public interest
- Or in the interests of the Registrant

112. He advised that an immediate order would expire at the end of the appeal period. The effect of making an order under s13I(1) would be to extend the period of suspension for 28 days or longer if the Registrant appealed.

113. The Legal Adviser advised that in deciding whether to make an order under s13I(1) the Committee should consider what was consistent with the substantive order it had made. It should, he said, make a decision which reflected that the Registrant's fitness to practise had been found to be impaired on public interest, not public protection, grounds.

114. The Committee took full account of the submissions made by the parties and accepted the advice of the Legal Adviser. It decided that an immediate order was not necessary in this case. The Committee concluded that as its decision to suspend the Registrant was made in the public interest, and not to protect the public, and that there was no suggestion of any deficiency in his clinical practice, it would be disproportionate to make an immediate order. It noted that the Registrant had been allowed to practise without restriction pending this hearing. It was satisfied that the public interest did not require an immediate order.

Chair of the Committee: Ms Rachel O'Connell



Signature

Date: 26 May 2023

<p>A1.2 Employment and work</p>	<p>You must inform the GOC if:</p> <ul style="list-style-type: none"> a. You accept any paid or unpaid employment or contract, whether or not in the UK, to provide optical services. b. You apply for any paid or unpaid employment or contract to provide optical services outside the UK. c. You cease working. <p>This information must include the contact details of your prospective employer/ contractor and (if the role includes providing NHS ophthalmic services) the relevant NHS body.</p>
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A1.4 Other proceedings	You must inform the GOC within 14 days if you become aware of any criminal investigation or formal disciplinary investigation against you.
A1.5 Registration requirements	<p>You must continue to comply with all legal and professional requirements of registration with the GOC.</p> <p>A review hearing will be arranged at the earliest opportunity if you fail to:-</p> <ul style="list-style-type: none"> a. Fulfil all CET requirements; or b. Renew your registration annually.

NOTICE TO REGISTRANT:

- The GOC will enter these conditions against your name in the register save for any conditions that disclose information about your health.
- In accordance with Section 13C(3) of the Opticians Act 1989, the GOC may disclose to any person any information relating to your fitness to practise in the public interest.
- In accordance with Section 13B(1) of the Opticians Act 1989, the GOC may require any person, including your learning/workplace supervisor or professional colleague, to supply any information or document relevant to its statutory functions.

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.