

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

GENERAL OPTICAL COUNCIL

F(20)08

AND

JOANNE DONNELLY (D-16951)

**DETERMINATION OF A SUBSTANTIVE HEARING
22-23 JUNE 2020**

Committee Members:	Ms A Johnstone (Chair/Lay) Mr D Abbott (Lay) Mr J Vaughan (Lay) Mr A Street (Dispensing Optician) Ms C Kimpton (Dispensing Optician)
Legal adviser:	Ms L Whittle-Martin
GOC Presenting Officer:	Ms A Ling
Registrant present:	No
Registrant representative:	Not represented
Hearings Officer:	Ms A Riaz
Facts found proved:	Allegation 1a
Facts not found proved:	None
Misconduct:	Found

Impairment:	Impaired
Sanction:	Suspension Order 6 months – With Review
Immediate order:	Interim Suspension Order imposed

Proof of service

The Committee was provided with confirmation that the Notice of Hearing had been sent to the Registrant’s registered address by Special Delivery on 5 March 2020 and by email on 22 May 2020. The Committee accepted the advice of the Legal Adviser. The Committee was satisfied Notice had been properly served on the Registrant in accordance with Section 23A of the Opticians Act 1989 (“the Act”) and Rules 61 and 34 of the Fitness to Practise Rules 2013 (“the Rules”).

Proceeding in the absence of the Registrant

Ms Ling on behalf of the GOC invited the Committee to proceed in the absence of the Registrant.

The Committee accepted the advice of the Legal Adviser, who took the Committee to Rule 22 and to the guidance given in the cases of *Jones (2003) 1 AC 1* and *GMC – v Adeogba [2016] EWCA Civ 162*.

The Committee took account of a GOC attendance note of a telephone call with the Registrant on 25 February 2020, which read:

[redacted]

The Committee also took account of an email sent by the Registrant to the GOC dated 4 May 2020 in which she stated:

[redacted]

and of a further email from the Registrant dated 19 May 2020 in which she stated:

[redacted]

The Committee concluded from the Registrant’s absence, together with the representations made by her in the course of the telephone call dated 25 February 2020 and the emails of 4 May 2020 and 19 May 2020, that she had decided to absent

herself from the hearing. The Registrant had not requested an adjournment and the Committee concluded that it was highly unlikely that she would attend if the matter were to be adjourned. The Committee took account of the fact that there were three witnesses waiting to give evidence. In the circumstances the Committee concluded that it was in the public interest for the hearing to be proceed.

Accordingly, the Committee decided to proceed in the absence of the Registrant.

ALLEGATION

The Council alleges that you, Joanne Donnelly (D-16951), a registered dispensing optician:

- a) On or around 5 October 2018, whilst working a dispensing optician at **[redacted]**, you attended work whilst under the influence of alcohol

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

DETERMINATION

Witnesses

The Committee heard from the following witnesses called by the GOC:

- **W1, [redacted]**
- **W2, [redacted]**
- **W3, [redacted]**

The Committee was also supplied with a bundle of documentation containing the exhibits produced by those witnesses, together with two emails, dated 15 February 2019 and 19 May 2019 from the Registrant to the GOC setting out her version of events, and three attendance notes made by representatives of the GOC, dated 10 December 2018, 10 January 2019 and 25 February 2019, summarising conversations held by them on the telephone with the Registrant.

Background

The proceedings related to the events of 5 October 2018, when the Registrant was working as a Dispensing Optician at a branch of **[redacted]**. The Committee heard from three witnesses who all claimed that the Registrant had attended work whilst under the influence of alcohol on that day.

The witness, W3, a **[redacted]**, formally adopted his witness statement dated 25 June 2019, in which he said that the Registrant entered the store on the morning of 5 October 2018 and approached him. He said that this was unusual. He said: “she was acting different to what I was used to seeing her. Her body expressions were different. She seemed very happy – smiling and stuff. Normally she was very quiet and would not smile at all. On this day she was really talkative and was moving around a lot”. He said that she remarked: “You might see me losing my job”. She told him that she did not enjoy her work. They talked for about 10 minutes, and during that time he smelt alcohol on her breath. He therefore went to speak with W2. He asked W2 if she had smelt alcohol on the Registrant, to which W2 responded that she had not.

W3 exhibited a witness interview note, dated 6 October 2018. In it he stated that he had smelt alcohol on the Registrant’s breath and that she appeared to be under the influence of alcohol.

W3 confirmed that he had never smelt alcohol on the Registrant’s breath prior to this event.

When W3 was questioned by Ms Ling and the Committee, he confirmed that he had smelt alcohol on the Registrant’s breath, and that she had appeared to him to have been under the influence of alcohol rather than any legitimate medication. **[redacted]**.

The witness, W2, an **[redacted]**, adopted her witness statement dated 18 June 2019. She said that she attended work on the morning of 5 October 2018 distracted by the fact that she was late for work, and that her child had been unwell in the morning and there were patients waiting for her. She chatted to the Registrant who was positioned opposite her, on the other side of the till. Around 5 or 10 minutes later she was visited by W3 who told her that he thought the Registrant was drunk. She said that “after speaking with [W3] I realised that the Registrant had not been her normal self during our conversation earlier. Her manner was different. She was quite bubbly and overly nice. I put two and two together and thought she may have been under the influence of alcohol”.

W2 said that she later went into a back room where she found the Registrant on the phone. She said there was a strong smell of alcohol in the room, which had not been there when she had entered the room earlier in the day. W2 said that she stayed in the room with the Registrant for about 3 to 4 minutes, after which she reported her concern that the Registrant “had been drinking/was drunk” to the Personnel Department and to the **[redacted]**, W1.

W2 exhibited a written record of the incident, dated 26 October 2018, in which she stated that when she was in the back room with the Registrant, the room “smelt strongly of alcohol”.

W2 confirmed that she had never smelt alcohol on the Registrant’s breath prior to this date.

The witness, W1 **[redacted]**., adopted his written statements dated 3 June 2019 and 11 January 2020. He said that when he attended the store on the morning of 5 October 2018, he was approached by W3, and went to the security podium to keep watch over the Registrant on the CCTV camera. He said that he there saw the Registrant wandering aimlessly around the optical department and described her movements as: “a little bit unbalanced but not that she was heavily drunk”. He said that he observed her for about three or four minutes, and then left the security podium to speak with her in the holding room, a small room on the shop floor. He said that it was very apparent that the Registrant had been drinking, in that the Registrant was sitting down during the conversation whilst he was standing up and yet he could smell alcohol on her breath straightaway. W1 said that when he informed the Registrant of his concern, the Registrant failed to answer the point, and instead went off on a tangent, claiming that she was essential to the optical department, and that everyone in the department “had it in for her”. W1 claimed that she was: “all over the place.... talking absolute nonsense”. He said she then became upset and started crying: “but then all of a sudden she was alright again”. He said the Registrant explained to him her own, unrelated personal reasons for becoming upset.

W1 said that he was in the holding room with the Registrant for about 15 minutes, and when the conversation was drawing to a conclusion the Registrant claimed that he was trapping her in the room. W1 then took the Registrant to the training room where he completed a suspension risk assessment. The Registrant again became upset.

W1 said he suspended the Registrant from work and then escorted her off the premises, leaving her to catch a taxi rather than travel home by car, by agreement. He then kept observation over her from the security podium. He saw her going to her car. He left the store and prevented her from driving off by speaking to her by opening the door. He then went with her to a cash machine where she withdrew money for a taxi. He stayed with her until she got into the taxi and left the premises.

W1 exhibited a file note written by him on the day of the incident, in which he had recorded that the Registrant had: “seemed to be drunk and I could smell a strong smell of alcohol on her breath”.

When W1 was questioned by Ms Ling and the Committee, he said that he had smelt alcohol on the Registrant’s breath after she had spoken a couple of sentences. He said that whilst there had been no prior issues regarding the Registrant’s attendance at work under the influence of alcohol, there had been complaints from managers that the Registrant had been contacting them out of hours to discuss issues relating to her personal life. As a result of this he said the Registrant had been warned by the healthcare divisional manager that disciplinary procedures would be instigated if she were to attend work whilst under the influence of alcohol.

W1 was asked whether he agreed with the proposition, put forward by the Registrant in her correspondence with the GOC, that the Registrant had been suffering from a chest infection at the time and may have been affected by medication she was taking. He disagreed with that proposition, saying that when she climbed the staircase to the training room she did not cough or appear to be wheezy; to the contrary she was hanging onto the bannister. He said, when asked, that it was not right to say that the Registrant had been left to run the whole store by herself, although she had been left in charge of the optical department, because this was her job description. He said that he was unaware of any suggestion that the Registrant had been subjected to bullying by members of staff, or harassment from W3; to the contrary, she had been provided with a lot of support. He said that it was common for members of staff to have their cars searched by security, given the problem with thefts that the store had encountered.

Following the instigation of GOC proceedings, the Registrant telephoned the GOC on 10 December 2018 and 10 January 2019, saying that she denied the allegation. She contended that she had not been well on the day as she had been suffering from a cold and a chest infection and may have been affected by medication she was taking. She complained of **[redacted]** by the security guard at **[redacted]** who, she claimed, had **[redacted]** and on more than one occasion had searched her car. She also complained that on the day in question she had been held in a small room. She said she was going to pursue a case of sexual harassment and bullying. She claimed that **[redacted]** was not run properly and that she had been left to run the shop on her own with little support.

The Registrant sent emails to the GOC dated 15 February 2019 and 19 February 2019, maintaining her stance that the allegation was untrue and unfounded. She made a

further telephone call to the GOC on 25 February 2020 saying the allegation was untrue, and explaining that she now works in **[redacted]** and wants the GOC investigation to be concluded so that she can move on.

Legal Advice

The Committee accepted the legal advice of the Legal Adviser who reminded the Committee that the burden rests with the GOC to prove the case on the balance of probabilities.

Submissions

Ms Ling submitted that each of the witnesses had been open and honest and that their evidence was consistent with the notes provided by the nearer the time.

Decision on facts

In considering the witnesses called by the GOC, the Committee concluded that all three witnesses had been reliable and honest.

The Committee considered with care the representations provided by the Registrant in her emails of 15 February 2019 and 19 May 2019, together with her remarks recorded in the attendance notes of 10 December 2018, 10 January 2019 and 25 February 2019. However, the Committee gave less weight to these submissions than to the evidence provided on oath by the GOC witnesses. Further, the Committee found the Registrant's representations to be implausible. The Committee was of the view that had she been suffering from a medical condition requiring medication, she would have mentioned this to the witnesses at the time, and in particular to the **[redacted]**, W1, at the time of her suspension. The Committee found the Registrant's representations regarding harassment and bullying to be lacking in substance.

The Committee was satisfied that the three witnesses called by the GOC had provided reliable evidence, one of whom was experienced in dealing with intoxicated customers. The witnesses had also said that the Registrant's behaviour at work on the day in question had been atypical, and each one of them was clear that the Registrant's breath had smelt of alcohol. The Committee preferred the evidence provided by the GOC witnesses on oath to the written submissions provided by the Registrant in her emails and the oral representations made by her to representatives of the GOC outside this hearing.

On that basis the Committee was satisfied on the balance of probabilities that the Registrant attended work as a dispensing optician on 5 October 2018 whilst under the influence of alcohol.

Accordingly the Committee found the allegation of fact proved.

Submissions on Misconduct and Impairment

Ms Ling submitted that attending work whilst under the influence of alcohol is behaviour that falls seriously below what would be proper in the circumstances and would be considered deplorable by members of the profession. She submitted that the Registrant's behaviour had put the public at risk of harm and was damaging for the public interest. She submitted that the Registrant had provided no evidence of remorse remediation or insight. She submitted that public confidence in the profession and the Council as a regulator would be undermined if no finding of impairment was made. She submitted that the Registrant's behaviour amounted to misconduct and that the Registrant's fitness to practise is currently impaired.

Advice and Finding on Misconduct and Impairment

The Committee accepted the advice of the Legal Adviser, who advised that in considering misconduct the Committee should ask whether, in its judgement, the Registrant's behaviour as found proved, had fallen seriously below the standards required of a registered Dispensing Optician in the circumstances. The Committee should also ask whether her behaviour would be regarded as deplorable by fellow practitioners. The Legal Adviser referred to *Roylance –v- General Medical Council No 2 [2001] 1 AC 311* and *Nandi v GMC [2004] EWHC 2317*.

The Legal Adviser advised that if the Committee reached the conclusion that the Registrant's behaviour amounted to misconduct, it should then consider whether the Registrant's fitness to practise is currently impaired by reason of that misconduct. She took the Committee to the first three criteria in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Paula Grant [2011] EWHC 927*, namely whether the Registrant:

- Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or
- Has in the past and/or is liable in the future to bring the profession into disrepute; and/or

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

The Legal Adviser also took the Committee to the case of *Cohen v General Medical Council [2008] EWHC 581*, and encouraged the Committee to ask whether the Registrant's conduct is remediable, whether it has been remedied and whether it is highly unlikely to be repeated. She advised the Committee to question whether this could be regarded as an isolated incident in the Registrant's career as a Dispensing Optician, and whether the Registrant has demonstrated any insight into her misconduct. She advised the Committee to consider whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances.

The Committee concluded that the Registrant had breached the following paragraphs of the GOC Standards of Practice for Optometrists and Dispensing Opticians (April 2016):

- Standard 17
Do not damage the reputation of your profession through your conduct
- Standard 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 concluded that attending work in her capacity as branch manager of **[redacted]** whilst under the influence of alcohol amounted to behaviour that fell seriously below the standards expected of a registered Dispensing Optician and would be regarded as deplorable by fellow members of the profession.

Accordingly it was the judgement of the Committee that the Registrant's behaviour amounted to misconduct.

The Committee concluded that the first three criteria in the case of *Grant* applied in the current circumstances. In attending work whilst under the influence of alcohol, the Registrant had acted in a manner that had the potential to put patients at unwarranted risk of harm. She had brought the profession into disrepute and had breached a fundamental tenet of the profession.

The Committee accepted that the Registrant's actions in attending work under the influence of alcohol as a Dispensing Optician had been an isolated incident. However her misconduct had been serious. The Committee concluded that the Registrant's

behaviour was capable of remediation, but the Committee noted from the emails and attendance notes of conversations held between the GOC and the Registrant, that the Registrant continues to deny her behaviour. The Committee could find no evidence of remorse, remediation or insight. In those circumstances the Committee concluded that there is a risk that the Registrant will repeat her misconduct. The Committee therefore concluded that the Registrant's fitness to practise is currently impaired on grounds of public protection.

The Committee also concluded that due to the seriousness of the misconduct, the maintenance of standards and public confidence in the Registrant and in the profession would be undermined if the Registrant were to be permitted to practise unrestricted or at all. In those circumstances the Committee concluded that a finding of impairment is also required to uphold proper standards and confidence in the Registrant and in the profession.

Accordingly the Committee concluded that the Registrant's fitness to practise as a Dispensing Optician is currently impaired both on grounds of public protection and the public interest.

Submissions, Advice and Finding on Sanction

In the course of her submissions on sanction, **[redacted]**. Ms Ling addressed the Committee on the aggravating and mitigating features of the current case, and reminded the Committee to act proportionately in reaching its decision. Ms Ling submitted that the appropriate sanction is a period of suspension with a review.

The Committee accepted the advice of the Legal Adviser who advised the Committee to consider the range of available sanctions in ascending order of seriousness; to consider any aggravating and mitigating factors in the case; to act proportionately; and to remember that the purpose of sanction is not to be punitive, but is to protect the public, maintain public confidence in the profession, and declare and uphold proper standards of conduct and behaviour. She advised the Committee to take into account the factors set out in the GOC's "Hearings and Indicative Sanctions Guidance".

[redacted].

The Committee took into account the following mitigating factors:

- the misconduct amounted to an isolated incident of attending work under the influence of alcohol;

- the misconduct dated back to October 2018 and there had been no evidence of repetition of the behaviour.

The Committee took into account the following aggravating factors:

- the Registrant's misconduct had placed patients, including vulnerable patients under the age of 16, at unwarranted risk of harm;
- the Registrant had been a manager, in a position of leadership;
- **[redacted]**.
- there was no evidence of remorse, remediation or insight.

The Committee concluded that in view of the seriousness of the misconduct, to take no further action would be insufficient to protect the public or maintain confidence in the profession and the regulatory process.

The Committee concluded that a financial penalty was not appropriate in the circumstances of the case, and the Committee had no information regarding the Registrant's ability to pay any such a penalty.

The Committee concluded that conditional registration was unworkable as the Registrant had not attended the hearing or provided her assurance that she would abide by any conditions that the Committee may see fit to impose.

The Committee considered a Suspension Order.

The Committee gave consideration to the suggested factors set out in the Indicative Sanctions Guidance, which were said to indicate the suitability of a Suspension Order.

On the one hand, the Registrant's misconduct had been serious. She had denied her actions and had shown no remorse, remediation or insight. The Committee had concluded that she posed a risk of repeating her behaviour, and placed patients, including vulnerable patients under the age of 16, at unwarranted risk of harm. The Registrant had been in a position of responsibility at the time of her misconduct, as a branch manager of **[redacted]**.. **[redacted]**.

The Committee balanced these factors against the lack of any evidence of harmful deep-seated personality or attitudinal problems, and lack of any evidence of further misconduct since 2018.

Those factors led the Committee to conclude that a period of suspension is the appropriate and proportionate sanction in the circumstances. The Committee concluded that such an order is sufficient to protect the public. The Committee also concluded that a period of suspension is sufficient to declare and uphold proper standards of conduct and behaviour and maintain confidence in the profession.

The Committee concluded that a period of 6 months would provide the Registrant with an appropriate period of time in which to demonstrate her commitment to engage with these proceedings and her ability to remediate her misconduct.

The Committee considered erasure but concluded that this would be disproportionate in light of the mitigating factors in the case.

The Committee therefore imposes a Suspension Order for a period of 6 months.

A review hearing will be held four to six weeks prior to the expiration of this order.

The Review Committee may be assisted by:

- the Registrant's engagement and attendance
- evidence that the Registrant has fully appreciated the gravity of her misconduct, and that she understands the seriousness of her actions in terms of public safety and the impact that they had on the reputation of the profession
- evidence of remediation
- evidence that the Registrant has maintained her skills and knowledge
- character references and testimonials in relation to any paid or unpaid work undertaken since the time of the Registrant's misconduct, written with full knowledge of the Committee's findings.

Immediate order

Mr Ling asked the Committee to impose an immediate order of suspension to cover the 28 day appeal period or the time taken for any appeal to be determined. The Committee accepted the advice of the Legal Adviser.

The Committee decided that an immediate suspension order was necessary to protect the public and the wider public interest in light of its findings.

Revocation of interim order

The Committee hereby revokes the interim order for suspension of registration that was imposed on 19 February 2019.

Chair of the Committee: Ms Anne Johnstone

Signature : *Anne Johnstone*

Date: 23 June 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

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).

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

Effect of orders for suspension or erasure

To practise or carry on business as an optometrist or dispensing optician, to take or use a description which implies registration or entitlement to undertake any activity which the law restricts to a registered person, may amount to a criminal offence once an entry in the register has been suspended or erased.

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.