



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

**GENERAL OPTICAL COUNCIL**

**F(22)19**

**AND**

**MR BADRAN HAMOOD UR REHMAN (SO-14500)**

**DETERMINATION OF A SUBSTANTIVE HEARING  
30 JANUARY – 6 FEBRUARY 2023  
12 APRIL – 14 APRIL 2023**

<b>Committee Members:</b>	Rachel O’Connell (Chair/Lay) Ian Hanson (Lay) Nicola Enston (Lay) Kamlesh Gohil (Optometrist) Christian Dutton (Optometrist)
<b>Legal adviser:</b>	Emma Boothroyd (30/1/23-6/2/23) Timothy Akers (12/4/23-14/4/23)
<b>GOC Presenting Officer:</b>	Katie Mustard
<b>Registrant present/represented:</b>	Yes and not represented
<b>Registrant representative:</b>	N/A
<b>Hearings Officer:</b>	Terence Yates
<b>Facts found proved:</b>	All
<b>Facts not found proved:</b>	None
<b>Misconduct:</b>	Found
<b>Impairment:</b>	Impaired
<b>Sanction:</b>	Erasure
<b>Immediate order:</b>	Yes

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### ALLEGATION (As amended)

The Council alleges that you, Mr Badran Rehman (SO-14500), a registered student optometrist whilst at University [redacted]:

- 1) In written communications with the University [redacted] you and/or another person you instructed, impersonated Person 1 on the following dates;
  - a) On or around 26 June 2019
  - b) On or around 15 July 2019
  - c) On or around 18 July 2019
  
- 2) In written communications with the University [redacted] you and/or another person you instructed, impersonated Person 2 on the following dates;
  - a) 29 June 2019
  - b) 5 August 2019
  
- 3) On or around 14 August 2019 in a written communication to the University [redacted] you and/or another person you instructed, impersonated Ms B from [redacted];
  
- 4) Your actions at 1,2, and 3 were dishonest in that you or the person you instructed were not the named individuals and your actions were intended to gain you an advantage;
  
- 5) You and/or another person you instructed were dishonest in your communications with [redacted] University on the following dates:
  - a) 19 July 2019
  - b) 22 July 2019
  - c) 14 August 2019in that you knew that you had not received [redacted] from Person 2;
  
- 6) Between 26 June 2019 and 3 September 2019, you and/or another person you instructed forwarded a communication to the University [redacted] purported to be from an individual named "Person 4" from [redacted], that you knew to be fraudulent;
  
- 7) You submitted the following fraudulent documents to the University [redacted] for the purposes of your review stage appeal decision:
  - a) Letter dated 26 June 2019 titled from "[redacted]" purporting to be written by Person 1

b) Letter/email dated 29 June 2019 from [redacted] purporting to be written by Person 2

8) Your actions at 6 and 7 were dishonest in that you knew you were submitting fraudulent documents or communications to the University [redacted]

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

## DETERMINATION

### Admissions in relation to the particulars of the allegation

1. The Registrant admitted particulars 1, 2(a) 4, (in respect of 1 and 2(a) only), 5, 6, 7 and 8 of the allegation.

### Background to the allegations

2. The Registrant commenced his studies for the BSc Optometry programme with the University [redacted] (the University) on 17 September 2018. Prior to commencing the course, the Registrant had completed the first year of a medical degree at a University in [redacted].
3. During the 2018-2019 academic year the Registrant failed three modules worth 80 credits at the first attempt. Under the University's academic regulations the Registrant was required by the Board of Examiners to repeat the year, with attendance, with academic penalty (i.e. marks would be capped at 40%).
4. The Registrant subsequently submitted an academic appeal to the University on 29 June 2019. Within that appeal the Registrant stated that there had been circumstances beyond his control which impacted upon his performance. In particular, the Registrant outlined that a loan he had taken to finance his studies in [redacted] was funded by [redacted]. The Registrant explained that this had a significant impact upon him [redacted], and in addition had led to him working excessive hours to repay the debt in addition to trying to study. The Registrant was working for a company called [redacted] during this period.
5. In his appeal the Registrant requested that he be permitted to progress to stage two of his studies by having his grades "bumped up to reach the pass mark" or if that were not possible to allow him to retake the failed assessments without penalty.
6. The appeal was supported by evidence purporting to be from a Person 1 dated 26 June 2019 and from Person 2 dated 29 June 2019.

7. The Registrant's appeal was partially upheld at the first stage and he was permitted to repeat his Stage One modules with attendance but without penalty (i.e. without a cap on his marks). However, the Registrant was not permitted to progress to Stage Two of his studies, as the University's academic regulations do not permit students to progress with more than 20 credits outstanding. This information was relayed to the Registrant in a letter dated 5 July 2019.
8. The Registrant escalated his appeal to the review stage on 9 July 2019. In this appeal form he reiterated that he wished for the outcome to be for him to be permitted to progress to the next stage of his studies or alternatively to resit the failed modules and clinical assessments during the supplementary exam period (i.e. over the summer period so that he could still progress to the second year of his studies without delay).
9. The Registrant's review appeal was supported by the same [redacted] evidence as he had submitted in his initial appeal, namely the [redacted] letter from Person 1 and information from Person 2. The Registrant also provided an additional statement in support of this appeal re-iterating the financial and other difficulties that had resulted from his time in [redacted].
10. The University's Academic Registrar, Ms A, was responsible for consideration of the Registrant's review stage appeal. During her consideration of the Registrant's appeal, Ms A had concerns about the validity of the medical evidence that the Registrant had supplied. In her view, there were phrases within the [redacted] letter of Person 1 which were unusual. For example, Ms A says that it is unheard of for a [redacted] to ask a university to progress a student without passing exams, especially on an optometry course Person 2 on the GMC register. Ms A took steps to verify this evidence but was unable to do so and her investigations raised further concerns.
11. The Registrant provided Ms A with details for Person 1 which did not appear to be legitimate NHS contact details. In addition, there was correspondence provided from the Registrant which purported to be from Person 1 stating that he had provided the information about the Registrant. The genuine Person 1 later confirmed that he had not provided the [redacted] evidence in support of the Registrant.
12. Ms A also attempted to contact Person 2 and when she was unsuccessful she asked the Registrant for further information. The Registrant responded via email on a number of occasions to give details about the purported [redacted] he had been receiving from Person 2. These emails were sent on 19 July 2019 and 22 July 2019.
13. Further on 22 July 2019 the Registrant forwarded to Ms A a communication which purported to be from Person 4, Department Manager at [redacted] setting out that Person 2 had been uncontactable due to a sudden family death. On 5 August

2019 an e-mail was sent purportedly from Person 2 to Ms A stating that they had provided the letter in support of the Registrant. It is alleged by the Council that this was not in fact from Person 2 and was instead from the Registrant or a person instructed on his behalf.

14. On 14 August 2019, an email from Ms B, HR manager at [redacted] was sent to the University confirming that the Registrant had been receiving [redacted] from Person 2 and that Person 4 was a member of staff who had the authority to confirm this fact. The Council alleges that this was not in fact from Ms B and was instead from the Registrant or a person instructed on his behalf.
15. On 23 August 2019, the genuine Ms B contacted the University via email and stated that she had only returned from leave on 19 August 2019 and was alerted to the fact that an email had been sent on 14 August 2019 purporting to be from her. Ms B investigated the issue further and on 3 September 2019 she confirmed via email that none of the previous emails claiming to be from [redacted] were in fact genuine. Ms B also informed the University within the email, that that the Registrant was an employee of [redacted] and had been working mainly weekends. Ms B explained that since discovering this issue the Registrant had been referred to a [redacted] had concerns about the Registrant's [redacted].
16. Ms A prepared a report of her consideration of the Registrant's appeal which was accompanied by evidence to support her allegations. Professor A reviewed the report and agreed with Ms A's findings that the Registrant had submitted documents that were not genuine and did not come from the people they purported to be from. The outcome was that the Registrant's appeal was not upheld and in addition the outcome from the first stage appeal was effectively reversed. The Registrant was required to repeat the first year with attendance and with academic penalty of a cap of 40% on the marks.
17. Ms A's concerns were referred to the Dean of the Registrant's faculty for consideration under the Student Disciplinary Regulations and Procedure and for consideration as to whether the matter should be reported to the Council. The Registrant was informed of this in a letter dated 12 September 2019. On 20 September 2019 Professor B (who, at the time, was Head of the School of Optometry and Vision Science) met with the registrant and informed him that the matter would be referred to the General Optical Council. The referral was submitted on 29 November 2019.
18. As an outcome to the student disciplinary procedure the Registrant was suspended from the University. He began his repeated first year in Autumn 2020 and is currently in his third year of study.



### **Application to amend the allegation**

19. At the outset of the hearing, Ms Mustard on behalf of the Council made an application to amend particular 2(b) of the allegation to refer to the 5 August 2019 instead of 4 August 2019. Ms Mustard submitted that this was a typographical error which had been notified to the Registrant before the hearing. It was submitted that the amendment could be made without injustice and did not alter the substance of the charge.
20. Ms Mustard also applied to amend the allegation of impairment to read “your fitness to undertake training is impaired by misconduct” instead of the words “your fitness to practise.” Ms Mustard submitted that this amendment would properly reflect the Registrant’s status as a student and provide clarity. Ms Mustard stated that this amendment could similarly be made without injustice and it did not widen the scope of the allegation.
21. The Registrant did not object to either of the amendments.
22. The Committee accepted the advice of the Legal Adviser who reminded it of its powers under Rule 46 (20) of the General Optical Council (Fitness to Practise) Rules Order of Council 2013 (the Rules). The Legal Adviser advised the Committee to consider the nature of the amendments and whether the amendments could be made without injustice.
23. The Committee considered that the amendments sought were technical and minor in nature and served to clarify the allegation rather than alter the substance. The Committee considered that the date should be amended as it had been made clear to the Registrant what was alleged well before the hearing. In addition, the reflection of the Registrant’s student status within the allegation served to clarify the position rather than alter it. In all the circumstances the Committee was satisfied that the amendments could be made without injustice and granted the application.

### **Application for parts of the hearing to be held in private**

24. The Registrant at the start of his evidence made an application for parts of the hearing to be held in private on the basis that he wished to tell the Committee about personal matters relating to his [redacted].
25. Ms Mustard on behalf of the GOC did not object to the application provided that the matters held in private were solely in relation to the Registrant’s [redacted].
26. The Committee accepted the advice of the Legal Adviser who reminded the Committee of the Registrant’s Article 6 and Article 8 rights under the ECHR and Rule 25. The Committee considered that it was both fair and appropriate to allow this evidence to be heard in private to protect the private and family life of the Registrant.



### **Application for extra time [PRIVATE]**

27. [redacted]

28. [redacted]

29. [redacted]

### **Findings in relation to the facts**

30. In reaching its decisions on the facts the Committee considered all the evidence adduced in the case both oral and documentary and the submissions made on behalf of the Council and by the Registrant.

31. The Committee heard live evidence from Professor B, Professor C and Ms A on behalf of the Council. The Committee also heard evidence from the Registrant.

32. It was submitted on behalf of the Council that the evidence demonstrated that the Registrant entered into an arrangement with a third party to construct fraudulent documents in support of his academic appeals. Ms Mustard submitted that it was not disputed that the Registrant had forwarded those fraudulent documents to the University with the intention of supporting his appeal. Ms Mustard submitted that there was sufficient documentary evidence for the Committee to conclude that this deception was ongoing even when the Registrant was stated to be out of the country. Ms Mustard submitted that there was evidence in the form of an email dated 3 August 2019 that the Registrant had corresponded with the University during this time. She submitted that it was more likely than not that he was aware of the attempts made by Ms A to verify his [redacted] evidence and was aware of and agreed to the false emails sent on his behalf.

33. At the outset of the hearing the Registrant denied particulars 2(b), 3 and 4 (in relation to 2b and 3). The Registrant explained in his evidence that he was out of the country between 29 July 2019 and 24 August 2019 with limited internet access. The Registrant stated he had no knowledge of the communications sent to the University between those dates and had not provided a specific instruction to another person to send those communications.

34. The Registrant submitted that he had carefully considered the allegations as put to him and wanted to be clear that he was out of the country at the time the disputed communications were sent. The Registrant stated that he took responsibility for the conduct and this was why this matter was not raised until now. It was only when he was asked to think about the specifics of the particulars that he felt it was correct to deny the particulars that related to the period he was out of the country. He did not want to suggest that he was disputing that the conduct was wrong but he wanted to be clear about his actions. The Registrant

submitted that he had a limited memory about some aspects that he was asked about, particularly relating to his time in [redacted] and this may account for the inconsistencies in his evidence.

35. The Committee heard and accepted the advice of the Legal Adviser. She advised the Committee that the burden of proof is on the Council to prove the particulars of the remaining disputed allegations and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts will be proved if the Committee is satisfied that it was more likely than not that the incidents occurred as alleged. The Legal Adviser also advised the Committee that it should apply normal everyday usage to the word 'instruct'. She also referred the Committee to the case of *Ivey v Genting Casinos* [2017] UKSC 67 in relation to the test for dishonesty. The Legal Adviser also reminded the Committee of the relevance of the Registrant's good character in that there is no previous fitness to practise history.
36. The Legal Adviser advised that although the Registrant had admitted particular 5 in full and accepted that he had instructed another person, his evidence and submissions suggested that he did not in fact admit particular 5 (c). The Legal Adviser suggested that it was open to the Committee revisit this particular as part of its factual determination on the basis that the admission given appeared to have been made, and subsequently announced as proved, in error. This was not opposed by the GOC.

***Particular 2 b***

***In written communications with the University [redacted] you and/or another person you instructed, impersonated Person 2 on the 5 August 2019. – (Found Proved.)***

37. In considering this particular the Committee had regard to the communication within the bundle purporting to be from Person 2. The email is dated 5 August 2019 and is written from a [redacted] email address and states as follows,

*“Dear [Ms A]  
Many apologies. I have extremely limited internet access hence no emails. I did issue the supporting letter (academic appeal) for your student.  
Best wishes.”*

38. It was not disputed that this email was not sent from Person 2. In his oral evidence, the Registrant confirmed that he had never seen, nor been treated by Person 2. The Registrant was unable to confirm if Person 2 was even a real person. The Registrant stated that he was out of the country at the time the email was sent as he was undertaking a pilgrimage between 29 July 2019 and 24 August 2019. The Registrant stated that he was not in communication with anyone at [redacted] about this email and he was unaware that the email had been sent on his behalf until he returned. The Registrant stated in his oral evidence that a person called [redacted] had been helping him with his appeal up

to this point. He submitted that it was possible that out of guilt or in an attempt to assist the Registrant that [redacted] had sent the disputed emails.

39. The Registrant stated in his evidence that he had previously instructed [redacted] to respond to such emails on his behalf and he had admitted to those particulars of the allegation which related to those occasions. On the 5 August 2019, the Registrant stated that he was abroad with limited access to the internet and there had been no discussion with Person 3 about the sending of this particular email. The Registrant stated that he did not wish to suggest that he was not accepting of responsibility but that he wanted to be truthful in his admissions to the Committee.
40. The Committee noted that this evidence from the Registrant about being out of the country and being unaware of the emails had arisen for the first time during the course of this hearing. When the Registrant had been asked about matters by the University, although he indicated that he had been “advised” by a person he did not wish to name, he did not suggest that he was out of the country at the time that some of the emails were sent or that he was not responsible for them. Further, the Committee noted that Ms B of [redacted] undertook an investigation and in her email dated 3 September 2019 she stated, *“I investigated and found all email on behalf of [redacted], to be fake and in investigation badran accepted that he was so stressed and scared of loosing the chance to study further. He did the emails”* (sic).
41. The Committee took into account the email sent by the Registrant on the 3 August 2019 to Ms A chasing the outcome of his appeal which suggested that he did have access to the internet and was sending emails about this issue. The Committee considered this demonstrated that the appeal was at the forefront of his thinking during this time. The Committee also noted that there had been considerable email activity in July 2019 from the University to the Registrant and [redacted] seeking to verify the medical evidence that he had submitted. The Committee considered that it was inherently unlikely that this was not discussed with Person 3 if the Registrant was intending to be away for a significant period.
42. The Committee did not have any evidence to corroborate the Registrant’s account that he was out of the country and not in touch with [redacted]. The Committee noted that the Registrant gave evidence that there was an employee “Whats App” group and he had sent a message to that group explaining his absence after he had left the UK. The Committee considered that there were inconsistencies in the Registrant’s account about the period that he stated he was “off the grid”. Initially he stated he was not in contact with anyone between 29 July 2019 – 24 August 2019 and later conceded when the email of 3 August 2019 was brought to his attention that he had sent it. In his closing submissions to the Committee he revised the dates of being “off the grid” to 9 – 15 August 2019.
43. Taking all of this into account the Committee considered that it was more likely than not that the Registrant had arranged with Person 3 a plan to falsely create

and corroborate the medical evidence. The Committee considered that it was likely that the Registrant had given Person 3 instructions to continue with the scheme that had been embarked upon. The Committee did not consider it was necessary, in order for it to find this charge proved, to establish that a specific instruction was given by the Registrant on every single occasion for every piece of correspondence. The Committee considered that it was sufficient to find that the Registrant had concocted a scheme in which it was accepted and acknowledged that false information would be passed to the University both by him directly and by another person on his behalf.

44. In the view of the Committee Person 3 was acting on this general instruction from the Registrant. There was no evidence that Person 3 had any other reason to be sending the emails nor that he was acting for reasons of his own. In his evidence the Registrant agreed that he had arranged with Person 3 to produce fraudulent documentation for the purposes of the appeal. Although payment for this assistance was discussed, the Registrant's evidence was that it was not made. This suggests to the Committee that there was a clear arrangement made between the Registrant and Person 3 and there was an instruction to produce fraudulent documentation. This, logically in the Committee's view, extended to the further agreement to maintain the fraud when the University sought to verify the information. The Committee also noted that the Registrant did not suggest that if he had been in the UK he would have told Person 3 not to continue with the deception.

***Particulars 3 and 5(c) [Found Proved]***

***3) On or around 14 August 2019 in a written communication with the University [redacted] you and/or another person you instructed, impersonated Ms B from [redacted].***

45. For the reasons set out above, the Committee considered that Particular 3 was also found proved. The Registrant accepted that factually the email was not genuine. Although the Registrant may not have been aware of the exact content of the communication at the time it was sent, the Committee considered that the evidence pointed to an express continuing instruction to maintain the deception.

***Particular 4 [Found Proved]***

***4) Your actions at 2(b) and 3 were dishonest in that you or the person you instructed were not the named individuals and your actions were intended to gain you an advantage;***

46. It followed from this that the Committee considered that the Registrant, was aware at the time of arranging the scheme that it was dishonest. The Registrant also accepts that it was a dishonest plan arranged for his benefit to obtain an academic advantage. The Committee considers that even though the Registrant states that he was out of the country and not necessarily involved in the



mechanics of sending the correspondence on the disputed dates, the Committee was satisfied he had instructed Person 3 to do so on his behalf. The Committee concluded that the Registrant was well aware that this was dishonest and knew that he had not received the [redacted] that the reports and letters suggested. The Committee had no difficulty in concluding that ordinary decent people would consider this course of conduct to be dishonest.

#### ***Particular 5 [Found Proved]***

***5) You and/or another person you instructed were dishonest in your communications with [redacted] University on the 14 August 2019 in that you knew you had not received [redacted] from Person 1.***

47. The Committee considered the Registrant's admission that he had not received [redacted] from Person B and in his evidence he stated that he did not know if they were a real person. In these circumstances, the Committee was satisfied that this communication dated 14 August 2019 was untrue. The Committee reminded itself of its earlier conclusions in relation to the communication sent on the 14 August 2019. The Committee concluded that the email was sent on the instruction of the Registrant who was aware that there had been no [redacted] from Person B. The email was sent in an attempt to mislead the University for the purposes of gaining an academic advantage and this was accepted as dishonest conduct by the Registrant. The Committee also considered that it would be considered to be dishonest by the standards of ordinary decent people.

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

48. Ms Mustard invited the Committee to find that there had been misconduct in respect of all of the particulars found proved. She referred to the skeleton argument filed on behalf of the Council dated 18 January 2021. She reminded the Committee of the case of *Roylance v GMC (No2) [2000] 1 AC 311* and suggested that the Committee should consider whether or not there had been a significant falling short from the standards expected of a Registrant. In considering whether there had been misconduct the Committee had to exercise its professional judgement. In determining misconduct, the Committee should have regard to the Council's Standards for Optical Students effective from April 2016 ("the Standards"). She submitted that the Registrant had departed from a number of these standards, in particular Standards 15.1, 15.6 and 16.1. She reminded the Committee of the evidence of Ms A who commented that in her experience she had never seen a student go to such lengths to fabricate information. She further drew the Committee's attention to the evidence of Professor C who stated that this conduct was deliberate and planned.

49. The Registrant made no submissions in relation to the issue of misconduct.

50. The Committee heard and accepted the advice of the Legal Adviser. She endorsed the legal framework as set out in the skeleton argument and reminded the Committee that the issue of misconduct was one for its own professional

judgement. She advised the Committee to have regard to the relevant Standards and take into account all of the evidence it had seen and heard so far.

51. The Committee were mindful that there was no burden or standard of proof. It had to exercise its professional judgement in considering whether or not there had been misconduct. The Committee considered the issue of misconduct on the basis of the approach set out in *Roylance*. It was not enough for there to be a falling short of the standards expected of the Registrant. The Committee had to be satisfied that there was a serious falling short of these standards.
52. The Committee had regard to the Standards in place at the time of the conduct, and considered that the Registrant's conduct involved breaches of the following standards:
- *Standard 15.1: Act with honesty and integrity to maintain public trust and confidence in your profession.*
  - *Standard 15.6: Do not make misleading, confusing or unlawful statements within your communications.*
  - *Standard 16.1: Ensure that your conduct, whether or not connected to your professional study does not damage public confidence in you or your profession.*
  - *Standard 18.2: Be open and honest with your supervisor or training provider and take part in reviews and investigations when requested and with the General Optical Council, raising concerns where appropriate....*
53. The Committee considered each of the particulars found proved and addressed the issue of whether they involved a falling short of the standard expected of the Registrant.
54. The Registrant had created false documentation from [redacted] professionals in support of his academic appeal when he had not been seen or [redacted] by those individuals. The Committee considered that these documents were created with the intention to gain an academic advantage and to mislead the University into acting more favourably after the Registrant had failed a number of assessments and was not permitted to progress with his studies. The Registrant had embarked upon a deliberate and planned scheme to falsify the evidence in support of his appeal and had been dishonest about the extent of his difficulties. This was particularly serious as it had the potential to undermine the integrity of the qualifications process. The Committee considered that this conduct breached Standards 15.1, 15.6 and 16.1.
55. In addition, when the University sought to verify the evidence that had been submitted the Registrant continued with the deception and created further false documentation. The Committee considered that the Registrant continued to mislead the University during the investigation into the [redacted] evidence in breach of Standard 18.2.
56. The Committee considered that there had been misconduct in respect of each and all of the particulars found proved. The Registrant had been involved in a premeditated, persistent and dishonest scheme over a number of months to mislead the University in order to gain an academic advantage. He had a number of opportunities to explain the true position but instead created further misleading

and untrue documents. This conduct breached the Standards identified and the fundamental tenets of the profession which require registrants to act honestly and with integrity. In the view of the Committee this conduct fell far short of what the profession expects of its Registrants.

### **Application for adjournment at impairment stage**

57. The Committee heard further oral evidence from the Registrant at the impairment stage.
58. At the conclusion of his evidence the Registrant indicated that he would like to call Ms C to give evidence to the Committee at this stage. The Registrant submitted a report from Ms C dated 26 January 2023 within his bundle. The Registrant explained in his oral evidence that he had seen Ms C in August 2019 and this consultation was paid for by [redacted]. A report was prepared by Ms C dated 31 August 2019 which was submitted to the University although not verified by the University.
59. The Registrant stated in his evidence that he subsequently arranged a further consultation with Ms C which took place via video call in January 2023 and he paid for an updated report for the purposes of this hearing. The Registrant confirmed that he had not told Ms C about this hearing or explained that he was seeking a report for the purposes of a GOC hearing.
60. On the final day of the hearing (6 February), the Registrant requested an adjournment to enable him to make enquiries to secure the attendance of Ms C. The Registrant explained that he had called Ms C on Thursday 2 February, sent a text message on Saturday 4 February and an email on Sunday 5 February asking Ms C to contact him. The Registrant sent a further email at 7.04 on 6 February and Ms C responded to say that she would be available to speak with the Registrant on Wednesday 8 February between 9 and 11 am. The Registrant submitted that he wanted to discuss the matter with Ms C on Wednesday and request that she attend to give evidence. In the circumstances the Registrant applied to the Committee to adjourn the hearing to enable those enquiries to be made and for Ms C to attend as a witness.
61. The Committee heard submissions from Ms Mustard on behalf of the Council. The Council's position was that it was neutral on the application. Ms Mustard submitted that the Committee should have regard to the fact that this was a speculative application as it wasn't clear whether Ms C would be willing or able to give evidence. Ms Mustard reminded the Committee that the Registrant was asked about potential witnesses at the case management hearing and this issue was also flagged with him at the start of the hearing. She submitted that it was regrettable that enquiries had only recently been made. Ms Mustard acknowledged that in the circumstances it was unlikely that the hearing would conclude within the current listing and this may be a matter that the Committee would wish to take into account.
62. The Committee accepted the advice of the Legal Adviser who advised that this was a case management decision and the Committee should balance fairness with the need to conduct proceedings expeditiously. The Committee should look

for evidence in support of the application and consider all of the circumstances. An adjournment was not simply there for the asking and the Committee should ensure that any adjournment of the proceedings was necessary and appropriate.

63. The Committee requested evidence from the Registrant in support of the requests he had made of Ms C. The Committee was provided with a screen shot of the text message sent on 4 February 2023 and the emails sent on the 5 and 6 February 2023. The Registrant in disclosing this evidence in his email stated that he was unable to provide call logs and stated, "I'm missing a week or so of call logs and SMS from my current phone."
64. The Committee considered that it was regrettable that the enquiries of Ms C were only made very late in the hearing and not until the weekend before the final day. The Committee noted that it had raised this issue with the Registrant and he had been encouraged to make enquires with Ms C at an early stage. The Committee took into account that the Registrant was unrepresented and had been engaged in the hearing but it also noted that there had been considerable breaks during which the Registrant could and should have made enquiries of Ms C.
65. The Committee considered that the evidence of Ms C could be very helpful to the Registrant, especially given that Ms C had seen the Registrant in 2019 during the time of the events that led to the hearing. The Committee considered that the evidence of Ms C was relevant to the issue of current impairment. The Committee noted that Ms C's report had been prepared recently and submitted by the Registrant just before the hearing. As the Registrant was unrepresented the Committee took into account that it may not have been clear to him until the start of the hearing that it was possible or desirable for Ms C to attend. On balance the Committee considered that it would be fair to adjourn the proceedings to allow enquiries to be made of Ms C and to secure her attendance at a future hearing.
66. The Committee noted that it was unlikely to conclude the hearing in any event given the circumstances. The Committee considered that in order to make the most expeditious use of the adjournment the Registrant should update the GOC regarding the outcome of his enquiries by 5pm on 10 February 2023 and in particular the availability of Ms C to give evidence including dates to avoid. The Committee has provisionally identified 12 to 14 April 2023 as dates to resume with a view to Ms C giving evidence on 12 April 2023.
67. The Committee considered that it would be of assistance for it to be provided with the first report of Ms C prior to the resuming hearing. Should there be any further evidence that the Registrant wishes to adduce the Committee directed that this should be filed and served on the GOC no later than 14 days before any resuming hearing. The Committee considered that a further case management meeting may be of assistance in this case no later than 14 days before any resumed hearing.



## Resumed hearing 12 April 2023

### Further application for adjournment at impairment stage

68. On 12 April 2023 before the Fitness to Practise Committee of the GOC, the Registrant made a further application for an adjournment pursuant to Rule 35(1) of the Fitness to Practise Rules. The application had two limbs. The first limb of the application was that the hearing was taking place in the last ten days of Ramadan and that the Registrant was a practising Muslim, currently engaged in holding prayer services each night between 21:30 and 04:00, at the local community faith centre (“the Centre”), [redacted], which has more than 30,000 visitors during the month of Ramadan. Due to these commitments, the Registrant stated he was currently going to sleep between 06:30 and 07:00 each day. The Registrant stated that the services were conducted by himself and that they had to be performed by someone who has committed the Qur’an to memory. He stated that very few people can do it, so it would be very difficult not to be there. When challenged on this by the Committee and asked what the Centre would do if he fell seriously ill, the Registrant stated the Centre would either have to cancel the services or find another person to deliver the service “*on the day*”. The Registrant accepted that, at this point in time, he did not have any documentary evidence from the Centre to corroborate his current responsibilities during Ramadan. The Registrant stated that the Centre was currently unaware of the proceedings before the Fitness to Practise Committee of the GOC. When asked by the Committee whether the Registrant could obtain documentary evidence to corroborate his responsibilities to [redacted] over Ramadan, he stated that he would ask the manager of the Centre for this.
69. The second limb of the Registrant’s application for an adjournment was that the Committee should adjourn in order for Ms C to attend to give oral evidence on the issue of impairment. The Registrant stated that Ms C was unable to attend the hearing that had been scheduled between 12-14 April 2023. He accepted that he did not have any documentary evidence from Ms C confirming that she was willing to attend to give evidence in the proceedings in the first place, nor any documentary evidence from her providing her dates to avoid.
70. The Registrant stated that the last time he spoke with Ms C was on 25 March 2023 and, prior to that, on 17 March 2023. He stated that Ms C had informed him she was happy to attend the hearing in the future, so long as it was outside the month of August, and that she had informed the Registrant that he would need to cover her costs of attending the hearing.
71. On behalf of the GOC, Ms Mustard opposed the Registrant’s application for an adjournment. At the outset, Ms Mustard, having taken instructions, informed the Committee that this was the first occasion that the Registrant had indicated that he would also be seeking an adjournment due to his additional commitments to the [redacted] Centre over Ramadan.
72. Ms Mustard then gave three primary reasons for opposing the Registrant’s application: firstly, that this was not the first application for an adjournment that the Registrant had made in these proceedings – the previous hearing of 30 January 2023 to 6 February 2023 was adjourned on 6 February, at the Registrant’s request, in order for Ms C to attend to give evidence on the issue of impairment; however, notwithstanding this, Ms Mustard submitted that the matter of Ms C’s attendance had not progressed and that the GOC had still not been

provided with her availability. Ms Mustard gave a chronology of the GOC's efforts to obtain from the Registrant either dates upon which Ms C could attend, or consent to contact Ms C directly to discuss availability. The Registrant had repeatedly missed deadlines to respond, requested extensions or not responded at all. The GOC was not given consent to contact Ms C directly. Ms Mustard submitted that the Registrant had been asked on several occasions to suggest reasonable adjustments that would allow him to attend during Ramadan and he had not done so.

73. The second reason given by Ms Mustard for the GOCs opposition to the Registrant's application to adjourn was that it was too speculative to adjourn in the hope that Ms C's attendance may be secured on a future hearing date, when the Registrant had provided no evidence whatsoever from the witness to say that she would attend in the future. In respect of the Registrant's commitments over Ramadan, Ms Mustard submitted that reasonable adjustments could be put in place to enable the Registrant to participate in the proceedings without necessitating an adjournment.

74. The third reason given by Ms Mustard for the GOCs opposition to the Registrant's application to adjourn was that there was a strong public interest in concluding these proceedings expeditiously. Ms Mustard referred to the allegations that had been found proven as serious, and quoted paragraph 56 of the Fitness to Practise Committees' previous decision, that:

*"The Registrant had been involved in a premeditated, persistent and dishonest scheme over a number of months to mislead the University in order to gain an academic advantage. He had a number of opportunities to explain the true position but instead created further misleading and untrue documents. This conduct breached the Standards identified and the fundamental tenets of the profession which require registrants to act honestly and with integrity. In the view of the Committee this conduct fell far short of what the profession expects of its Registrants".*

75. Ms Mustard reminded the Committee that, if the hearing was adjourned, due to the Committee's limited availability it would not be able to reconvene for a number of months (potentially not before October 2023). Ms Mustard also intimated that, given that the Registrant is in the final year of his university degree, the risk that he poses to the public may increase if the case was to be adjourned until after a date when he had completed his studies and gained an academic qualification.

76. Upon hearing the submissions of Ms Mustard, the Committee clarified that it had seen an email from the Registrant to the GOC, dated 17 February 2023, where the Registrant stated that he would be unable to attend the hearing due to the month of Ramadan. This was accepted by Ms Mustard, who stated that she had conveyed all of the information she had.

77. In responding to Ms Mustard's submissions, the Registrant stated that the last 10 days of Ramadan were significant to him, whether he was conducting a prayer service or not. He stated that the reason he did not request any adjustments to the hearing process previously was because he anticipated that there would be a hearing on 12 April in any event, and that he wanted to make an oral application for an adjournment, rather than an application for adjustments to the hearing process. The Registrant acknowledged that he had previously applied for an adjournment, in order for Ms C to attend, and that this had been granted, and

that, if adjourned, the next available date that the Committee would be able to sit would not be for a number of months.

78. In considering the Registrant's application for an adjournment, and upon the request of legal advice, the Legal Adviser stated that the Committee should ensure that any adjournment of the proceedings was necessary and appropriate, before acceding to such an application. The Legal Adviser invited the Committee to consider a number of factors when deliberating upon the application, including:

- (a) the public interest in the expeditious disposal of the case, taking into account the need to protect patients and the wider public interest;
- (b) the length of the adjournment required;
- (c) the importance of the potential further evidence of Ms C to the Registrant's case;
- (d) The reasons for the non-attendance of Ms C and the efforts made by the Registrant to secure her attendance;
- (e) Fairness to the Registrant, taking into account the fact that he is unrepresented in the proceedings, and whether he can properly present his case at this stage if an adjournment was not granted;
- (f) The reason the adjournment is required should be examined and, if it arises through the fault of the party asking for the adjournment, that may be a factor against granting an adjournment, carrying weight in accordance with the gravity of the fault. Likewise, if the party opposing the adjournment has been at fault, that may favour an adjournment;
- (g) the history of the case, including the age of the proceedings and whether there have been earlier adjournments, requests for extensions and, if so, at whose request and why.

79. The Committee then retired to deliberate upon the Registrant's application. Whilst the Committee was in retirement, it received the following email, which the Registrant stated was from the manager of [redacted]:

From: [redacted]  
Date: Wed, 12 Apr 2023 at 1:27 pm  
Subject: Re: Mr Badran Rehman  
To: Badran [redacted]

*Dear Sir/Madam,*

*Upon request of Mr Badran Rehman, I am writing to confirm that Mr Badran Rehman is currently employed by [redacted] and is currently serving the role of Imam during the blessed month of Ramadan.*

*Mr Badran's current responsibilities during Ramadan include, but are not limited to, the following:*

*- Continuing usual job role responsibilities such as educational sessions for children on Tuesday, Thursday and Friday and continuing arrangements for year*

*round public services*

- *Conducting 3 of the 5 daily prayer services*
- *Conducting the Ramadan night prayers (Taraweeh) and also additional night prayers (Tahajud) which take place in the last 10 nights of Ramadan*
- *Nightly contemplation seminar following Qur'an recital in Tarweeh prayer*
- *Arrangement of the daily public Iftaar service which is open to the entire local community*
- *Fundraising on behalf of external charities that visit and collect donations from the congregation on a nightly basis*

*As you can see Ramadan is the most busiest time of the year for [redacted], where additional duties are placed on our Imams on top of their regular duties. We appreciate their contributions wholeheartedly and we would ask that you look favourably on Mr Badran Rehman in the situation he currently finds himself in.*

*Yours Sincerely*

[Person 4]

[redacted] Manager

80. The Committee considered the email from Person 4, and the Registrant's application as a whole, carefully and at length, being mindful of the need to balance the competing interest of proceeding with the hearing, against the need to be sensitive to the Registrant's religious commitments and the issue of the potential attendance of Ms C. The Committees' final conclusion was that the Registrant's application for an adjournment should be dismissed as follows:

The Registrant's submission that the hearing should be adjourned in order for Ms C to attend and give evidence on the issue of impairment

81. The Committee considered the limbs of the Registrant's application for adjournment in reverse order, beginning with the submission that the hearing should be adjourned in order for Ms C to attend and give evidence on the issue of impairment. Having carefully considered the Registrant's submissions, the Committee was not persuaded that an adjournment should be granted. In its determination, it noted that the Registrant had given no reason as to why Ms C was unable to attend the hearing, given that the previous hearing had been adjourned in order to secure her attendance as a witness and a deadline of 10 February had been given for the Registrant to update the GOC on the availability of Ms C to give evidence, including dates to avoid. The Committee was also mindful that, at the previous case management meeting on 9 March 2023, one of the actions required was that Ms C would write to the GOC, providing reasons as to why she would be unable to attend the hearing on 12-14 April. Further, the Committee noted it had not been provided with any documentary evidence to corroborate that Ms C knew of the Fitness to Practise proceedings, was, in fact, willing to attend as a witness for the Registrant, nor had it been provided with written evidence of the witness' dates to avoid, despite repeated requests from the GOC. The Committee also noted that the Registrant had not provided the GOC with contact details for Ms C, as requested by the GOC on 3 March 2023 and at the case management meeting on 9 March 2023, and that there had been

multiple requests by the Registrant for various extensions of time pertaining to the attendance of Ms C. The Committee concluded that, in missing several deadlines to provide the required information, the Registrant had failed to take the necessary steps to secure the attendance of a potential material witness whose evidence could assist his case.

82. Looking at the matter in the round, the Committee determined that, if it was to allow an adjournment, there could be no guarantee that Ms C would attend as a witness for the Registrant in the future whilst, conversely, there was a real risk that she would not attend. In terms of ensuring fairness to the Registrant, the Committee reminded itself that it was in possession of two [redacted] reports, dated 1 September 2019 and 26 January 2023, from Ms C that it could take into account when considering the issue of impairment. Accordingly, the Committee took the view that to allow a further adjournment for Ms C to attend could not be justified in the specific circumstances of this case

The Registrant's submission that attending the hearing would be impracticable due to his commitments at [redacted]

83. In terms of the second limb of the Registrant's application, the Committee was mindful that this was the first occasion that the Registrant had indicated that he would also be seeking an adjournment due to his additional commitments to the [redacted] Centre over Ramadan. The Committee noted that the Registrant had sent an email to the GOC on 17 February 2023 informing it that he would be unable to attend the 12-14 April hearing, as it was due to take place during the month of Ramadan. The Committee noted, however, that in this communication, the Registrant did not mention that he had expressed an interest in undertaking a role as Imam with [redacted] during Ramadan. The Committee further noted that the Registrant did not mention this on 6 February 2023, when the original hearing was adjourned in order for Ms C to attend, nor when the GOC asked the Registrant on 20 February whether he required any adjustments to the forthcoming hearing because of Ramadan. The Committee noted that, in respect of the 20 February communication from the GOC, the Registrant simply did not respond to the GOC. The Committee noted that the Registrant had a further opportunity to inform the GOC of his intention to take on additional responsibilities at [redacted] Centre during the month of Ramadan when he responded to the GOC on 20 March 2023 when he agreed to waive the 28-day notice period for notification of the Fitness to Practise hearing.
84. The Committee reflected on the submissions of the Registrant in his application and reminded itself that he stated he had previously expressed an interest to [redacted] in the role of Imam during Ramadan, but that it was not until "a few days before" Ramadan that the organisation selected him for the role. Accordingly, the Committee took the view that this was something the Registrant had knowingly chosen to involve himself in, notwithstanding his awareness of his forthcoming Fitness to Practise hearing on 12-14 April 2023.
85. In making its determination, the Committee was aware that the Registrant accepted there were others (albeit "few" in number) who had committed the Qur'an to memory and who may be able to step in to act as Imam at [redacted] during the times that the Registrant needed to participate in (or rest to enable him to effectively participate in his three-day Fitness to Practise hearing. The

Committee also took the view that, if he so wished, the Registrant could still lead the first half of evening prayers as Imam at [redacted], which the Registrant stated conclude at 11:15pm, before returning home to sleep and attend his Fitness to Practise hearing the following day at a later agreed start time, to allow him to obtain sufficient rest.

86. In balancing the Registrant's stated requirement to act as Imam, the Committee noted the public interest in the expeditious disposal of the case, taking into account the need to protect patients (with the seriousness of the allegations in mind) and the wider public interest of protecting the reputation of the profession and maintaining confidence in the profession and the regulator. The Committee was also mindful that if these proceedings were adjourned, the Committee would be unlikely to be able to reconvene until at least winter 2023, causing a significant delay.
87. In terms of assessing fault, the Committee took the view that the reason the adjournment was required arose through the fault of the Registrant, firstly in not taking proactive steps to arrange the attendance of Ms C and, secondly, in not putting the GOC and the Committee on notice that he had expressed an interest to [redacted] that he wished to be given the opportunity to act as Imam during Ramadan and that, if selected, this would jeopardise his attendance at his fitness to practise hearing, as it would involve delivering services to a congregation throughout the night. Conversely, the Committee took the view that there had been no fault on the part of the GOC and that it had been fair to the Registrant is seeking to ascertain whether he wished any reasonable adjustments to be made to the hearing process during Ramadan. Therefore, taking all matters into account, the Committee decided to refuse the Registrant's application for an adjournment on this limb.
88. The Committee wishes to emphasise that in no way does it wish to prevent the Registrant from observing his faith during his Fitness to Practise hearing and that it will make all reasonable adjustments to ensure that he can observe and participate in Ramadan and obtain sufficient rest so as to effectively participate in his Fitness to Practise hearing.

## **Findings regarding impairment**

**13 April 2023**

### Submissions on behalf of the Council

89. In determining the issue of impairment, the Committee had regard to all the information before it, including: the oral submissions of Ms Mustard on behalf of the Council, the oral submissions of the Registrant, the Council's bundle of evidence and the Registrant's bundle of evidence, the skeleton argument of the Council, the oral evidence of the Registrant, the oral evidence of the witnesses for the Council, and the two [redacted] reports of Ms C. The Committee also referred to paragraphs 16.1 to 16.7 of the December 2021 *Hearings and Indicative Sanctions Guidance (ISG)* of the GOC.
90. In terms of the oral submissions of Ms Mustard, Ms Mustard invited the Committee to find that the Registrant's fitness to undertake training as a student

optometrist was currently impaired. Ms Mustard invited the Committee to take the case of *CHRE v NMC and Paula Grant* [2011] EWHC 297 Admin into account, where the High Court commended the formulation of Dame Janet Smith, provided in the Fifth Shipman Inquiry, on the issue of whether its findings of fact showed that the Registrant's fitness to practise was impaired, as follows:

- (a) *'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*
- (b) *Has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- (c) *Has in the past breached and/or is liable to breach one of the fundamental tenets of the medical profession; and/or*
- (d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

91. Ms Mustard submitted that the Registrant's conduct in this case engaged limbs b., c., and d. of *Grant*.
92. Ms Mustard then referred to *Cohen v GMC* [2008] EWHC 581 (Admin), where Silber J. stated, at [65], that "*It must be highly relevant in determining if a doctor's fitness to practise is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated*". In addressing this, Ms Mustard submitted that because the misconduct in question involved dishonesty and was attitudinal, rather than a clinical failing, it was inherently more difficult to remediate, and difficult to evidence that remediation had taken place.
93. In considering the question of whether the Registrant had remedied his misconduct, Ms Mustard stated that there were inconsistencies in the Registrant's oral evidence (for example, in relation to the length of time he stated that he was "*off the grid*" in August 2019 whilst on pilgrimage) which were not indicative of remediation. Ms Mustard also argued that the fact the Registrant had not informed Ms C of these proceedings at the time she had written her [redacted] reports, and that he had not informed his character witnesses of these proceedings, was further evidence that the Registrant's behaviour was not fully remediated, as he had failed to be open and transparent with persons who had prepared documents to assist his case. Ms Mustard stated that the Registrant accepted, when he gave evidence on the issue of impairment, that by not disclosing the fact of these proceedings to such persons, he was effectively hampering his ability to understand the root cause of his conduct and that this was hampering his ability to remediate the same.
94. Similarly, Ms Mustard submitted that the fact the Registrant had failed to inform Specsavers, his previous employer, of these proceedings was further evidence of a lack of remediation. Ms Mustard went on to submit that, when the Committee considered the Registrant's failure to disclose the fact of the proceedings against him to a number of other persons and organisations, the Committee may take the view that the Registrant had gone to some lengths to hide the referral, which did not "*sit well*" with the dishonesty having been remediated.
95. In relation to whether the Registrant had shown insight into his misconduct, Ms Mustard argued that the Registrant had not shown insight. In expanding upon

this, Ms Mustard referred to the evidence of Professor C and how the witness felt the Registrant did not seem to realise how important and how serious the fraud was (albeit Ms Mustard conceded that, in his oral evidence, Professor C said he based this assessment on the Registrant's demeanour and the fact that the Registrant had not brought anyone else with him to the meeting, rather than anything that the Registrant said to him). Ms Mustard also referred to the evidence of Professor B, and how the Registrant had described his misconduct to him as "*a moment of madness*" – Ms Mustard submitted that such a description did not in any way acknowledge the extent and seriousness of the misconduct, nor did it demonstrate insight. Ms Mustard referred to what she described as a similar phrase that the Registrant used in his recent (2023) statement, namely "*moments of stupidity*" suggesting that such a phrase still failed to recognise the extent and seriousness of the misconduct, thus evidencing a continuing lack of insight.

96. In addition, Ms Mustard contended that the fact that the Registrant had blamed an individual referred to as Person 4 for sending false communications while he was out of the country (albeit sent with the Registrant's implicit approval) was indicative of a lack of insight, by maintaining that there were failings that were attributable to others rather than himself.
97. Moreover, Ms Mustard said that the Registrant could not provide an explanation for why he had committed the misconduct, why there were multiple instances of dishonesty, and why he allowed the misconduct to continue for a sustained period of time. Ms Mustard submitted that, by not being able to understand the reasons why he acted as he did, the Registrant could not demonstrate insight nor give assurances that he would not act in the same way again in the future.
98. Regarding the issue of remorse, Ms Mustard invited the Committee to have regard to the evidence of Ms A, who stated that the Registrant only apologised after his dishonesty had been uncovered. When considering remorse, Ms Mustard also invited the Committee to consider the prolonged and repeated nature of the Registrant's dishonesty.
99. In terms of the character references of Person 4 and Person 5, and the [redacted] reports of Ms C, Ms Mustard invited the Committee to treat them with some caution and not attribute much weight to them on the basis that the authors of the documents were unaware of the GOC Fitness to Practise proceedings at the time that they drafted them, and that neither Ms C nor the character referees had attended the hearing to give evidence.

#### Submissions of the Registrant

100. An adjournment followed, to give the Registrant time to reflect upon the submissions made by Ms Mustard. The hearing then resumed and the Registrant submitted that his fitness to undertake training as an optometrist was not impaired.
101. In his submissions to the Committee, the Registrant stated he had "*admitted the allegations from the get go*", save for a very small number of allegations that he chose to deny "*due to a technicality*".

102. The Registrant said that, after hearing the evidence, when the Committee found the allegations that he had denied proven, he fully understood the reasons why.
103. The Registrant distinguished the evidence of Professor C (who felt that the Registrant did not seem to realise how important and how serious the fraud was based on the Registrant's demeanour) on the basis that Professor C had only met the Registrant on one occasion. However, the Registrant said that Professor B knew the Registrant quite closely, and that they had had a lot of face-to-face interaction. The Registrant referred to the evidence of Professor C and said that the Professor agreed that he was remorseful and that there were "*tears in the room from the very beginning*".
104. The Registrant acknowledged that phrases like "*moments of madness*" did downplay the severity of his misconduct, and he indicated he was aware that it was not a single incident of misconduct, but repeated misconduct committed over a period of two months. In terms of the Registrant's use of the word "*madness*", he said he was referring to his [redacted] at the time of the misconduct. In terms of the phrase "*moments of madness*", the Registrant said that this was a case of him not using the correct words to explain, and that perhaps this was because he was unrepresented in the proceedings.
105. The Registrant stated that he had engaged with the proceedings from the beginning and had taken his Fitness to Practise hearing seriously, stating that it related to his profession, his career, and his future. As evidence of taking these matters seriously, the Registrant said that, after reading the Committees' determination on his adjournment application of 12 April 2023, he understood that his Fitness to Practise hearing would have to continue and that it had to be concluded, and that he had already [earlier on 13 April] informed the Committee that he would forego his other commitments at [redacted] in order for the hearing to progress expeditiously.
106. The Registrant stated that he had a troubled past, relating to [redacted], and that at times he had [redacted]. The Registrant stated that, at times, he believed this was a contributing factor to some of the decisions he was making [to engage in the misconduct]. The Registrant also alluded to his [redacted] impacting his studies, stating that he failed to engage with his degree course for a year but had now successfully progressed into his third year, having essentially started again from scratch since the misconduct had occurred. In this, the Registrant referred to the 2023 report of Ms C, and how she made mention of his positive recovery in terms of his [redacted]. The Registrant stated he had now informed Ms C of the proceedings and that she was aware the Registrant had submitted her reports to the GOC.
107. In his submissions, the Registrant referred to the length of time that had passed and that he had spent a year under suspension from his university. Since that suspension had come to an end, the Registrant said he had represented himself in a positive way at university, in clinical practice and in laboratory sessions, and that Professor B and others had picked up on his positive demeanour.
108. The Registrant stated that, since the start of the hearing, he had "*tried to maintain honesty*" and that, in hindsight, he accepted that informing [redacted] of his misconduct at the time he was employed by them would have been the most honest and open way to approach the situation, but that he had not realised it was necessary for him to disclose the proceedings to his employer at the time.

109. The Registrant said that he had some further character references to submit but that he later chose not to submit them because the referees were unaware of the GOC Fitness to Practise proceedings, which he suggested showed that his insight had developed over the course of the proceedings.
110. The Registrant stated he had always maintained he was “a work in progress” and that he was constantly trying to improve himself and remedy himself as a person.
111. The Registrant stated that his current personal life commitments heavily revolved around charity work, most of which was voluntary. Further, he suggested that, in order to be selected for his role with the [redacted], he had to show a certain level of integrity, honesty and openness.

#### Legal advice

112. The Committee sought legal advice and accepted the advice of the Legal Adviser, who referred to the relevant paragraphs of the ISG of the GOC and associated caselaw referred to therein, and the additional authority of *GMC v Armstrong* [2021] EWHC 1658 (Admin) where, at [33], Mr Justice Lane held that:

*“there is an expectation that medical (and other) professionals will be honest when undertaking their regulated activities; and that this expectation is a key component of any regulatory regime for protecting the physical safety of the public and promoting and maintaining public confidence in the profession. The appellate court will, therefore, be expected to scrutinise the tribunal's decision, in order to satisfy itself that the tribunal has recognised the inherent weight to be given to the importance of honesty; and that, consequently, the tribunal needs to identify weighty factors in favour of the person concerned if it is to conclude that the protection of the public does not necessitate a finding of impairment”.*

#### Determination

113. The Committee was mindful that it had to approach the issue of impairment from this point in time and going forwards. Accordingly, it took account of the fact that it was considering the issue of impairment in respect of a third year undergraduate university student who was unrepresented in the proceedings.
114. In its determination, the Committee considered the following factors:
- a) The nature, extent and severity of the Allegation
115. In terms of the nature and severity of the misconduct, the Committee noted that the Registrant had embarked upon a sustained and elaborate pattern of deception, over a period of two months, where he was responsible for impersonating two [redacted] and two managers at [redacted] for his own academic gain. The Committee was mindful that, as part of the deception, the Registrant abused his position of employment at [redacted]. The Committee therefore took the view that the Registrant seemed heavily invested in the deception, that it was far from a “moment” or “moments” “of madness”, and that the misconduct was indeed serious.

b) Whether the misconduct was remediable

116. In light of the fact that the misconduct was attitudinal in nature (as opposed to a clinical failure) and taking into account the Committee's findings on the severity of the misconduct, the Committee determined that the misconduct in this instance was extremely difficult to remediate. The Committee noted Ms A's observation that the Registrant, having fraudulently persuaded his university to allow him to re-take his exams without a cap on his grades, persisted in the deception to seek to further persuade his university to allow him to progress to the second year of his course without having to re-take his first year (in Ms A's words, "*he was really pushing his luck*").

c) Whether the misconduct had been remedied

117. The Committee took the view that the misconduct had not been remedied and that, in light of its severity and attitudinal nature, it perhaps never could be remedied. In addition to the severity of the misconduct and its attitudinal nature, there was very little, if any, evidence that the Registrant had apologised to the people who had been impersonated for acting as he did (where such persons actually existed).

118. In arriving at its findings on whether the conduct was remediable, the Committee took into account that the Registrant had progressed well in his studies since the misconduct after having been suspended by his university for a year, striven to become more spiritual and moral in his outlook, and had undertaken charitable work with [redacted]; however, the Committee took the view that such matters regrettably did not go far enough in remediating the misconduct that had taken place.

d) Whether the misconduct was likely to be repeated

119. In terms of whether the misconduct is likely to be repeated, the Committee took the view that there was a real possibility of repetition of dishonest conduct. In arriving at this conclusion, the Committee was mindful of the following exchange between the Committee and the Registrant:

120. Committee: "*if you were put in a situation where this sort of situation occurred again, what would you do?*"

121. Registrant: "*I think first I would not -- it would not cross my mind, nor would I ever entertain or think about submitting anything false, definitely not to the extent that I have done in terms of impersonation.*"

122. Whilst there was some, limited evidence of remorse and insight from Professor B, given the nature and extent of the deception and the Registrant's unwillingness to be open with his previous employer, Ms C, his character referees and [redacted] about the fact that he was subject to Fitness to Practise proceedings, the Committee could not discount a real possibility of repetition.

## e) Insight

123. The Committee accepted the Registrant's evidence that he had some [redacted] and financial difficulties at the time of the misconduct. However, it was aware that there was no objective evidence of this, and that the only source of evidence for this was effectively the word of the Registrant himself, either directly, or as self-reported to Ms C or the consultations he had with his [redacted], when he made contact with her after the dishonesty had come to light. The Committee also noted it had been unable to verify the authenticity of the reports of [redacted] or hear evidence from her, despite providing the Registrant with repeated opportunities to secure her attendance at the hearing. The Committee therefore found that only very limited weight could be attached to the reports of Ms C. The Registrant had not provided evidence of attendance at the [redacted] University student [redacted] service, nor of attendance at [redacted] appointments with the [redacted] Centre. Accordingly, the Committee took the view that the evidence pertaining to the Registrant's [redacted], both at the time of the misconduct and now, was untested and weak.
124. In terms of further considerations pertaining to insight, per the above, the Committee reminded itself of the Registrant's unwillingness to be open with his previous employer, Ms C and his character referees about the fact that he was subject to Fitness to Practise proceedings. Regarding [redacted], the Committee was mindful that the Registrant had not informed the faith centre, which continues to play a key part in his life, of the Fitness to Practise proceedings until 12 April 2023, notwithstanding the Registrant's assertion that, in order to be selected for his role with [redacted], he had to show "*a certain level of integrity, honesty and openness*".
125. Taking the totality of the evidence into account, the Committee found that the Registrant had only superficial insight into the gravity of his misconduct, and it did not find the Registrant's evidence on the topic to be particularly credible or persuasive. The Committee determined that the Registrant seemed to lack a real understanding of the seriousness and extent of his deception, and that there was insufficient evidence of genuine or meaningful reflection by him on what he had done. In this regard, the Committee rejected the evidence of Professor B, that the Registrant was aware of the gravity of what he had done, and noted that this was inconsistent with only apologising to his university after the misconduct had been revealed. Rather than genuine insight, the Committee gained the impression that, at times, the Registrant was tailoring his evidence and submissions to fit his understanding of words that might meet with the Committee's approval.

## f) The need to protect patients, uphold proper professional standards and public confidence in the profession

126. In finding the Registrant's fitness to undertake training to be impaired, the Committee found that the Registrant's conduct engaged limbs b., c., and d. of *Grant*, as submitted by Ms Mustard and referred to above. The Committee was mindful of the need to protect patients, uphold proper professional standards and public confidence in the profession, taking the view that a reasonable, informed member of the public would require a finding of current impairment in the circumstances of this case. In arriving at this decision, the Committee took the words of Cranston J. in *Cheatle v General Medical Council* [2009] EWHC 645 (Admin) into account, that "*The doctor's misconduct at a particular time may be*

*so egregious that, looking forward, a panel is persuaded that the doctor is simply not fit to practise medicine without restrictions, or maybe at all*" at [22]. In this particular instance, the Committee did indeed find the Registrant's misconduct to be "so egregious" that it would seriously undermine the reputation of the profession were the Registrant permitted to practise unrestricted. The Committee also noted the words of Lane J. in *GMC v Armstrong* [2021] EWHC 1658 (Admin) where, at [33], it was stated that a "*tribunal needs to identify weighty factors in favour of the person concerned if it is to conclude that the protection of the public does not necessitate a finding of impairment*". The Committee found that such "*weighty factors in favour of the person concerned*" were not present in this case, therefore the Committee could not draw back from a finding of impairment.

127. After carefully considering all the evidence, and applying the relevant law and procedure, the Committee found that the fitness of the Registrant to undertake training as a student optometrist to be impaired.
128. In arriving at the above conclusion, the Committee reminded itself of the fact that it was considering the issue of impairment in respect of a third year undergraduate university student; however, the Committee took the view that the misconduct in this instance was so serious that it was unable to depart from a finding of impairment.

### **Sanction**

129. The Committee heard submissions from Ms Mustard on behalf of the Council and from the Registrant.
130. On behalf of the Council, Ms Mustard's primary submission was that the Committee should impose a sanction of erasure, taking the seriousness and extent of the Registrant's dishonesty into account. Alternatively, Ms Mustard invited the Committee to impose a lengthy suspension order of twelve months.
131. In his submissions, the Registrant invited the Committee to draw back from erasure and impose a lengthy suspension order. Whilst acknowledging that his dishonesty was "*very serious*", he invited the committee to take into account a number of factors, including his remorse, the length of time that had passed since the misconduct, the fact that he has been disciplined by his university for the misconduct, been suspended from academic study for a year, and that this had afforded him time for reflection, and that he was now in the final year of his degree and, with the incorporation of real-life patient interactions, he had been able to understand matters considerably better. The Registrant also submitted that, whilst a less important factor, the Committee could still have regard to his poor [redacted] at the time of the misconduct. Finally, the Registrant invited the Committee to bear in mind the charity work that he undertakes in his personal life, which required a "*high level of trust*" and that, as a final year student, he would still be subject to the supervisory regime that would be part and parcel of his pre-registration year.
132. The Committee accepted the advice of the Legal Adviser, who referred to the relevant paragraphs of the *ISG* and associated caselaw therein, and the cases of *Bolton v Law Society* and *SRA v Sharma* [2010] EWHC 2022 (Admin).

133. The Committee carefully considered the submissions of Ms Mustard and the Registrant and the legal advice it had received. In its deliberations, it considered the sanctions in ascending order of seriousness, keeping proportionality at the forefront of its mind and that the purpose of any sanction should not be punitive in nature.
134. The Committee considered the specific provisions pertaining to dishonesty at paragraphs 22.4 to 22.6 of the *ISG* and noted that “*there is no blanket rule or presumption that erasure is the appropriate sanction in all cases of dishonesty*”, per paragraph 22.4. The Committee also had regard to the paragraphs on Student Registrants at 8.4 and 8.5.
135. As a preliminary step, the Committee considered the relevant aggravating and mitigating factors in this case. In terms of aggravating factors, the Committee took the view that the misconduct was serious, repeated and persistent, over a period of two months. The Committee determined that the misconduct was sophisticated, involving an elaborate scheme where multiple individuals were impersonated. The Committee noted that the misconduct involved an abuse of trust of a former employer, [redacted], and that the Registrant had not apologised to the persons he had impersonated, where they existed. Numerous persons were inconvenienced as a result of the Registrant’s deception, and investigations had to be undertaken to determine whether the persons who had been impersonated had actually written correspondence or not. The Committee also noted that there was an element of group action, and that the Registrant had worked with another (“Person 3”) to carry out his scheme. Moreover, the Committee concluded that the Registrant lacked insight into his misconduct.
136. Regarding mitigating factors, the Committee noted that the Registrant accepted that he had been dishonest on numerous occasions, that Professor B gave evidence of the Registrant being remorseful and that the Registrant had apologised to the Academic Officers of his university and had made extensive apologies during the proceedings to the Council, Committee and witnesses. The Committee reminded itself that the Registrant had invested in developing a more spiritual and moral outlook since the misconduct and had undertaken charitable work with [redacted]. The Committee noted that the Registrant had been sanctioned by his university, that his studies were now going well, and that he appeared to have committed himself to the profession.
137. In terms of the Registrant’s [redacted] at the time of the misconduct, the Committee acknowledged that the Registrant’s evidence was that he had had some [redacted] issues, but it took the view that it had been provided with no evidence which substantiated a link between any [redacted] issues and his course of dishonest conduct. In addition, given that neither Ms C nor the Registrant’s character referees were aware of the Fitness to Practise proceedings and had not attended to give evidence, the Committee took the view that it could only attach limited weight to the reports of Ms C and the letters from the character referees.
138. The Committee then considered the available sanctions and worked through them in ascending order of seriousness. In terms of no further action, the Committee took the view that the misconduct was too serious for this to be considered as a realistic option. In relation to a financial penalty order, the Committee determined that such a sanction would not be appropriate, as this was

not a financial case. Regarding a conditional registration order, the Committee decided that this sanction would not satisfy the public interest and appropriate conditions could not be formulated as the misconduct was attitudinal in nature and clinical competence was not in question.

139. The Committee then considered a suspension order. It considered the guidance in paragraph 21.29 and noted that the misconduct was of an attitudinal nature, the Registrant lacked insight, and that the Committee had determined that there was a real risk that the Registrant would repeat his dishonest behaviour. In considering whether a suspension might satisfy the public interest, the Committee concluded that a reasonable, well-informed member of the public would not view a suspension as sufficient, given the elements of dishonesty, the abuse of trust, and a persistent lack of insight on the part of the Registrant into the seriousness of his actions and their consequences.
140. The Committee considered paragraph 21.35 of the ISG and determined that the misconduct represented a serious departure from the relevant professional standards, involved abuse of trust, and persistent dishonesty. The Committee took the view that the Registrant's misconduct was fundamentally incompatible with being a registered professional and, as such, only the sanction of erasure from the register would meet the need for the protection of patients and the wider public interest of the maintenance of proper professional standards and the reputation of the profession. As was said by Sir Thomas Bingham MR in *Bolton v Law Society*, "*the reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price*". The Committee was mindful of the Registrant's position as a third year undergraduate but noted, per paragraph 8.5 of the ISG, that "*in cases involving serious concerns about a student registrant's performance or conduct, or dishonesty, the stage of training may be given less weight when considering what action is necessary to protect the public*". In all of the circumstances of the case, the Committee concluded that the only appropriate and proportionate sanction was erasure.

### **Immediate order**

141. On behalf of the Council, Ms Mustard sought an immediate suspension order on the basis that such an order was necessary "*otherwise in the public interest*". While it was conceded by Ms Mustard that this was not primarily a public protection case, it was submitted that, for the Committee not to impose an immediate order, would be incompatible with the Committee's determination that "*the Registrant's misconduct was fundamentally incompatible with being a registered professional*".
142. In response to Ms Mustard's application, Mr Rehman submitted that this case did not relate to public protection, he had no public interactions scheduled for the next month, and he asked the Committee not to impose an immediate suspension, in order for him to seek time to take advice on whether there were any grounds for an appeal.
143. Given the seriousness of the misconduct in this case, the need to protect patients (in light of the potential for the Registrant to see patients as a student optometrist



at university clinics and in the future in practice), and to uphold proper professional standards and the reputation of the profession, the Committee decided that it was appropriate to impose a suspension order with immediate effect. The Committee found an immediate suspension necessary, both to protect members of the public and in the public interest to cover the 28-day appeal period and any ensuing period should the Registrant lodge an appeal.

**Chair of the Committee: Rachel O'Connell**



**Signature**

**Date: 14 April 2023**

**Registrant: Badran Rehman**

**Signature *present via video***

**Date: 14 April 2023**



<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.</p> <p>Where a registrant can appeal against a decision, the Authority has 40 days beginning with the day which is the last day in which you can appeal. Where a registrant cannot appeal against the outcome of a hearing, the Authority's appeal period is 56 days beginning with the day in which notification of the decision was served on you. PSA will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless PSA has been notified by the GOC of a change of address).</p> <p>Further information about the PSA can be obtained from its website at <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>Contact</b>
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.