

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

GENERAL OPTICAL COUNCIL

F(20)09

AND

TRACY DERMOTT (D-15245)

**DETERMINATION OF A SUBSTANTIVE HEARING
26-27 AUGUST 2020**

Committee Members:	Mr J Kellock (Chair/Lay) Ms A McFarlane (Lay) Mr N Pilkington (Lay) Mr I Taylor (Dispensing Optician) Ms S Baylay (Dispensing Optician)
Clinical adviser:	N/A
Legal adviser:	Mr P Moulder
GOC Presenting Officer:	Mr D Taylor
Registrant present/represented:	Present and not represented
Registrant representative:	Not represented
Hearings Officer:	Ms A Shabani
Facts found proved:	Paragraphs 1, 2, 3(a) and 3(b)
Facts not found proved:	None
Misconduct:	Found in relation to paragraph 3(a) and 3(b)
Impairment:	Impaired
Sanction:	Suspension 3 months without review

Immediate order:	No immediate order
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Preliminary Matters

The Committee noted that in the Council’s Hearing Bundle, it had been provided with a number of documents which referred to other matters concerning the Registrant’s history. It had before it a copy of an email which referred to the Registrant being “already under investigation”, and another email in which there was reference to a “motoring conviction” in 2016, not apparently part of the current charges. The Committee had been provided with a copy of the Police National Computer (‘PNC’) print-out which made reference to the Registrant having had ‘redaction’ convictions, with the entries other than the caution in paragraph 1 and the conviction in paragraph 2 of the Allegation redacted. It had a copy of the Memorandum of Conviction relating to the conviction in paragraph 2 which referred to redacted. Further, in another email there was reference to the Registrant having made a ‘redacted’ in 2014, referring to possible redacted.

Mr Taylor explained that the reference to the “motoring conviction” in “2016”, was contained in a note of a telephone call that was in fact related to the conviction in paragraph 2 of the Allegation, the date in the reported speech being erroneous. He explained that the reference “already under investigation” was a reference to another report of this same offence, i.e. the same conviction in paragraph 2. He asked the Committee to redact the reference to the redacted matter and the reference to “redacted” and ‘redacted’ convictions. In relation to this information and the other references, Mr Taylor confirmed that it was not the Council’s intention to rely on these matters and asked that the Committee disregard them and exclude them from their minds.

Mrs Dermott stated that she was content for the Committee to disregard the matters, excluding them from their minds and to carry on with the hearing.

The Legal Adviser advised the Committee that the Committee had to consider whether, applying the guidance in *Mahfouz v GMC* [2004] EWCA Civ 233 and relying on *Porter v Magill* [2002] 2 AC 357, it could hold a fair hearing. The guidance in those cases made clear the question was whether the reasonable fair-minded observer would conclude that there was a real possibility of bias arising from the information having been before the Committee.

The Committee noted that there had been admissions in relation to paragraphs 1 and 2 of the Allegation, i.e. to the facts of the caution and the conviction. The remaining focus of the factual enquiry was therefore, in paragraph 3 of the Allegation, narrowly restricted to the matter of the alleged failure to declare the conviction in paragraph 2.

The Committee was content that it could exclude the redacted information from its considerations, which Committees such as this Committee had occasionally to do. It concluded that a fair-minded observer would not think that there was a possibility of bias on the part of the Committee and that the Committee could continue to hear the case with fairness to both parties.

The Committee therefore determined that it would allow the redactions as requested by Mr Taylor and that it would not recuse itself from the hearing but would carry on to hear the case.

ALLEGATION

The Council alleges that in relation to you, Tracy Dermott (D-15245), a registered dispensing optician:

1. On 12 April 2013 you received a caution for common assault contrary to Criminal Justice Act 1988 section 39
2. On 13 February 2017 you were convicted at Redhill Magistrates Court for driving a motor vehicle on a road after consuming so much alcohol that the proportion of it in your breath exceeded the prescribed limit, Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988
3. You failed to declare your conviction at allegation 2 above to the GOC when applying to retain your registration with the GOC:
 - a) In 2017 and/or;
 - b) In 2018

And by virtue of the facts set out above, your fitness to practise is impaired by reason of a misconduct, caution and conviction.

DETERMINATION

Admissions in relation to the particulars of the allegation

The Registrant admitted particulars 1 and 2 of the allegation.

Background to the allegations

On around 15 February and 21 June 2017 the Council received anonymous telephone calls that the Registrant had been convicted of and sentenced for a drink driving offence. On further investigation, the Council discovered that the Registrant had received a caution for an offence of common assault in April 2013.

The drink driving offence for which the Registrant was convicted relates to driving a motor vehicle on a road, on 23 January 2017, after consuming so much alcohol that the proportion of it in her breath exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. The statement of facts relating to the drink driving offence stated that the Registrant had driven a **redacted** vehicle on a road, being the motorway slip road on the M25. On 13 February 2017, the Registrant pleaded guilty to the offence and was sentenced to eight weeks in prison (which was suspended for 12 months), 150 hours of unpaid work and was banned from driving for four years.

The Council further alleged that its records showed that the Registrant did not declare her conviction for the offence in paragraph 2 in her 2017 and 2018 renewal declarations.

Findings in relation to the facts/conviction/caution

Paragraphs 1 and 2

At the outset of the proceedings, the Registrant admitted the facts of paragraphs 1 and 2 of the Allegation. In accordance with Rule 46(6) of the General Optical Council (Fitness to Practise) Rules 2013 (“the Rules”) the Chair announced that these paragraphs were found proved.

The Committee noted the Memorandum of Conviction and Rule 40(3) and 40(5) of the Rules which state as follows.

Rule 40(3):

Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed.

Rule 40(5):

The only evidence which may be adduced by the person referred to in paragraphs (3) and (4) in rebuttal of a conviction certified or determination certified in the manner specified in those paragraphs is evidence for the purpose of proving that the person is not the person referred to in the certificate or extract.

The Committee found paragraphs 1 and 2 of the Allegation proved.

Paragraph 3

The Committee considered the evidence in relation to paragraph 3 of the Allegation, which related to an alleged failure by the Registrant to declare her drink driving conviction, when completing her retention forms online in 2017 and 2018.

The Council called **Witness 1** as a witness. **Witness 1** exhibited to their witness statement computer records of the Registrant's retention applications for the 2017 and 2018 cycle, which the Registrant appeared to have completed via the Council's website. The Council also provided a screenshot of the "CRM" database for the Registrant's declarations for 2017 and 2018.

Witness 1 also provided to the Committee, at its request, further documents, being screenshots of webpages from the Council's online application process.

It was common ground that the Registrant had not included information about her drink-driving conviction, at paragraph 2, when completing the renewal application process in 2017 and 2018. The issue for the Committee was whether, on each occasion, this amounted to a 'failure' on her part.

The Registrant gave evidence to the Committee. She stated that in relation to the declaration in 2017 she had started the application process and declaration in 2017, but had not completed it, because she had not been sure that she was going to renew her registration. She had not paid the renewal fee. She did not complete the application until 2018, in around January/February. By the time the Registrant completed the 2017 application and paid for renewal, she was aware that the Council knew about her drink-driving conviction. The Registrant accepted that she had not declared the conviction but did not feel bound to because she was aware that the Council was aware of the conviction.

In relation to the 2018 declaration, the Registrant said that by this time the Council was aware of the conviction and was investigating it. When the Registrant came to complete the declaration, she noted that it asked on the online webpage for any 'new' matters to be declared. The Registrant said that she did not believe that she had to declare the drink-driving conviction from 2017 in this declaration, because the Council had already been made aware of it in 2017 and had been investigating it, including contacting her about it. The Registrant stated that she had been in contact by email and telephone call with the Council.

The Committee noted that the Registrant accepted that she had not made a declaration of the 2017 drink-driving conviction in either the 2017 or 2018 declaration. It considered that the completion of this stage of the renewal application including the declaration of any convictions had been completed by the Registrant in 2017. The Committee accepted **Witness 1** evidence that there were a number of stages to the completion of the renewal form, of which the declaration and payment were separate stages. It did not accept that the declaration was only complete once the payment of the requisite fee had been made. The Committee noted that the requirement to declare included a requirement to give details of the relevant matters. There was reference in the web page document to the Council's Guidance

(Declarations guidance for fully-qualified registrants (November 2013) (“the Guidance”) and a requirement for the Registrant to confirm her understanding of the Guidance. The Committee determined that, at the time the Registrant had completed the declaration for renewal in 2017, she had been under an obligation to complete the form with details of her 2017 drink-driving conviction, but had not and thus had failed to make the correct declaration.

The Committee found paragraph 3(a) of the Allegation proved.

The Committee accepted that, by the time that the Registrant had completed the declaration in relation to the 2018 renewal, the Council had been aware of the Registrant’s conviction and had corresponded with her about it.

The online webpage for 2018-19 *Application for Retention* requested a registrant to “*Please provide details of any matters (as applicable). The GOC website provides further guidance in the section ‘Making Declarations’* “ and provided a link to the Guidance. Under the heading *Criminal Matters* the webpage stated “*If you need to declare any criminal matter, please click on ‘make a new declaration’* “ referring to a button next to the text marked “*Make a new declaration*”.

The Committee noted the Council’s Guidance on page 31 of the Guidance which states:

“Declarations relating to criminal or disciplinary investigations or outcomes

Applicants are also required to declare the following:

a. Any conviction (including conviction by court martial) or caution received in the British Islands for a criminal offence, or a conviction elsewhere which, if committed in England or Wales, would constitute a criminal offence;”

The Committee noted that, at this stage the Registrant, on her own case, had not made a declaration of the drink-driving conviction at all. She relied on the fact that the Council had an awareness of the conviction from the correspondence and hence it was not a ‘new’ declaration. Considering the purpose of the system of declarations was for the protection of the public from practitioners who had acquired convictions or other matters, the Committee considered that there was an important duty of candour imposed on registrant members to ensure all matters were disclosed, which the Guidance made clear. In the Committee’s view the meaning of this Guidance was that there was a requirement on all registered members to disclose “any” conviction. The Committee concluded that the Registrant had been under a duty to disclose the 2017 drink-driving conviction on the 2018 renewal declaration but had not.

The Committee found paragraph 3(b) of the Allegation proved.

Findings regarding misconduct and impairment

The Committee next considered whether the findings of fact in relation to paragraph 3 of the Allegation amounted to misconduct and whether any misconduct, if found, together with the findings of fact in relation to the Registrant's caution and conviction led the Committee to determine, in the case of any or all of those matters, that the Registrant's fitness to practise was currently impaired.

The Committee has heard submissions from Mr Taylor on behalf of the Council and from the Registrant. It accepted the advice of the Legal Adviser.

The Council relied on no further evidence at this stage of the proceedings. Mrs Dermott gave further oral evidence on steps she had taken towards remediation since the events of the conviction. She also provided two supportive testimonial letters.

Mr Taylor referred to the Council's skeleton argument and the cases of *Cheatle v GMC* [2009] EWHC 645 (Admin) and *Roylance v GMC* [2000] 1 AC 311 on the matter of misconduct. He submitted that there was misconduct in this case arising from the conviction and the failure to report the drink-driving conviction. He referred the Committee to *Meadow v GMC* (2007) 1 WB 462, *Cohen v GMC* [2008] EWHC 581 (Admin) and *CHRE v NMC & Grant* [2011] EWHC 927 (Admin) on the matter of impairment. He submitted that the Registrant had in the past broken fundamental tenets of the profession and brought it into disrepute. The Council also submitted that a finding of impairment was necessary in the public interest.

The Registrant submitted that she accepted that she was in error in the failure to disclose her conviction. She submitted that she had been under the impression it had been declared by virtue of the correspondence with the Council and that the Council's website only asked for her to declare 'new' convictions, which she now understood to be the wrong understanding. She submitted that she had no intention of going back to the way that she had acted in the past. The Registrant submitted that the whole matter had had a big impact on her and she was keen to remain in the profession and job which she loves. She said she had reflected on the effect that her behaviour had on the profession and apologised to the Committee.

The Legal Adviser advised the Committee that its decision at this stage was a matter of judgement, not involving a burden of proof. It had to determine first, whether it found misconduct in relation to paragraph 3 of the Allegation. Then it had to determine whether any such misconduct and/or the Registrant's caution and/or conviction, taken with any evidence of remediation or insight on the part of the Registrant, led the Committee to a determination of current impairment. He referred the Committee to the case of *NMC v Grant*.

The Committee first considered whether the Registrant's failure to report her conviction in 2017 and 2018 was misconduct. The Committee accepted that the Registrant considered that there was a degree of confusion in the information on the webpage, for the 2018 declaration, in relation to asking for 'new' matters, when the Registrant was already in correspondence with the Council by that date, concerning

her conviction. However, the Committee determined that the Registrant was nevertheless under a duty to disclose it. The Committee had not accepted the Registrant's explanation in relation to her declaration in 2017 but found that she should have declared the conviction when completing the declaration.

The Committee considered that the system of completing declarations about convictions and other matters was an important one for the sake of public protection and, consequently, an important duty on registrants was attached to it. The drink-driving conviction was a serious one. The Committee noted that the Registrant had breached this duty on two occasions and considered that, taken together, this failure would be regarded as 'deplorable' conduct by fellow professionals.

The Committee therefore found that the Registrant's conduct with regard to her failure to declare her conviction was misconduct.

The Committee next considered whether, separately or together, this misconduct and the Registrant's caution and conviction demonstrated that her fitness to practise was impaired.

The Committee noted that it had little information about the matter of the caution received by the Registrant in 2013. The Registrant had stated in her written response that she had declared this in 2014.

The Committee considered the conviction for drink-driving to be a serious conviction. The Registrant had been found on the M25 slip-road, driving a car whilst four times over the relevant limit. She had received a suspended custodial sentence as a result.

The Committee took into account the persuasive evidence of the Registrant as to the steps she had taken to address this offending, redacted. She informed the Committee of her important personal motivations for remedying her past behaviour. The Committee noted that her testimonials were very supportive of the Registrant's evidence as to her life-changes and of her current good practice in the profession. It noted that the caution was for a very different type of offence.

The Committee, having accepted this evidence, considered it highly unlikely that the Registrant would repeat such behaviour in the future.

The Committee noted the evidence of the Registrant with regard to her reasons behind her failure to report her conviction on two occasions. It also took into account the important remediation steps that the Registrant had taken since the conviction and up to the present. The Committee accepted the Registrant's evidence that she had reflected on events, understood her error and had good reason not to repeat it in the future.

The Committee concluded that, in all the circumstances, it was highly unlikely that the Registrant would repeat the failure to disclose in the future.

The Committee considered, however, that the conviction for drink-driving in all the circumstances, of being four times over the legal limit and receiving a suspended custodial sentence was a very serious matter. Further, it considered that this was

compounded by the Registrant's failure to properly declare this conviction on two occasions, despite the Guidance offered.

The Committee noted the *Standards of Practice for Optometrists and Dispensing Opticians (April 2016)* issued by the Council. It considered that the following paragraphs were engaged:

“17. Do not damage the reputation of your profession through your conduct

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

17.2 ...

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

The Committee considered that the Registrant's actions had done damage to the confidence of the public in the profession and the conviction was a serious breach of the law. The seriousness of the conviction and the failure to report it twice required that the Committee make a finding of impairment in this case of this Registrant, in order to declare and uphold proper standards of conduct and behaviour and to maintain public confidence in the profession.

The Committee found that the fitness of Mrs Dermott to practise as a dispensing optician is impaired.

Sanction

The Committee has heard submissions from Mr Taylor on behalf of the Council and from the Registrant. It has accepted the advice of the Legal Adviser.

Mr Taylor submitted that there were a number of mitigatory factors, including no previous Fitness to Practise history and the Registrant had admitted the allegation concerning the conviction and caution. There had been no repetition of the conduct and no patient harm had occurred. He submitted that suspension was the most appropriate sanction.

Mrs Dermott submitted that if suspended, she could not work as a Dispensing Optician. This would have a high financial impact, as she had been doing locum work. She had had her own business, but this did not work out. She and her husband were still **redacted**. The behaviour had occurred some time ago, now three years ago. In response to questions, the Registrant stated that she was working as a locum Dispensing Optician, one to two days per week. If a financial penalty was imposed, she would require time to pay it off.

The Legal Adviser advised the Committee that it should refer to the Council's Indicative Sanctions Guidance (“ISG”) and consider sanction from the least restrictive upwards, imposing the minimum necessary to meet the level of impairment found. The purpose of sanctions was not to impose punishment, but it

was recognised that the result might be some punitive effect. The Committee should balance the public interest with the interests of the Registrant.

The Committee considered the sanctions available to it from the least necessary to the most severe (no sanction, financial penalty, conditional registration, suspension, erasure).

The Committee first considered taking no action. However, the Committee did not find that there were exceptional circumstances in the case which would warrant taking no action. It bore in mind that its finding of impairment was based on the public interest in declaring and upholding proper standards and maintaining confidence in the profession. It decided that to take no action would not meet the public interest in this case.

The Committee also considered whether it was appropriate to impose a financial penalty, either in addition to, or instead of other sanctions. The Committee noted that this was not a case in which the Registrant had been involved in making a financial gain from her misconduct, and this would involve placing a financial burden on the Registrant.

The Committee next considered imposing conditions of practice. However, it noted that, according to the ISG the primary purpose of conditions was to protect the public. This was not a case where there was an identified health condition, performance or a specific area of practice requiring to be addressed. Conditions would not deal with the concern over the failure to make the necessary declarations and the requirement to mark the public interest.

The Committee next considered imposing a period of suspension. It noted the ISG paragraphs which stated:

“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 but 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 panel is satisfied the registrant has insight and does not pose a significant risk of repeating behaviour;*
- e.(not applicable)”*

In the view of the Committee, the misconduct and conviction had been serious, but it had accepted that Mrs Dermott had taken a number of steps to remedy her past behaviour and address any issues. There had been positive testimonials in support of the Registrant’s positive steps, and the Committee accepted that she had developed insight into her past behaviour. The Committee regards all of (a) to (d) as being relevant to this case. The Committee was satisfied that a period of suspension would be sufficient to mark the seriousness of the case and to serve the purpose of declaring and upholding standards and confidence in the profession.

The Committee bore in mind the evidence that the Registrant had given, that she had lost her own practice, redacted and was currently in some financially-straitened circumstances. In these circumstances, the Committee determined that it should impose the minimum period of suspension that would sufficiently mark the matter. The Committee determined to impose a period of suspension of three months. This period was sufficient to mark the seriousness with which the Registrant's misconduct, conviction and caution were regarded, whilst balancing this with the remediation she had undergone together with the impact on the Registrant.

The Committee did consider whether it should go further and erase the Registrant's registration. However, it determined that to erase Mrs Dermott's registration would be disproportionate in the circumstances, that the matters in question had occurred a while ago, there had been no repetition and it had accepted that such behaviour was highly unlikely to be repeated.

The Committee therefore determined to suspend Mrs Dermott's registration for three months. It determined that a review was not necessary in this case, since it had determined that the conduct was highly unlikely to be repeated.

Immediate order

The Committee has heard submissions from Mr Taylor on behalf of the Council and from the Registrant. It has accepted the advice of the Legal Adviser.

The Committee considered its power pursuant to section 13I of the Opticians Act 1989, whether to make an immediate order for suspension. In doing so, it had to be satisfied that the statutory grounds were made out, in other words that it was either necessary for protection of the public, otherwise in the public interest or in the best interests of the Registrant. Neither the Council nor the Registrant submitted an immediate order should be made.

The Committee determined that there was not a risk to the public in this case, but its decision on impairment was purely on the grounds of marking the public interest in upholding standards and maintaining confidence in the profession.

The Committee considered that it was not satisfied that it was necessary for public protection, nor that it was otherwise in the public interest, or in the Registrant's own interests for an immediate order to be made. The Committee determined not to make an immediate order.

Chair of the Committee: James Kellock

Signature

James Kellock

Date: 27 August 2020

Registrant: Tracy Dermott

Signature

present via videoconference

Date: 27 August 2020

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. PSA is required to make its decision within 40 days of the hearing (or 40 days from the last day on which a registrant can appeal against the decision, if applicable) and will send written confirmation of a decision to refer to registrants on the first working day following a hearing. 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.
European Alert
The General Optical Council is required by Regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015 to inform all European competent authorities of any restrictions or prohibitions on a dispensing optician or an optometrist's practice. 'Competent authority' effectively means the relevant

regulator for each EU member state.

The GOC is the competent authority for all opticians registered in the United Kingdom (UK).

If you have been made subject to either a suspension or conditions of practice order (whether interim or substantive), or to an erasure order, we hereby notify you of the following:

- Within 3 days of the Fitness to Practise Committee decision taking effect you will be the subject of an alert sent under article 56a(1) of the Directive;
- You have the right to appeal the decision to issue the alert or to apply for rectification of the decision; and
- You have the right to access remedies in respect of any damage caused by false alerts sent to other competent authorities.

The alert is sent securely via the Internal Market Information (IMI) system. The alert will include the following details:

- Your identity (full name and date of birth);
- Your profession;
- Your GOC registration number;
- The fact that the GOC is the national authority which adopted the decision on the restriction or prohibition of your professional activities;
- The scope of the restriction or prohibition;
- The period during which the restriction or the prohibition applies.

If you wish to appeal the decision to issue this alert then please see the information sheet below. Please note that this relates to your right of appeal against the issuing of the alert – see above regarding your right of appeal against a substantive decision.

A copy of the alert may be obtained via the contact details at the end of this document.

Please see the attached information sheet for further information.

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.

European Alert – Information Sheet

Please see the below Frequently Asked Questions (FAQs) which have been developed to assist you with this process and explain your options.

1. Why has the General Optical Council (GOC) sent this alert?

With effect from 18 January 2016 the GOC is legally required to issue alerts concerning all registrants whose practice has been prohibited or restricted – this includes all determinations of suspension, conditions or erasure issued by a Fitness to Practice Committee (FTPC), whether interim or substantive, and any extensions ordered by the High Court.

This legal requirement is placed on us by article 56a of Directive 2005/36/EC on the recognition of professional qualifications ('the Directive'). This article was adopted into UK legislation via Regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015. All other Member States must also comply with the provisions of the Directive and participate in the alert mechanism.

2. What is the purpose of these alerts?

The purpose of these alerts is to ensure public protection across all Member States. The intention is that each member state will be notified of any restrictions or prohibitions placed on UK registrants so that they are able to check this against their own registers and applicants. We will also be notified of any restrictions or prohibitions handed down to European optical professionals. This will assist us with safeguarding the public and maintaining the integrity of our registers.

3. Why was I not consulted before the alert was sent?

The terms of the Regulations are very strict; the alert must be issued within three days of the panel's decision coming into effect. The notification must be issued at the same time the alert itself is sent.

4. Who will see the alert?

The alert is sent securely via the Internal Market Information (IMI) system to the competent authority in each Member State.

In the UK, statutorily regulated health and social care professionals have to be registered with, and show that they meet the standards of, the relevant regulatory body, in order to practise their profession. The regulators control access to regulated professions, professional and vocational titles and professional activities which require specific qualifications, and are subject to national law. The European Commission term these organisations the 'competent authorities' although the exact duties of the competent authorities vary across member states, they are effectively the regulator (in the same way the GOC is) for each member state.

A competent authority has been defined by the European Commission as: *any authority or body empowered by a Member State specifically to issue or receive training diplomas and other documents or information and to receive the application and take the decision, referred to in Directive 2005/36/EC.*

5. If there is a mistake in the alert can I apply for it to be corrected?

If you notice a mistake in the alert (such as a typing error or incorrect information) then please contact the GOC and we will consider your request to amend the alert. Please note the GOC is not able to remove an alert at your request, see next question for further information.

6. What if I disagree with the alert being sent?

If you disagree with the sending of an alert then you have the right of appeal to the County Court. If you merely consider there to be a mistake within the alert then please refer to the above question.

Please note that the GOC is required to send the alert under European Law. With this in mind, and if you still wish to appeal to the County Court, then you may find the following government website useful: <https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/county-court/>

If you attended the hearing and were given the FTPC decision document by hand then the period for submitting an appeal with the County Court is 28 days from the date you were handed the document. If the FTPC decision document has been sent to you by post, the appeal period is 30 days from the date the decision document was posted to you (there is an additional 2 days allowed to cover postage time).

7. Can the GOC assist me with my appeal against the issuing of an alert?

The GOC is unable to help you with your appeal – we strongly advise that you seek independent legal advice.

8. If I appeal an alert being sent, what effect will that have on the substantive decision made in relation to my registration?

There will be no effect on the decision made by the GOC affecting your registration. This would be an appeal against the issuing of the alert and not the substantive decision – they are two separate things and each have different appeal routes. If you require details on how to appeal the substantive decision (i.e. the erasure, conditions or suspension) then please refer to the separate guidance sheet enclosed with the decision letter regarding your substantive GOC case.

9. If I successfully appeal the issuing of an alert, what will happen to the alert itself?

While your appeal is ongoing the alert will remain on the IMI system but with a qualification to say that an appeal has been lodged.

On appeal the County Court may:

- Dismiss your appeal;
- Allow your appeal and direct the alert be withdrawn or amended accordingly.

If the County Court decide to allow the appeal then the GOC has a duty to delete the alert (or amend as appropriate) within three days of this decision.

10. What happens if the order made by the FTPC is revoked?

When an order is revoked by the FTPC (or the High Court) and that order was the subject of a European alert, we will close the alert within 3 days of the decision to revoke the order. When an alert is closed, all personal data is removed from the alert system.