

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

**GENERAL OPTICAL COUNCIL**

**F(20)01**

**AND**

**REBECCA BUTLER (D-12786)**

**DETERMINATION OF A SUBSTANTIVE HEARING  
18-19 MAY 2020  
(REMOTE HEARING)**

<b>Committee Members:</b>	Ms J Wortley (Chair/Lay) Mr N Pilkington (Lay) Mr J Vaughan (Lay) Mr I Taylor (Dispensing Optician) Ms S Baylay (Dispensing Optician)
<b>Legal adviser:</b>	Ms M Ashworth
<b>GOC Presenting Officer:</b>	Mr R Price
<b>Registrant present/rep:</b>	Not present and not represented
<b>Registrant representative:</b>	None
<b>Hearings Officer:</b>	Mr T Yates
<b>Facts found proved:</b>	1(a), 1(b), 2(a), 2(b), 2(c), 2(d)
<b>Facts not found proved:</b>	None
<b>Misconduct:</b>	Found
<b>Impairment:</b>	Impaired
<b>Sanction:</b>	Erasure
<b>Immediate order:</b>	Yes – Suspension

### **Declaration of previous knowledge by a Committee Member**

At the outset of the hearing, Ms Baylay declared that in 2010, she had studied for her Contact Lens Certificate by attending a distance learning course through Association of British Dispensing Opticians (ABDO). The Registrant had also attended the course. It was a one year course of which two weeks were spent in lectures at the [REDACTED]. There had been contact during the course about course related issues, but she had not spoken to the Registrant or seen her since.

Mr Price, on behalf of the Council, confirmed that the Council had no objection to Ms Baylay remaining on the Committee, as there was no suggestion of any perceived bias.

The Committee heard and accepted the advice of the Legal Adviser, who advised the Committee of the case of *Porter v Magill [2002] 2 AC 35* and that the test was “whether a fair minded and informed observer, having considered all the facts, would conclude that there was real possibility that the tribunal was biased.”

The Committee was satisfied that it was safe to proceed to hear the case, with Ms Baylay on the Committee. In reaching this decision, it took into account the length of time since the course had taken place, that the course was predominantly a distant learning course; that any contact on the course was limited to the course itself; and the course had no relevance to these proceedings. The Committee considered that the risk of bias or perceived bias was so remote that no fair minded and informed observer would consider that there was a real possibility that the tribunal was biased.

### **Proof of service**

The Committee heard an application from Mr Price for the Council for the matter to proceed in the Registrant’s absence. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Act and Rule 61 of the Fitness to Practise Rules 2013. The Committee accepted the advice of the Legal Adviser.

The Committee had regard to the bundle of service documents which demonstrated that the notice, dated 20 February 2020, which had been sent by recorded delivery to the Registrant’s registered address, and signed for. A supplemental notice had been emailed to the Registrant on 11 May 2020 to inform her that due to the Coronavirus pandemic, the hearing would be heard by video conference. The Committee is satisfied that all reasonable efforts have been made to notify the Registrant of the hearing.

### Proceeding in the absence of the Registrant

The Committee then went on to consider whether it would be in the public interest to proceed in the Registrant's absence in accordance with Rule 22. The Committee accepted the advice of the Legal Adviser.

The Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence. It had regard to the chronology as set out by Mr Price and took into account the email of 14 July 2017 sent by the Registrant, which indicated that she was disengaging from the Council's regulatory process.

Having been satisfied that notice had been served in accordance with the Rules; that the Registrant appeared to have disengaged from the process; and taking into account all the factors raised by the Council and the Legal Adviser, the Committee decided to proceed in the Registrant's absence.

### Hearsay

Mr Price applied to admit the witness statements of **Witness 1**, **Witness 2**, **Witness 3**, and **Witness 4**, together with their accompanying exhibits as hearsay. He submitted that **Witness 4**, a Council employee, set out the factual chronology of correspondence with the Registrant, in particular, setting out how the Council intended to put its case. On 8 January 2020, **Witness 4** sent the witness statements, and a hearing questionnaire by recorded delivery to the Registrant. The covering letter included the following:

*The GOC has obtained witness statements from [Witness 1, 2 & 3]. Copies of their witness statements can be found within the GOC's bundle of documents that we intend to rely upon at the hearing. As explained in the Hearings Questionnaire, we intend to rely on these statements being read out in their entirety and standing as evidence during the hearing. This will mean that you will not be able to ask the witnesses any questions during cross-examination. However, should you want to ask the witnesses questions, you must tell us and we will ask the witnesses to attend the hearing in person to provide live evidence. **I would be grateful if you can please confirm this by 7 February 2020, when you return the Hearings Questionnaire.***

Mr Price submitted that the Registrant had been provided with the hearsay evidence, and had not responded to raise any objection to the witness statements being read rather than the witnesses being called.

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

It was satisfied that the hearsay evidence was relevant, as the witness statements and exhibits were adduced by the Council in support of the particulars.

The Committee was satisfied that it was fair to admit the hearsay evidence. Whilst it noted that it was the sole and decisive evidence in the case, it considered that the Registrant's stance was such that there was no indication that she objected to the evidence being adduced without the witnesses being called. The Committee was of the view that all reasonable efforts had been made to contact the Registrant and inform her of the Council's intention not to call the witnesses in person. Further, the Council had offered her the option to have them called but she had not taken up that option. Accordingly, the Committee decided that the hearsay witness statements and exhibits were admissible.

### ALLEGATION

The Council alleges that you, Rebecca Butler, a registered Dispensing Optician:

1. Between around September 2016 and January 2017, at [REDACTED] ["the Practice"], you:
  - a. Processed false refund transactions on the till(s); and/or
  - b. Removed cash belonging to [the Practice] from the till(s) and/or cash bags, for your own personal use to the value of approximately £2594.00 and/or
2. Your conduct as set out at (1) above was inappropriate and/or dishonest in that:
  - a. You knew that you were not authorised by your employer to remove the cash from the till and/or cash bags for your own personal use; and/or
  - b. You did not inform your employer that you had removed the cash from the till and/or cash bags; and/or
  - c. You knew that the cash belonged to your employer; and/or
  - d. You did not intend to return the cash to your employer;

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

## DETERMINATION

### Background to the allegations

The Registrant is a registered Dispensing Optician. At the material time she was working as the Practice Manager at [the Practice] (also known as “the Company”) (“the Practice”) Opticians in [REDACTED].

In January 2017, concerns were raised about unusual financial activity at the store, whereby a number of refunds had taken place under the Registrant’s operator number, but which were not carried out or recorded against any customer number. An investigation was carried out, whereby CCTV footage of four transactions (in December 2016, and January 2017) was viewed; the Practice’s staff rotas were checked; and the Practice’s refund book was compared to the CCTV and staff rotas.

On 18 January 2017, the Registrant was invited to attend an investigative interview. She was cautioned, and asked about the suspicious refund transactions. During the course of the interview she made a number of admissions.

On 19 January 2017, the Registrant sent an email to the Council, making apparent admissions.

It is alleged that between September 2016 and January 2017, the Registrant processed false refunds through the till at [the Practice] and removed £2,594 in cash belonging to them, for her own personal use. It is further alleged that her actions were dishonest.

### Findings in relation to the facts

The Committee accepted the advice of the Legal Adviser. In relation to dishonesty she cited the cases of *Ivey v Genting Casinos (UK) Ltd t/a [2017] UKSC 67*, *Uddin v GMC [2012] EWHC 1763 (Admin)*, and *Lawrence v GMC [2015] EWHC 586 (Admin)*

The Committee considered the hearsay evidence of the four witnesses and their respective accompanying exhibits. Although it recognised that all of the evidence adduced by the Council was hearsay, the Committee was satisfied that it could accord considerable weight to it. Each witness had provided a signed and dated witness statement to the Council, confirming the truth and accuracy of their respective statements. Their witness statements had been informed by relevant documentation, including the staff rotas, the refund book, from which a schedule of the transactions had been prepared, a copy of which was before the Committee. Further, the Committee noted that the Registrant had made admissions in the

investigative interview, and subsequent email to the Council, and had not at any time challenged the evidence.

The Committee finds particular 1(a) proved.

The Committee had regard to the witness statement of **Witness 2**, a Financial Risk Support Consultant at the Company, who conducted a routine analysis of the refund data for [the Practice] Opticians, by importing all of its refund data and presenting it on a spreadsheet. His statement explained the significance of the refund book, in that it did not include the Registrant's refund transactions within it. The Committee had a copy of the relevant spreadsheet and was able to see from the spreadsheet that the suspicious transactions were highlighted in yellow. In the column headed "sku- desc" the majority of the suspicious transactions were titled "SPECTACLE ACCESSORY". **Witness 2's** statement explained that the relevance of a refund in this way was that the operator was not required to input a customer's name and could manually input the amount to be refunded.

In relation to the Registrant's investigative interview of 18 January 2017, copies of which had been provided, the Committee noted that the Registrant had been provided with a copy to sign and date as accurate, and where necessary, to correct or amend. In light of this, the Committee was satisfied that it could accept her admissions. In her investigative interview, the Registrant was asked:

*"Q: Please tell me in your own words how you have been stealing from the store?"*

*[R]: I process a refund and then when taking the money upstairs take the money out of the cash bag.*

*Q: Are you admitting that you have committed theft of £2594.00 by stealing the money from the till by entering fraudulent refunds?"*

*[R]: Yes."*

In light of all of the evidence, including the Registrant's admissions, the Committee was satisfied on the balance of probabilities that the Registrant had, between September 2016 and January 2017, at [the Practice] processed false refund transactions on the tills.

The Committee finds particular 1(b) proved.

The Committee had regard to **Witness 2's** statement, where he recorded the detail of the four transactions which he had seen on the CCTV, which showed the Registrant carrying out the suspicious refund transactions on 28 December 2016, 29 December 2016, 9 January 2017, 11 January 2017. Although **Witness 2** had written the

incorrect year for the latter transactions in his witness statement, the Committee was satisfied from the spread sheet that these were the correct dates.

In her investigative interview, the Registrant admitted her methodology in taking the money from the Practice. She was also asked what the money she took was to be used for:

*“Q: Why did you start stealing for [sic] the store?”*

*“[R]: Because I had no money and it was a desperate measure. It was stupidity. I know that I should have gone to Alistair or Craig and just asked.”*

*Q: Do you have any debts that may have caused you to steal?*

*“[R]: No it was because I had no money to pay for the gas and general living.”*

The Committee also noted that the Registrant had made admissions in her email to the Council, dated 19 January 2017, stating:

*I was in a very bad place financially and rather than talk to [REDACTED] or directors at work I went to someone I shouldn't have done for a loan. I was struggling to make the repayments as they just kept asking for more and more off me. I have never done anything like this before and I didn't know what else to do. I ended up taking money from my employer.*

The Committee had regard to the spreadsheet which showed that the sum of the false invoices totals £2,594. Additionally, it had regard to the Registrant's investigative interview as follows:

*“Q: Are you admitting that you have committed theft of £2594.00 by stealing the money from the till by entering fraudulent refunds?”*

*“[R]: Yes”*

Accordingly, the Committee was satisfied on the balance of probabilities from the evidence, including the Registrant's admissions, that the Registrant had removed cash totalling £2,594 for her own personal use.

The Committee finds particular 2(a) proved.

The Committee had regard to the Registrant's admissions in her investigative interview that she was not authorised by her employer to remove the cash for her own personal use.

The Committee finds particular 2(b) proved.



The Committee had regard to the Registrant's admissions in her investigative interview that she had not sought approval from her employer to remove the cash from the till.

The Committee finds particular 2(c) proved.

The Committee had regard to the Registrant's admissions in her investigative interview that she knew that the cash belonged to her employer.

The Committee finds particular 2(d) proved.

The Committee had regard to the Registrant's admissions in her investigative interview that she had not intended to return the cash to her employer.

In relation to whether the Registrant's conduct as set out at particular (1) above was inappropriate and/or dishonest, the Committee concluded that the Registrant had calculated a way of removing cash from the till, out of the view of the CCTV cameras, demonstrating that she knew that what she was doing was wrong and did not want to get caught. She created false refunds in order to cover up that she was repeatedly taking money from her employer, which she was not authorised to take and was not entitled to.

In all the circumstances, the Committee was satisfied on the balance of probabilities that by the standards of ordinary and decent people, the Registrant's conduct in 1(a) and 1(b) was dishonest.

### **Findings in relation to misconduct**

The Committee has taken account of the submissions of Mr Price on behalf of the Council. He drew the Committee's attention to the case of *Professional Standards Authority v Health and Care Professions Council and Ajeneve* [2016] EWHC 1237 (*Admin*) which confirmed that "deliberate dishonesty must come high on the scale of misconduct". He also submitted that the Registrant, by her actions, had breached Standards 16 (Be honest and trustworthy) and 17 (Do not damage the reputation of your profession through your conduct).

The Committee has accepted the advice of the Legal Adviser.

The Committee considered that the Registrant's actions were serious. She had stolen money from her employer on 12 separate occasions between September 2016 and January 2017, therefore demonstrating a pattern of dishonesty over a



considerable period of time. In the Committee's judgement, her actions had been deliberate, pre-meditated and involving not inconsiderable sums of money.

Whilst the Registrant, when challenged, had been transparent in the employer's investigation, making full admissions, and had promptly notified the Council of her actions, this did not, in the Committee's view, reduce the seriousness of the dishonesty itself. The Registrant had been in a position of responsibility as the Practice Manager and had abused that position of trust.

In the Committee's judgement, honesty and trustworthiness are fundamental tenets of the profession, and the Registrant had breached them. Such dishonesty would affect the public's confidence in the profession. Consequently, the Committee concluded that the Registrant had breached the following GOC Standards of Practice:

*Standard 16 – Be honest and trustworthy; and*

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

The Committee concluded that the facts found proved fell far below the standards to be expected of a registered professional and were so serious as to amount to misconduct.

### **Findings regarding impairment**

The Committee has heard submissions from Mr Price on behalf of the Council. He drew the Committee's attention to the case of *CHRE v NMC and Grant [2011] EWHC 927 (Admin)* and submitted that limbs (b) [bringing the profession into disrepute], (c) [breaching a fundamental tenet of the profession], and (d) [acting dishonestly] were engaged. He further submitted that due to the lack of engagement on the Registrant's part, there was nothing to assuage against the risk that she may resort to stealing again if faced with financial difficulties.

The Committee has accepted the advice of the Legal Adviser, who cited the cases of *Meadow v GMC [2006] EWCA Civ 1390*, *CHRE v NMC and Grant [2011] EWHC 927 (Admin)*, and *Cohen v GMC [2008] EWHC 581 (Admin)*.

The Committee acknowledged that the Registrant had demonstrated remorse for her actions during the employer's investigation, appearing upset, being both remorseful and candid. The Director of [the Practice], on informing the Council of the Registrant's actions in an email dated 23 January 2017, described that the Registrant had been remorseful and that he would be happy to speak up for her.

The Committee was of the view that dishonesty is difficult to remedy, but it is possible to do so, for example through reflection and insight. However, the Committee had not been provided with any meaningful information regarding the Registrant since then, aside from an email from the Registrant, dated 14 July 2017, informing the Committee that she was no longer employed in the Optical Industry and “at this moment in time I do not intend to return to Optics either”. In the absence of any engagement from the Registrant, the Committee concluded that it had no evidence to reassure it that the Registrant had gained insight into her actions and had remedied her misconduct. Consequently, the Committee could not be satisfied that the Registrant would not act dishonestly again in the future if faced with severe financial difficulties.

In relation to the test set out in the case of *Grant*, the Committee was of the view that limbs (b), (c), and (d) were engaged. It was clear that the Registrant’s misconduct had, in the past, brought the profession into disrepute; breached a fundamental tenet of the profession; and acted dishonestly. In the absence of information to demonstrate insight and remediation, the Committee had no reassurance that it could rule out the risk of repetition in the future.

In light of the Committee’s conclusion that the Registrant’s misconduct fell far below the standards to be expected of a registered professional and that it could not rule out the risk of repetition, the Committee was of the view that the public would expect the regulator to take action to declare and uphold proper standards of conduct and behaviour. The Committee therefore concluded that public confidence in the reputation of the profession would be undermined if a finding of impairment were not made in this case.

Accordingly, the Committee found that the fitness of Rebecca Butler to practise as a dispensing optician is currently impaired on public interest grounds.

### **Sanction**

The Committee has heard submissions from Mr Price on behalf of the Council. He explained that the Council’s position was that erasure was the appropriate and proportionate sanction in this case. He drew the Committee’s attention to the following cases in support of this position: *Bolton v The Law Society* [1994] 2 All ER 486, *Parkinson v NMC* [2010] EWHC 1898 (Admin), *PSA v GDC and Ikhlaq Hussain* [2019] EWHC 2640 (Admin).

The Committee has accepted the advice of the Legal Adviser, who cited the cases of *Atkinson v GMC* [2009] EWHC 3636 (Admin) and *Igboaka v GMC* [2016] EWHC

2728 (*Admin*). It had regard to the Council's Indicative Sanctions Guidance (the Guidance).

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 was aware that the purpose of a sanction is not to be punitive, but to protect members of the public and to safeguard the public interest, which includes upholding standards within the profession, together with maintaining public confidence in the profession and its regulatory process.

The Committee identified the following mitigating factors in this case.

- The Registrant had no other regulatory concerns and was considered a person of previous good character;
- The Registrant had expressed remorse and made full admissions in her employer's investigation and her email to the Council;
- The Registrant had clearly been well regarded by her employers, who were shocked at her actions and had indicated they would be willing to speak up for her.

The Committee considered that the following were aggravating factors:

- There was a pattern of dishonest behaviour in stealing money from her employer;
- The Registrant's dishonesty was repeated and sustained over several months;
- The Registrant had abused her position of trust as the Practice Manager;
- The Registrant has not engaged with these regulatory proceedings, and there is no evidence of insight or remediation.

The Committee did not consider the options of taking no further action or imposing a financial penalty to be appropriate or proportionate in the circumstances of this case. The dishonesty had been found by the Committee to be repeated, sustained and in abuse of her position of trust. Neither option would address the identified risks, including undermining public confidence in the profession or the risk of repetition.

The Committee next considered conditional registration. The Committee was not satisfied that it would be possible to formulate workable conditions to address the

dishonesty. In any event, conditional registration would not maintain public confidence in the profession or the regulator, as the case is too serious.

The Committee next considered suspension. The Committee had regard to paragraph 34 of the Guidance and the factors which may render suspension appropriate. Given the seriousness of the dishonesty, and having identified a risk of repetition, and absence of evidence of insight or remediation, the Committee did not consider that a period of suspension would be sufficient to protect the public interest.

The Committee next went on to consider erasure and concluded that this was the only appropriate and proportionate sanction in this case. The Committee had regard to paragraph 36 of the Guidance and the factors which may indicate that erasure was appropriate. The Committee identified that the following factors were present in this case:

- 36.5(a) – Serious departure from the relevant professional standards as set out in the Standards of Practice;
- 36.5(c) – Abuse of position/trust;
- 36.5(f) – Dishonesty (especially where persistent and covered up).

The Committee was mindful of the principle of proportionality when considering the appropriate sanction. It acknowledged that erasure will preclude the Registrant from working as a dispensing optician. However, the Committee was of the view that only erasure was appropriate in this case, and no lesser sanction would satisfy the public interest in maintaining public confidence in the profession; upholding the reputation of the profession and declaring proper standards of conduct and behaviour.

### **Immediate order**

The Committee has heard submissions from Mr Price on behalf of the Council, who indicated that the Council was neutral on whether an immediate order should be imposed.

The Committee has accepted the advice of the Legal Adviser.

The Committee has decided to impose an immediate order of suspension. The Committee considered that an immediate order of suspension was required in the public interest, given the nature and seriousness of the misconduct and the risk of repetition identified by the Committee. It was consistent with the sanction of erasure imposed, and would ensure the maintenance of public confidence in the profession.

**Chair of the Committee: Ms Julia Wortley**

**Signature**



**Date: 19 May 2020**

**Registrant: Ms Rebecca Butler**

**Signature** Not present at the remote hearing

**Date: 19 May 2020**

<b>FURTHER INFORMATION</b>
<b>Transcript</b>
A full transcript of the hearing will be made available for purchase in due course.
<b>Appeal</b>
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).
<b>Professional Standards Authority</b>
<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 <a href="http://www.professionalstandards.org.uk">www.professionalstandards.org.uk</a> or by telephone on 020 7389 8030.</p>
<b>Effect of orders for suspension or erasure</b>
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.
<b>European Alert</b>
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.