

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

GENERAL OPTICAL COUNCIL

F(22)43

AND

DONALD LYDON [01-23661]

**DETERMINATION OF A SUBSTANTIVE HEARING
MONDAY 17 – TUESDAY 25 JULY 2023
&
MONDAY 6 NOVEMBER 2023
WEDNESDAY 8 NOVEMBER 2023**

Committee Members:	Jayne Wheat (Chair/Lay) John Vaughan (Lay) Miriam Karp (Lay) Danielle Ellis (Optometrist) Caroline Clark (Optometrist)
Legal adviser:	Emma Boothroyd (17 – 25 July 2023) Ashraf Khan (6, 8 November 2023)
GOC Presenting Officer:	Mr C Puthuppally Counsel (17 – 25 July 2023) Mr Lee Bridges Counsel (6,8 November 2023)
Registrant present/represented:	No and not represented
Registrant representative:	None
Hearings Officer:	Nazia Khanom (17 – 21 July) Arjeta Shabani (24-25 July) Nazia Khanom (6 November) Arjeta Shabani (8 November)
Facts found proved:	1b),d),e),f),g),h),i),j),k),l),m),n),p),q),r),s),u),v),w),x),y),z) 2 in its entirety, 3,4 and 5.
Facts not found proved:	1a),c),o),t),aa),bb),cc),dd),ee),ff),gg),hh),ii),jj),kk) and ll)
Misconduct:	Found

Impairment:	Impaired
Sanction:	Erasure
Immediate order:	Immediate Suspension

Proof of service

1. The Registrant was not present at the hearing and was not represented. The Committee heard an application from Mr Puthuppally, Counsel, on behalf of the General Optical Council ('the Council'), for the matter to proceed in the Registrant's absence. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Opticians Act 1989 and Rule 61 of the General Optical Council (Fitness to Practice) Rules 2013 ('the Rules').
2. Mr Puthuppally submitted that it was clear from the correspondence that the Registrant had been notified of the hearing and he referred the Committee to the Notice of Inquiry sent under cover of the letter dated 07 March 2023. Mr Puthuppally submitted that these documents contained all of the information as required by the Rules. Mr Puthuppally stated that the Committee could be satisfied that the Registrant had received these documents by reference to the "track and trace" documentation which demonstrated that the letter had been signed for on 8 March 2023.
3. The Committee accepted the advice of the Legal Adviser who took the Committee through Section 23 of the Opticians Act and Rule 61. She advised that the letter of 7 March 2023 which included the Notice of Inquiry was stated to have been sent "by email only". The Legal Adviser advised that the Registrant had not given consent to service of documents via email and so postal service was the method of service required by the Rules.
4. Mr Puthuppally, after taking further instructions, advised the Committee that the letter was in fact sent via registered post. Mr Puthuppally produced a witness statement from a Council member of staff which confirmed that the letter dated 7 March 2023 was sent by recorded delivery and the envelope enclosed the Notice of Inquiry and other relevant documents.
5. The Committee noted the information in the documents before it and accepted the advice of the Legal Adviser. The Committee was satisfied that the letter dated 7 March 2023, together with the Notice of Inquiry, (which set out all of the information required by the Rules) was sent by recorded delivery to the Registrant's address on the register on 7 March 2023. The Committee noted that this letter had been signed for and not returned. Further, the Committee noted

that additional documentation had been sent to the Registrant about this hearing via post on 12 June 2023 which had been signed for and not returned.

6. The Committee was satisfied, in the circumstances, that there had been effective service of the Notice of Inquiry and the notice of hearing and that all reasonable efforts had been made to notify the Registrant of the hearing in accordance with the Rules.

Proceeding in the absence of the Registrant.

7. The Committee then went on to consider whether it would be in the public interest to proceed in the Registrant's absence in accordance with Rule 22.
8. Mr Puthuppally, on behalf of the Council, submitted that it was in the public interest to proceed in the absence of the Registrant, as he had voluntarily waived his right to attend. He had not provided any reason for his absence and there had been a long history of non-engagement in these proceedings. No adjournment had been requested by the Registrant and there was nothing to suggest that if the case was adjourned, he would attend a future hearing.
9. Mr Puthuppally submitted that when considering whether to proceed with the hearing, the Committee ought to factor into the balance the seriousness of the allegation. Mr Puthuppally submitted that there was a public interest in cases being heard expeditiously and in good time. These matters already went back to 2016. There were also two Council witnesses present and warned to give evidence. Mr Puthuppally submitted that it would run counter to the public interest if the Registrant could frustrate the Regulatory process by not engaging with it and he invited the Committee to determine that it was in the public interest to proceed.
10. The Committee accepted the advice of the Legal Adviser, who referred the Committee to the guidance on proceeding in a Registrant's absence in the Council's 'Hearings and Indicative Sanctions Guidance' ("HISG") (updated November 2021). She advised that the Committee had a discretion as to whether to proceed in absence, and it should have regard to any reasons for absence which have been provided by the Registrant, and consider, whether in the circumstances, it is in the public interest to proceed. The Legal Adviser advised the Committee that in deciding whether to proceed in the absence of the Registrant it should proceed with great care and caution. She advised that the Committee should consider whether the Registrant had waived his right to attend and whether a fair hearing could take place in his absence. The Legal Adviser advised the Committee that it should take into account the public interest in the hearing of cases in a timely and fair manner.
11. The Committee was satisfied that the Registrant was aware of today's hearing and that he had the option to attend, however he had chosen not to do so and instead voluntarily absented himself. Further, there was no application to adjourn

by the Registrant. In the circumstances, the Committee could not see any basis for not proceeding today and there would be nothing gained by adjourning the hearing, as there was nothing to reassure the Committee that the Registrant would attend a future hearing. These were serious allegations, for which witnesses had made themselves available to give evidence, and which had been ongoing for some time. It was in the public interest to determine them without delay.

12. Accordingly, the Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence.

ALLEGATION

The Council alleges that you, Mr Lydon (01-23661), a registered Optometrist:

1. Submitted General Ophthalmic Service ('GOS') 1 and/or GOS 3 claims for matters other than sight tests in respect of:

- a) Patient L on or around 12.5.2016;*
- b) Patient Q on or around 23.8.2016;*
- c) Patient H on or around 24.8.2016;*
- d) Patient F on or around 26.8.2016;*
- e) Patient S on or around 26.8.2016;*
- f) Patient U on or around 26.8.2016;*
- g) Patient Y on or around 26.8.2016;*
- h) Patient 1 on or around 26.8.2016;*
- i) Patient J on or around 27.8.2016;*
- j) Patient X on or around 27.8.2016;*
- k) Patient B on or around 31.8.2016;*
- l) Patient C on or around 31.8.2016;*
- m) Patient Z on or around 31.8.2016;*
- n) Patient 5 on or around 31.8.2016;*
- o) Patient J on or around 01.09.2016;*
- p) Patient L on or around 01.09.2016;*
- q) Patient W on or around 01.09.2016;*
- r) Patient 2 on or around 01.09.2016;*
- s) Patient A on or around 02.09.2016;*
- t) Patient H on or around 02.09.2016;*
- u) Patient N on or around 02.09.2016;*
- v) Patient V on or around 02.09. 2016;*
- w) Patient K on or around 03.09.2016;*
- x) Patient M on or around 03.09.2016;*
- y) Patient P on or around 03.09.2016;*
- z) Patient D on or around 03.09.2016;*
- aa) Patient H on or around 12.09.2016;*
- bb) Patient R on or around 13.09.2016;*
- cc) Patient 4 on or around 17.09.2016;*

- dd) Patient F on or around 23.09.2016.
- ee) Patient E on or around 24.09.2016;
- ff) Patient T on or around 7.10.2016;
- gg) Patient D on or around 08.10.2016;
- hh) Patient G on or around 20.10.2016;
- ii) Patient E on or around 29.10.2016;
- jj) Patient L on or around 09.11.2016;
- kk) Patient 5 on or around 25.11.2016; and/or
- ll) Patient C on or around 02.12.2016.

2. Altered dates on GOS 1 forms in respect of patients seen whilst you were subject to an interim suspension order imposed by a Fitness to Practise Committee of the General Optical Council including:

- a) Patient Q;
- b) Patient X;
- c) Patient W;
- d) Patient T;
- e) Patient V;
- f) Patient U;
- g) Patient 1;
- h) Patient S;
- i) Patient A;
- j) Patient M;
- k) Patient D;
- l) Patient J;
- m) Patient K;
- n) Patient P;
- o) Patient Y;
- p) Patient Z;
- q) Patient E;
- r) Patient C;
- s) Patient L;
- t) Patient F;
- u) Patient 5;
- v) Patient 2; and/or
- w) Patient N.

3. Practised as an optometrist whilst subject to an interim suspension order imposed by a Fitness to Practise Committee of the General Optical Council between on or around 24 August 2016 and/or 31 January 2017;

4. The matters set out at a paragraph 1 above were misleading and/or dishonest, in that you knew and/or ought to have known, that contact lens assessments and/or contact lens aftercare cannot be claimed for using GOS 1 and/or GOS 3;

5. The matters set out at paragraph 2 above were misleading and/or dishonest in that you altered the dates on GOS 1 forms to conceal having seen patients during a period of interim suspension;

6. The matters at paragraph 3 above were misleading and/or dishonest in that you knew and/or ought to have known that you were not permitted to provide services to patients for which your registration was required whilst subject to an interim suspension;

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

Preliminary application.

13. Mr Puthuppally at the outset of the hearing applied to amend Paragraph 3 of the Allegation to remove the word “*between*”. If granted the amended Allegation would read:

“Practised as an optometrist whilst subject to an interim suspension order imposed by a Fitness to Practise Committee of the General Optical Council on or around 24 August 2016 and/or 31 January 2017.”

Mr Puthuppally submitted that the word “*between*” was superfluous. He stated that the Registrant had been given ample notice of the application to amend by letter dated 12 June 2023, and that the amendment could be made without injustice.

14. 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 referred to the overarching objective of the Council and reminded the Committee to have regard to article 6 ECHR as outlined in the Hearing and Indicative Sanctions Guidance. The Legal Adviser advised the Committee to consider the nature of the amendment and whether it could be made without injustice, particularly since the Registrant was not present.
15. The Committee retired to consider its decision and also to consider the hearing bundle of documents which had only just been provided to it, given the Committee’s determination to proceed in the absence of the Registrant.
16. After careful consideration of the documents the Committee were concerned that the proposed amendment could have the effect of narrowing the scope of the Allegation. The Committee considered that one interpretation of the amended Allegation could be that the Registrant practiced whilst suspended on only two dates, namely 24 August 2016 and/or 31 January 2017. This did not appear to be the position as outlined by Mr Puthuppally. In these circumstances the Committee invited Mr Puthuppally to make further submissions.
17. Mr Puthuppally clarified in his submissions that the dates in Paragraph 3 of the Allegation referred to the dates that an Interim Suspension Order was imposed and did not relate to the specific dates that the Registrant was alleged to have practised as an optometrist. However, on instruction, Mr Puthuppally suggested that the following amendment would make matters clearer,
- “3. Practised as an optometrist between 24 August 2016 and 31 July 2017, whilst subject to an interim suspension order imposed by a Fitness to Practise Committee of the General Optical Council on 24 August 2016 and continued on 31 January 2017.”*

18. The Committee considered this application and determined that the amendment made it clear upon which dates the alleged conduct had occurred. The Committee considered that this amendment could be made without injustice as it clarified Paragraph 3 of the Allegation and did not widen the nature or scope of the Allegation against the Registrant. The Committee considered that there was no disadvantage to the Registrant, and he was aware of the nature of the case against him as he had been served with the Council's hearing bundle and skeleton argument. In the circumstances the Committee granted the application to amend Paragraph 3 of the Allegation, which will read as follows:

“3. Practised as an optometrist between 24 August 2016 and 31 July 2017, whilst subject to an interim suspension order imposed by a Fitness to Practise Committee of the General Optical Council on 24 August 2016 and continued on 31 January 2017”

DETERMINATION

Background to the Allegation

19. At the material time, the Registrant was working at **redacted** Opticians. On 24 August 2016 the Registrant's registration was suspended following the making of an Interim Suspension Order by a Fitness to Practise Committee of the General Optical Council. The events leading to that suspension are not part of the Allegation before this Committee.
20. In September 2016, NHS England began an investigation into the Registrant following concerns that had been raised by two optometrists that patients were being asked to sign GOS 1 and 3 forms in advance of any examination. These are forms used to claim for sight tests and optical appliances funded by the NHS for eligible patients through General Ophthalmic Services (“GOS”). Further it was alleged that Mr Lydon was inappropriately claiming a GOS fee for contact lens assessments and aftercare by purporting that they were sight tests.
21. As part of the investigation, an NHS Local Counter Fraud Team carried out a review of the GOS claims made by the Registrant. It was alleged that as part of that review a number of GOS forms were identified that had the dates of examination covered with correction fluid and altered. As a result of this anomaly an audit letter was sent to around 48 patients to enquire whether they could recall the date of their eye examination with the Registrant, Mr Lydon and what type of examination was carried out.
22. A number of patients responded to the audit letter and each patient (with the exception of one who could not recall) confirmed that their appointment was on a different date to the date as set out on the GOS claim form. The dates of examination by the Registrant, as reported by the patients, all post-dated the Registrant's suspension on the 24 August 2016.
23. The Counter Fraud Team carried out a visit to the Registrant's practice on the 7 December 2016 and recovered patient records. A review of those records and a

comparison with the GOS claim forms was undertaken by Witness A on behalf of NHS England.

24. On 26 October 2020 the Registrant was informed that the NHS England and NHS Improvement Primary Care and Public Health Oversight Group had considered the Counter Fraud investigation and was seeking a recovery of payments made for fraudulent claims in the amount of [redacted].
25. On 27 November 2020 the Registrant responded to NHS England via email that he “reluctantly” accepted the information and that he accepted that there “*is a subtle distinction between the GOS sight test and a contact lens aftercare appointment.*” The Registrant offered a repayment plan of [redacted] per month to reimburse the overpayment.

The hearing in relation to the facts:

26. The Committee was provided with the Council’s hearing bundle, which included but was not limited to the witness statement and exhibits of Witness A and the expert report of Mr Stephen Aberly. The Committee was also provided with a service bundle containing the correspondence sent to the Registrant by the Council with regard to this hearing.
27. The Committee was also provided with skeleton submissions prepared by Mr C, dated 31 May 2023, on behalf of the Council.
28. The Committee heard oral evidence from Witness A who is a sessional Optometric Advisor for NHS England. Witness A carried out an investigation in relation to the Registrant on behalf of NHS England.
29. Witness A confirmed the contents of his witness statement and exhibits, which included earlier statements given to the police and his original investigation report. In his statement, Witness A sets out what GOS1 and GOS3 forms are used for, namely claiming for sight tests for those eligible, and funding towards the cost of optical appliances. Witness A explained to the Committee that he had personally reviewed all of the GOS claim forms and it was clear to him that the dates on the claim forms had been altered. Witness A explained that the original forms were coloured and therefore it was very easy to see that the dates had been covered with a correction fluid (white “Tippex”) and had been altered. Witness A told the Committee that this could also be seen on the copies of the GOS forms provided in the hearing bundle.
30. Witness A explained that he reviewed patient records obtained from the practice and compared them with the GOS claim forms and the audit response letters received from the patients. Witness A told the Committee that the patient responses about the dates of their examinations, corresponded with the dates on the patient records and that these dates post-dated the date that the Registrant was suspended. Witness A told the Committee that his review of the patient records, together with the patient responses, confirmed that the Registrant was examining patients after the date his registration was suspended.
31. Witness A told the Committee that in his view the Registrant was claiming for sight tests using the GOS 1 claim form when the records suggested that a contact

lens check had been carried out. Witness A told the Committee that in his view the Registrant had claimed for matters that were not sight tests.

32. The Committee heard expert evidence from Mr Abery. Mr Abery is a general community Optometrist in a primary care setting. Between 1999 and 2015 he was the Chair of Berkshire Local Optical Committee.
33. Mr Abery told the Committee that he had reviewed the patient records for each of the Patients listed in Paragraph 1 of the Allegation. Mr Abery explained to the Committee the statutory requirements of a sight test and set out, in his opinion, what he would expect to be detailed in the patients' records to demonstrate a sight test had been carried out. Mr Abery told the Committee that a sight test should record, as well as other elements, an intra-ocular examination. Mr Abery told the Committee that although there is an overlap between a sight test and a contact lens examination, a practising optometrist would be aware of the difference and would know what was required for a sight test. Mr Abery told the Committee that he had not been provided with the relevant GOS claim forms, but he would expect the records to demonstrate that a sight test had been carried out to justify a GOS claim.
34. Mr Abery told the Committee that in his expert opinion, of the records he had reviewed, only the records for Patient T demonstrated that a sight test was carried out, although there was some ambiguity about the date of that test.
35. Mr Abery told the Committee that even though the patients in their audit responses may have stated they had had a sight test, this was not definitive, given the overlap between a sight test and contact lens examination. Mr Abery explained that he would not expect patients to necessarily be aware of the difference between a sight test, which was defined by statute, and a contact lens examination. Mr Abery told the Committee in response to a question that it was likely that patients may have thought a sight test was carried out as they had been asked to sign a GOS claim form.

Submissions on facts.

36. Mr Puthuppally relied on the skeleton submissions document prepared by Mr C. The Committee heard oral submissions from Mr Puthuppally who contended that the evidence of both Witness A and Mr Abery was credible and reliable. He submitted that the documentary evidence in the bundle supported a finding in relation to all of the factual particulars. He took the Committee through the evidence in the bundle and submitted that there was no evidence of confusion or mistake. Mr Puthuppally provided an evidence matrix table to assist the Committee in its deliberations.
37. The Committee accepted the advice of the Legal Adviser that the burden of proving a disputed Allegation was on the Council, to the civil standard of the balance of probabilities. In particular, the Legal Adviser gave advice regarding the requirement to consider the particulars of the Allegation separately, and that intention can be inferred from the surrounding circumstances. 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 reminded the Committee to draw no

adverse inference from the fact that the Registrant had not attended the hearing and had not given evidence.

1. Submitted General Ophthalmic Service ('GOS') 1 and/or 3 claims for matters other than sight tests in respect of:

a) Patient L on or around 12.5.2016.

p) Patient L on or around 01.09.2016.

jj) Patient L on or around 09.11.2016.

38. The Committee considered these sub paragraphs of the Allegation together as they all relate to Patient L. The Committee noted there is only one GOS 1 claim for this Patient. The Committee had in mind the submissions of Mr Puthuppally who confirmed that these are alternative charges and only one can be found proved on the basis of the evidence.
39. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient L that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient L, the lower lines on some boxes and the coloured areas of shading were missing in parts, and the Committee was satisfied that both the day and month had been altered on the GOS claim form.
40. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. In particular, the Committee had regard to Witness A's exhibited report into concerns relating to the Registrant in which he states:
- "I examined the GOS1&3 forms from the practice at the beginning of September and no GOS1&3 forms were received by NHS England relating to work in August 2016 by Donald Lydon. Then at the beginning of October NHS England received GOS1&3 forms from the practice relating to Donald Lydon with dates running throughout August 2016 none were dated later than the date of his suspension but 48 of the GOS1 forms were tipexed at each date section and dates inserted."*
41. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. Although the Registrant's signature was omitted from the lower part of the form containing the declaration and claim for payment, the Registrant's name was printed together with his performers list number. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient L.
42. The Committee noted the audit response form completed by Patient L who stated that they had a sight test and a contact lens examination on 1 September 2016. This letter was sent to the patient on 19 October 2016 by Witness A following his examination of the GOS claim forms.

43. The Committee considered the records of Patient L and noted that Patient L had appointments at the practice on 12.5.16, 01.09.2016, and 09.11.2016. The Committee noted that there was no appointment on 24 August 2016 for Patient L as claimed on the GOS 1 form.
44. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at any of these appointments. The Committee noted the report of Mr Abery which states as follows:
- “I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- *Spectacle refraction and visual acuities, and*
 - *examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*
45. The Committee concluded that the records for Patient L did not contain both these elements for the appointments on 12.5.16, 01.09.2016 and 09.11.2016. It was therefore satisfied that a sight test was not carried out on those dates. Although the Committee took account of the audit response of Patient L that they considered that a sight test was carried out, it did not consider that this was persuasive in the circumstances. The Committee was mindful that there is an overlap between a sight test and a contact lens check and that a patient might not necessarily know the differences, as explained by Witness A and Mr Abery in their evidence.
46. On balance the Committee considered that the claim form was most likely to have been for the clinical contact with Patient L on 1 September 2016 given the timing of the other two appointments. The first, in May 2016 would, in the view of the Committee, likely to have been the subject of an earlier claim form. The later appointment in November 2016 was, accepting Witness A’s evidence, after the claim form had been submitted and the audit letter sent. The Committee therefore found paragraph 1 p) proved and paragraphs 1a) and 1j) not proved.

b) Patient Q on or around 23.8.2016;

47. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient Q that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient Q, the date of “11” was clearly different to the figures 8 and 16 and it was satisfied that this date had been altered on the GOS 1 claim form.
48. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee

was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient Q.

49. The Committee considered the records of Patient Q and noted that Patient Q had an appointment at the practice on what appeared to the Committee to be the 27 August 2016. Witness A in his spreadsheet exhibited to his witness statement notes that the appointment was on 27 August 2016. Mr Abery in his report notes that the appointment was on 23 August 2016. The Committee considered the writing of the date was difficult to decipher, but on balance it was satisfied that the appointment was more likely to have been the 27 August 2016. Nonetheless the Committee was satisfied that the appointment was 'on or around' the 23 August 2016 and it was clear from the evidence of Witness A and Mr Abery that there was only one appointment for Patient Q in August 2016.
50. The Committee noted that there was no appointment on 11 August 2016 for Patient Q as claimed on the GOS 1 form.
51. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:

"I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:

- *Spectacle refraction and visual acuities, and*
- *examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*

52. The Committee concluded that the records for Patient Q did not contain both these elements for the appointment on the 23/27 August 2016. It was therefore satisfied that a sight test was not carried out on or around those dates. The Committee finds this paragraph proved.

c) Patient H on or around 24.08 2016;

t) Patient H on or around 02.09.16;

aa) Patient H on or around 12.09.2016;

53. The Committee considered these sub paragraphs of the Allegation together as they all relate to Patient H. The Committee noted there is no GOS claim form in the Council's bundle of evidence that was labelled as relating to this Patient. The Committee also note that no audit response from the Patient was contained in the bundle either.
54. The Committee considered that without evidence that the Registrant had submitted a GOS claim form for this individual Patient it could not be satisfied that a claim was ever made and submitted by the Registrant as a claim for a sight test for Patient H.
55. The Committee therefore finds the above paragraphs not proved.

d) Patient F on or around 26.08.2016;

dd) Patient F on or around 23.09.2016;

56. The Committee considered these sub paragraphs of the Allegation together as they both relate to Patient F. The Committee noted there is only one GOS 1 claim form in evidence for this Patient. The Committee had in mind the submissions of Mr Puthuppally who confirmed that these are alternative charges and only one can be found proved on the basis of the evidence.
57. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient F that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient F, the date of "24" was clearly different to the figures 8 and 16 and it was satisfied that this date had been altered on the GOS 1 claim form.
58. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. In addition, the Registrant's signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient F.
59. The Committee considered the records of Patient F and noted that Patient F had appointments at the practice on 26.8.16 and 23.09.16. The Committee noted that there was no appointment on 24 August 2016 for Patient F as claimed on the GOS 1 form.
60. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at either of these appointments. The Committee noted the report of Mr Abery which states as follows:
- "I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*
61. The Committee concluded that the records for Patient F did not contain both these elements for the appointments on 26.8.16 and 23.09.2016. It was therefore satisfied that a sight test was not carried out on or around those dates.
62. On balance the Committee considered that the claim form was most likely to have been for the clinical contact with Patient F on 26 August 2016, given its conclusion that the form appeared to have been altered for the day and not the month. In the view of the Committee, it was more likely that the day of the August appointment had been altered on the form. The Committee therefore found paragraph 1 d) proved and paragraph 1dd) not proved.

e) Patient S on or around 26.8.2016;

63. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient S that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS form for Patient S, the date of “19” was clearly different to the figures 8 and 16 and it was satisfied that this date had been altered on the GOS claim form.
64. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient S.
65. The Committee considered the records of Patient S and noted that Patient S had an appointment at the practice on 26 August 2016. The Committee noted that there was no appointment on 19 August 2016 for Patient S as claimed on the GOS 1 form.
66. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:
- “I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*
67. The Committee concluded that the records for Patient S did not contain both these elements for the appointment on the 26 August 2016. It was therefore satisfied that a sight test was not carried out on or around this date. The Committee finds this paragraph proved.

f) Patient U on or around 26.8.16;

68. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient U that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient U, the date of “19” was clearly different to the figures 8 and 16 and it was satisfied that that this date had been altered on the GOS 1 claim form.

69. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. Although the Registrant's signature was omitted from the lower part of the form containing the declaration and claim for payment, the Registrant's name was printed together with his performers list number. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient U.
70. The Committee considered the records of Patient U and noted that Patient U had an appointment at the practice on 26 August 2016. The Committee noted that there was no appointment on 19 August 2016 for Patient U as claimed on the GOS 1 form.
71. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:
- "I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*
72. The Committee concluded that the records for Patient U did not contain both these elements for the appointment on the 26 August 2016. It was therefore satisfied that a sight test was not carried out on or around this date. The Committee finds this paragraph proved.

g) Patient Y on or around 26.8.2016

73. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient Y that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient U, the date of "24" next to the Patient's signature was clearly different to the figures 8 and 16. In addition, the day had been amended to show the date of the sight test and the date of the claim as 23/8/16. The Committee was satisfied that these dates had been altered on the GOS 1 claim form.
74. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient Y.
75. The Committee considered the records of Patient Y and noted that Patient Y had an appointment at the practice on 26 August 2016. The Committee noted that

there was no appointment on 19 August 2016 for Patient Y as claimed on the GOS 1 form.

76. The Committee noted the audit response form completed by Patient Y who stated that they had a contact lens examination on 26 August 2016 and not a sight test.
77. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:

“I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:

- *Spectacle refraction and visual acuities, and*
- *examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*

78. The Committee concluded that the records for Patient Y did not contain both these elements for the appointment on the 26 August 2016. It was therefore satisfied that a sight test was not carried out on or around this date. The Committee finds this paragraph proved.

h) Patient 1 on or around 26.8.2016;

79. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient 1 that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient 1, the date of “19” was clearly different to the figures 8 and 16 and it was satisfied that this date had been altered on the GOS claim form.
80. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient 1.
81. The Committee considered the records of Patient 1 and noted that Patient 1 had an appointment at the practice on 26 August 2016. The Committee noted that there was no appointment on 19 August 2016 for Patient 1 as claimed on the GOS 1 form.
82. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:

“I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:

- *Spectacle refraction and visual acuities, and*

• examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”

83. The Committee concluded that the records for Patient 1 did not contain both these elements for the appointment on the 26 August 2016. It was therefore satisfied that a sight test was not carried out on or around this date. The Committee finds this paragraph proved.

i) Patient J on or around 27.8.2016;

o) Patient J on or around 01.09.2016;

84. The Committee considered these sub paragraphs of the Allegation together as they both relate to Patient J. The Committee noted there is only one GOS 1 claim form for this Patient. The Committee had in mind the submissions of Mr Puthuppally who confirmed that these are alternative charges and only one can be found proved on the basis of the evidence.

85. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient J that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient J, the date of “20” was clearly different to the figures 8 and 16 and it was satisfied that this date had been altered on the GOS 1 claim form.

86. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient J.

87. The Committee considered the records of Patient J and noted that Patient J had an appointment at the practice on 27.8.16 and telephone contact is recorded on 01.09.16. The Committee noted that there was no appointment on 20 August 2016 for Patient J as claimed on the GOS 1 form.

88. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at either of these appointments. The Committee noted the report of Mr Abery which states as follows:

“I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:

- Spectacle refraction and visual acuities, and*
- examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*

89. The Committee concluded that the records for Patient J did not contain both these elements for the appointment on 27.8.16 or the contact on 01.09.2016. It was therefore satisfied that a sight test was not carried out on or around those dates.
90. On balance the Committee considered that the claim form was most likely to have been for the clinical contact with Patient J on 27 August 2016, given its conclusion that the form appeared to have been altered for the day and not the month. In addition, the contact on 01.09.2016 appeared to be via telephone. In the view of the Committee, it was more likely that the day of the August appointment had been altered on the GOS form. The Committee therefore found paragraph 1 i) proved and paragraph 1o) not proved.

j) Patient X on or around 27.8.2016;

91. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient X that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS form for Patient X, the day of "16" was clearly different to the figures 8 and 16, and in addition, boxes and shading were clearly obscured by the correction fluid on this GOS 1 form. The Committee was satisfied that this date had been altered on the GOS claim form.
92. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. In addition, the Registrant's signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient X.
93. The Committee considered the records of Patient X and noted that Patient X had an appointment at the practice on 27 August 2016. The Committee noted that there was no appointment on 16 August 2016 for Patient X as claimed on the GOS 1 form.
94. The Committee noted the audit response form completed by Patient X who stated that they had a contact lens examination on 27 August 2016 and not a sight test.
95. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows|:

"I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:

- Spectacle refraction and visual acuities, and*
- examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*

96. The Committee concluded that the records for Patient X did not contain both these elements for the appointment on the 27 August 2016. It was therefore satisfied that a sight test was not carried out on or around this date. The Committee finds this paragraph proved.

k) Patient B on or around 31.8.2016;

97. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to this GOS 1 claim form for Patient B that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient B, the date of "24" was clearly different to the figures 8 and 16, and it appeared in places that the date of "31" had been overwritten. The Committee was satisfied that this date had been altered on the GOS 1 claim form.
98. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. In addition, the Registrant's signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient B.
99. The Committee considered the records of Patient B and noted that Patient B had an appointment at the practice on 31 August 2016. The Committee noted that there was no appointment on 24 August 2016 for Patient B as claimed on the GOS 1 form.
100. The Committee noted the audit response form completed by Patient B who stated that they had a sight test and a contact lens examination on 31 August 2016.
101. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:
- "I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*
102. The Committee concluded that the records for Patient B did not contain both these elements for the appointment on the 31 August 2016. Although the Committee took account of the audit response of Patient B that they considered that a sight test was carried out, it did not consider that this was persuasive in the circumstances. The Committee was mindful that there is an overlap between a sight test and a contact lens check and it preferred the evidence of the expert about whether all of the elements of a sight test were conducted. It was therefore

satisfied that a sight test was not carried out on or around this date. The Committee finds this paragraph proved.

I) Patient C on or around 31.8.2016;

II) Patient C on or around 02.12.2016;

103. The Committee considered these sub paragraphs of the Allegation together as they both relate to Patient C. The Committee noted there is only one GOS 1 claim for this Patient. The Committee had in mind the submissions of Mr Puthuppally who confirmed that these are alternative charges and only one can be found proved on the basis of the evidence.
104. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to this GOS 1 claim form for Patient C that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient C, the date entered of "24" was clearly different to the figures 8 and 16, and it appeared that the original date entered had been overwritten. The Committee was satisfied that this date had been altered on the GOS 1 claim form.
105. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. In addition, the Registrant's signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient C.
106. The Committee noted the audit response form completed by Patient C who stated that they had a contact lens examination only but they were unsure of the date that this was carried out. This letter was sent to the patient on 19 October 2016 by Witness A following his examination of the GOS claim forms.
107. The Committee considered the records of Patient C and noted that Patient C had appointments at the practice on 31.8.16 and 02.12.2016. The Committee noted that there was no appointment on 24 August 2016 for Patient C as claimed on the GOS 1 form.
108. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at any of these appointments. The Committee noted the report of Mr Abery which states as follows:

"I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:

- Spectacle refraction and visual acuities, and*
- examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*

109. The Committee concluded that the records for Patient C did not contain both these elements for the appointments on 31.8.16 and 02.12.2016. It was therefore satisfied that a sight test was not carried out on those dates. The Committee also took account of the audit response of Patient C that they considered that a contact lens check was carried out and not a sight test.
110. On balance the Committee considered that the claim form was most likely to have been for the clinical contact with Patient C on 31 August 2016 given the timing of the other appointment. The later appointment in December 2016 was after the claim form had been submitted and after Witness A sent out the audit letter which Patient C responded to. The Committee therefore found paragraph 1 I) proved and paragraph 1II) not proved.

m) Patient Z on or around 31.8.2016;

111. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient Z that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient Z, the date of “24” was clearly different to the figures 8 and 16 and it was satisfied that this date had been altered on the GOS claim form.
112. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient Z.
113. The Committee considered the records of Patient Z and noted that Patient Z had an appointment at the practice on 31.8.16. The Committee noted that there was no appointment on 24 August 2016 for Patient Z as claimed on the GOS 1 form.
114. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:
- “I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*
115. The Committee concluded that the records for Patient Z did not contain both these elements for the appointment on 31 August 2016. It was therefore satisfied that a sight test was not carried out on this date.
116. The Committee therefore found this paragraph proved.

n) Patient 5 on or around 31.8.2016;

kk) Patient 5 on or around 25.11.2016;

117. The Committee considered these sub paragraphs of the Allegation together as they both relate to Patient K. The Committee noted there is only one GOS 1 claim for this Patient. The Committee had in mind the submissions of Mr Puthuppally who confirmed that these are alternative charges and only one can be found proved on the basis of the evidence.
118. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient 5 that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient 5, the date of "24" was clearly different to the figures 8 and 16 and it was satisfied that this date had been altered on the GOS claim form.
119. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. In addition, the Registrant's signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient 5.
120. The Committee considered the records of Patient 5 and noted that Patient 5 had appointments at the practice on 31.8.16 and 25.11.2016. The Committee noted that there was no appointment on 24 August 2016 for Patient 5 as claimed on the GOS 1 form.
121. The Committee noted the audit response form completed by Patient 5 who stated that they had a sight test and a contact lens examination on 31 August 2016.
122. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at either appointment. The Committee noted the report of Mr Abery which states as follows:
- "I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*
123. The Committee concluded that that the records for Patient 5 did not contain both these elements for the appointments on 31 August 2016 or 25 November 2016. Although the Committee took account of the audit response of Patient 5 that they considered that a sight test was carried out, it did not consider that this was persuasive in the circumstances. The Committee was mindful that there is an overlap between a sight test and a contact lens check, and that a patient might

not be able to distinguish between the two. It preferred the evidence of the expert about whether all of the elements of a sight test were conducted, and their evidence that a patient's view might be influenced by having signed the GOS1 form saying they had had a sight test.

124. On balance, the Committee considered that the claim form was most likely to have been for the clinical contact with Patient 5 on 31 August 2016 given the timing of the other appointment and the manner of the alterations the Committee found on the GOS1 form set out above. The later appointment in November 2016 was after the claim form had been submitted and the audit letter sent, according to the evidence of Witness A. The Committee therefore found paragraph 1n) proved and paragraph 1kk) not proved.

q) Patient W on or around 01.09.2016;

125. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient W that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient W the "18" and "08" appeared to be alterations and the Committee was satisfied that both the day and month had been altered on the GOS 1 claim form.
126. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. In addition, the Registrant's signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient W.
127. The Committee considered the records of Patient W and noted that Patient W had an appointment at the practice on 1.9.16. The Committee noted that there was no appointment on 18 August 2016 for Patient W as claimed on the GOS form.
128. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:
- "I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*
129. The Committee concluded that the records for Patient W did not contain both these elements for the appointment on 1 September 2016. It was therefore satisfied that a sight test was not carried out on this date.

130. The Committee therefore found this paragraph proved.

r) Patient 2 on or around 01.09.2016;

131. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient 2 that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient 2 the “24” and “08” appeared to be alterations and the Committee was satisfied that both the day and month had been altered on the GOS claim form.
132. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient 2.
133. The Committee considered the records of Patient 2 and noted that Patient 2 had an appointment at the practice on 1.9.16. The Committee noted that there was no appointment on 24 August 2016 for Patient 2 as claimed on the GOS 1 form.
134. The Committee noted the audit response form completed by Patient 2 who stated that they had a sight test (spectacle prescription) on 1.9.16.
135. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:
- “I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*
136. The Committee concluded that that the records for Patient 2 did not contain both these elements for the appointment on 1 September 2016. Although the Committee took account of the audit response of Patient 2 that they considered that a sight test was carried out, it did not consider that this was persuasive in the circumstances. The Committee was mindful that there is an overlap between a sight test and a contact lens check which a patient might not be able to distinguish. It preferred the evidence of the expert about whether all of the elements of a sight test were conducted and their evidence about the likelihood of a patient being influenced in their recollections by having signed the GOS1 form which referred to a sight test having been carried out.

137. The Committee concluded that the records for Patient 2 did not contain both these elements for the appointment on 1 September 2016. It was therefore satisfied that a sight test was not carried out on this date.
138. The Committee therefore found this paragraph proved.

s) Patient A on or around 02.09.2016

139. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient A that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient A, the "19" and "08" both appeared obviously altered. The Committee was satisfied that both the day and month had been altered on the GOS 1 claim form.
140. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. In addition, the Registrant's signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient A.
141. The Committee considered the records of Patient A and noted that Patient A had an appointment at the practice on 2.9.16. The Committee noted that there was no appointment on 19 August 2016 for Patient A as claimed on the GOS 1 form.
142. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:

"I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:
 - *Spectacle refraction and visual acuities, and*
 - *examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*
143. The Committee concluded that that the records for Patient A did not contain both these elements for the appointment on 2 September 2016. It was therefore satisfied that a sight test was not carried out on this date.
144. The Committee therefore found this paragraph proved.

u) Patient N on or around 02.09.2016;

145. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with

correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient N that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS form for Patient N the “24” and “08” appeared to be alterations and the Committee was satisfied that both the day and month had been altered on the GOS 1 claim form.

146. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient N.
147. The Committee considered the records of Patient N and noted that Patient N had an appointment at the practice on 2.9.16. The Committee noted that there was no appointment on 24 August 2016 for Patient N as claimed on the GOS form.
148. The Committee noted the audit response form completed by Patient N who stated that they had a sight test and contact lens examination on “Sept 2 2016”.
149. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:

“I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:
 - *Spectacle refraction and visual acuities, and*
 - *examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*
150. The Committee concluded that that the records for Patient N did not contain both these elements for the appointment on 2 September 2016. Although the Committee took account of the audit response of Patient N that they considered that a sight test was carried out, it did not consider that this was persuasive in the circumstances. The Committee was mindful that there is an overlap between a sight test and a contact lens examination. It preferred the evidence of the expert about whether all of the elements of a sight test were conducted, and their evidence as to how a patient may be influenced in responding that they had a sight test when they had previously signed the GOS1 form to say they had had one.
151. The Committee was therefore satisfied that a sight test was not carried out on this date.
152. The Committee therefore found this paragraph proved.

v) Patient V on or around 02.09.2016;

153. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with

correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient V that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient V the “19” and “08” appeared to be alterations and the Committee was satisfied that both the day and month had been altered on the GOS claim form.

154. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient V.
155. The Committee considered the records of Patient V and noted that Patient V had an appointment at the practice on 2.9.16. The Committee noted that there was no appointment on 19 August 2016 for Patient V as claimed on the GOS 1 form.
156. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:

“I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:
 - *Spectacle refraction and visual acuities, and*
 - *examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*
157. The Committee concluded that the records for Patient V did not contain both these elements for the appointment on 2 September 2016. It was therefore satisfied that a sight test was not carried out on this date.
158. The Committee therefore found this paragraph proved.

w) Patient K on or around 03.09.2016;

159. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient K that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient K the “20” and “08” appeared to be alterations and the Committee was satisfied that both the day and month had been altered on the GOS 1 claim form.
160. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. Although the Registrant’s signature was omitted from the lower part of the form containing the declaration and claim for payment, the Registrant’s name was printed together

with his performers list number. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient K.

161. The Committee considered the records of Patient K and noted that Patient K had an appointment at the practice on 3.9.16. The Committee noted that there was no appointment on 20 August 2016 for Patient K as claimed on the GOS 1 form.
162. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:
“I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:
 - *Spectacle refraction and visual acuities, and*
 - *examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*
163. The Committee concluded that that the records for Patient K did not contain both these elements for the appointment on 2 September 2016. It was therefore satisfied that a sight test was not carried out on this date.
164. The Committee therefore found this paragraph proved.

x) Patient M on or around 03.9.2016;

165. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient M that it could be seen, even on a black and white copy, that correction fluid had been applied and the figures “20” and “08” were alterations. The Committee noted that on the GOS form for Patient M, some of the lower lines of the boxes and parts of the shading on the form were missing. The Committee was satisfied that both the day and month had been altered on the GOS 1 claim form.
166. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient M.
167. The Committee noted the audit response form completed by Patient M who stated that they had a sight test and a contact lens examination on 3 September 2016. This letter was sent to the patient on 19 October 2016 by Witness A following his examination of the GOS claim forms.
168. The Committee considered the records of Patient M and noted that Patient M had an appointment at the practice on 3.9.16. The Committee noted that there

was no appointment on 20 August 2016 for Patient M as claimed on the GOS 1 form.

169. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:

“I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:

- Spectacle refraction and visual acuities, and*
- examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*

170. The Committee concluded that that the records for Patient M did not contain both these elements for the appointment on 3 September 2016. It was therefore satisfied that a sight test was not carried out on this date. Although the Committee took account of the audit response of Patient M that they considered that a sight test was carried out, it did not consider that this was persuasive in the circumstances. The Committee was mindful that there is an overlap between a sight test and a contact lens appointment. It preferred the evidence of the expert about whether all of the elements of a sight test were conducted and as to why a patient may be influenced into thinking they had had a sight test when they had previously signed the GOS1 form to say they had.

171. The Committee therefore found this paragraph proved.

y) Patient P on or around 03.09.2016;

172. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient P that it could be seen, even on a black and white copy, that correction fluid had been applied and the figures “20” and “08” were alterations. The Committee noted that on the GOS form for Patient P, the lower lines of the boxes and the shading on the form were missing in places and the Committee was satisfied that both the day and month had been altered on the GOS 1 claim form.

173. The Committee accepted Witness A’s evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant’s signature was on the form as the individual who had carried out the sight test. In addition, the Registrant’s signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient P.

174. The Committee noted the audit response form completed by Patient P who stated that they had a contact lens examination on 3/09/2016. This letter was sent to the patient on 19 October 2016 by Witness A following his examination of the GOS claim forms.

175. The Committee considered the records of Patient P and noted that Patient P had an appointment at the practice on 3.9.16. The Committee noted that there was no appointment on 20 August 2016 for Patient P as claimed on the GOS 1 form.
176. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at this appointment. The Committee noted the report of Mr Abery which states as follows:
- “I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:*
- Spectacle refraction and visual acuities, and*
 - examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance”*
177. The Committee concluded that the records for Patient P did not contain both these elements for the appointment on 3 September 2016. It was therefore satisfied that a sight test was not carried out on this date. The Committee therefore found this paragraph proved.

z) Patient D on or around 03.09.2016;

gg) Patient D on or around 08.10.2016;

178. The Committee considered these sub paragraphs of the Allegation together as they both relate to Patient D. The Committee noted there is only one GOS 1 claim for this Patient. The Committee had in mind the submissions of Mr Puthuppally who confirmed that these are alternative charges and only one can be found proved on the basis of the evidence.
179. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS1 claim form for Patient D that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient D, parts of the lower lines in some boxes were obliterated and the Committee was satisfied that both the day and month had been altered on the GOS 1 claim form.
180. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. In addition, the Registrant's signature was on the lower part of the form containing the declaration and claim for payment. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient D.
181. The Committee considered the records of Patient D and noted that Patient D had appointments at the practice on 03.9.16 and 08.10.2016. The Committee noted that there was no appointment on 20 August 2016 for Patient D as claimed on the GOS 1 form.

182. The Committee accepted the expert evidence of Mr Abery that a sight test was not carried out at either of these appointments. The Committee noted the report of Mr Abery which states as follows:

"I consider that a clinical event may only be identified as a Sight Test from clinical records if the record contains information about both:

- Spectacle refraction and visual acuities, and*
- examinations of the internal eye such as cup-to-disc and A/V ratios or a sketch of fundus appearance"*

183. The Committee concluded that the records for Patient D did not contain both these elements for the appointments on 03.9.16 nor 08.10.2016. It was therefore satisfied that a sight test was not carried out on those dates.
184. On balance the Committee considered that the claim form was most likely to have been for the clinical contact with Patient D on 3 September 2016 given the timing of the other appointment. The later appointment in October 2016 was likely to have been after the claim form had been submitted, given the evidence of Witness A. The Committee therefore found paragraph 1z) proved and paragraph 1gg) not proved.

bb) Patient R on or around 13.09.2016;

185. The Committee noted that no GOS claim form labelled as being related to this Patient has been provided to the Committee.
186. The Committee considered that without evidence that the Registrant had submitted a GOS claim form for this particular Patient, it could not be satisfied that a claim was submitted by the Registrant as a claim for a sight test for Patient R.
187. The Committee therefore finds this paragraph not proved.

cc) Patient 4 on or around 17.09.2016;

188. The Committee noted that no GOS claim form labelled as being related to this Patient has been provided to the Committee.
189. The Committee considered that without evidence that the Registrant had submitted a GOS claim form for this particular Patient, it could not be satisfied that a claim was ever submitted by the Registrant as a claim for a sight test for Patient 4.
190. The Committee therefore finds this paragraph not proved.

ee) Patient E on or around 24.09.2016;

ii) Patient E on or around 29.10.2016;

191. The Committee considered these sub paragraphs of the Allegation together as they both relate to Patient E. The Committee noted there is only one GOS 1 claim for this Patient. The Committee had in mind the submissions of Mr Puthuppally who confirmed that these are alternative charges and only one can be found proved on the basis of the evidence.
192. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient E that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient E, that this appeared to affect only the "24". The Committee concluded that this was consistent with other forms it had considered and in relation to this form only the day appeared to have been altered.
193. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. Although the Registrant's signature was omitted from the lower part of the form containing the declaration and claim for payment, the Registrants name was printed together with his performers list number. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient E.
194. The Committee considered the records of Patient E and noted that Patient E had appointments at the practice on 31.08.16, 24.09.2016, and 29.10.2016. The Committee noted that there was no appointment on 24 August 2016 for Patient E as claimed on the GOS 1 form.
195. The Committee noted the expert evidence of Mr Abery that a sight test was not carried out at the appointments on the 24.09.16 and 29.10.16. The expert did not consider in his report the appointment on 31.08.2016 and it was not mentioned in his oral evidence.
196. On balance the Committee considered that the claim form was most likely to have been for the clinical contact with Patient E on 31 August 2016, given its findings in relation to the amended claim form, particularly that it appeared the GOS 1 form had only been amended in relation to the day of the month, and not the month itself. Further, the timing of the other two appointments in September and October would be more likely to have been after the claim form dated 24 August 2016 was submitted.
197. In the absence of any evidence from the expert about whether the clinical contact on 31 August 2016 constituted a sight test, the Committee was unable to be satisfied about the nature of the appointment on 31 August 2016. The Committee had no evidence about whether the record for the appointment on 31 August 2016 could be considered to fulfil the criteria for a sight test. The Committee was not satisfied that the General Optical Council had discharged the burden of proof in relation to these paragraphs of the Allegation and it therefore finds them not proved.

ff) Patient T on or around 7.10.2017

198. The Committee accepted the evidence of Witness A that it was clear on the face of the GOS claim forms he examined that the dates had been covered with correction fluid and altered. The Committee noted in relation to the GOS 1 claim form for Patient T that it could be seen, even on a black and white copy, that correction fluid had been applied. The Committee noted that on the GOS 1 form for Patient T, some of the lower lines on the boxes were obliterated, and there was an overwriting of dates in places with markings of an original date faintly visible. The Committee was satisfied that both the day and month had been altered on the GOS 1 claim form.
199. The Committee accepted Witness A's evidence that the GOS claim forms had been submitted for payment and he examined them as part of his investigation into the Registrant. The Committee noted that the Registrant's signature was on the form as the individual who had carried out the sight test. Although the Registrant's signature was omitted from the lower part of the form containing the declaration and claim for payment, the Registrant's name was printed together with his performers list number. On the basis of this evidence, the Committee was satisfied that this form had been completed and submitted by the Registrant as a claim for a sight test for Patient T.
200. The Committee noted the audit response form completed by Patient T who stated that they had a sight test and a contact lens examination on both 25/8/16 and 2/9/16. This letter was sent to the patient on 19 October 2016 by Witness A following his examination of the GOS claim forms.
201. The Committee considered the records of and noted that Patient T had appointments at the practice on 02.09.16 and 07.10.2016. The Committee noted that there was no appointment on 18 August 2016 for Patient T as claimed on the GOS 1 form.
202. The Committee noted the expert evidence of Mr Abery that a sight test was carried out for Patient T on 2 September 2016.
203. The Committee noted that the expert was unclear whether the records were a complete picture of the information relating to Patient T. The Committee was therefore in difficulty in reaching a conclusion in relation to this paragraph on the records alone.
204. On balance the Committee considered that the claim form was most likely to have been for the clinical contact with Patient T on 2 September 2016 given its findings in relation to the amended claim form. Further, the timing of the October appointment would be more likely to have been after the claim form was submitted. Whilst the Committee was satisfied the date on the claim form had been amended it could not be satisfied that a sight test had not been carried out on that date. It could not be satisfied that the Registrant had submitted a claim for "matters other than sight tests" as alleged.
205. The Committee was not satisfied that the General Optical Council had discharged the burden of proof in relation to this paragraph of the allegation and it therefore finds it not proved.

hh) Patient G on or around 20.10.2016;

206. The Committee noted that no identifiable GOS claim form that relates to this Patient has been provided to the Committee. Furthermore, the Committee could not identify a set of records labelled for Patient G and there was no audit response for Patient G in the bundle.
207. The Committee considered that without evidence of the above, it could not be satisfied that the Registrant had submitted a GOS claim form for this Patient for matters other than a sight test.
208. The Committee therefore finds this paragraph not proved.

2. Altered dates on GOS 1 forms in respect of patients seen whilst you were subject to an interim suspension order imposed by a Fitness to Practise Committee of the General Optical Council including:

a) Patient Q

209. The Committee had regard to its findings at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
210. The Committee noted that there was no appointment detailed in the records for Patient Q on 11 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 27 August 2016. In light of its findings that the GOS1 form had been altered it considered that it was more likely that the date in the patient record was correct.
211. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 27 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 27 August 2016 whilst he was suspended.

b) Patient X

212. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
213. The Committee noted that there was no appointment detailed in the records for Patient X on 16 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 27 August 2016.

This was supported by the audit response form of Patient X. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records and the recollection of Patient X was correct.

214. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 27 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 27 August 2016 whilst he was suspended.

c) Patient W

215. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
216. The Committee noted that there was no appointment detailed in the records for Patient W on 18 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 1 September 2016. This was supported by the audit response for of Patient W. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the record and the recollection of Patient W was correct.
217. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 1 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the patient on 1 September 2016 whilst he was suspended.

d) Patient T

218. The Committee had regard to its findings at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
219. The Committee noted that there was no appointment detailed in the records for Patient T on 18 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 25 August 2016 and one on 2 September 2016. This was supported by the audit response of Patient T. In light of its findings that the GOS form had been altered it considered that it

was more likely that the date in the records and the recollection of Patient T was correct.

220. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 25 August 2016 and 2 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS form to record a date prior to his suspension and he had in fact seen the patient on 2 September 2016, whilst he was suspended.

e) Patient V

221. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
222. The Committee noted that there was no appointment detailed in the records for Patient V on 19 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 2 September 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
223. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 2 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 2 September 2016 whilst he was suspended.

f) Patient U

224. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
225. The Committee noted that there was no appointment detailed in the records for Patient U on 18 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 26 August 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
226. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant.

The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 26 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS form to record a date prior to his suspension and he had in fact seen the Patient on 26 August 2016 whilst he was suspended.

g) Patient 1

227. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
228. The Committee noted that there was no appointment detailed in the records for Patient 1 on 19 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 26 August 2016. In light of its findings that the GOS form had been altered it considered that it was more likely that the date in the records was correct.
229. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 26 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS form to record a date prior to his suspension and he had in fact seen the patient on 26 August 2016 whilst he was suspended.

h) Patient S

230. The Committee had regard to its finding at paragraph 1 above in relation to this patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
231. The Committee noted that there was no appointment detailed in the records for Patient S on 19 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 26 August 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
232. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 26 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date

on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 26 August 2016 whilst he was suspended.

i) Patient A

233. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
234. The Committee noted that there was no appointment detailed in the records for Patient A on 19 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 2 September 2016. In light of its findings that the GOS 1 forms had been altered it considered that it was more likely that the date in the records was correct.
235. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 2 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS form to record a date prior to his suspension and he had in fact seen the Patient on 2 September 2016 whilst he was suspended.

j) Patient M

236. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
237. The Committee noted that there was no appointment detailed in the records for Patient M on 20 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 3 September 2016. This was supported by the audit response form of Patient M. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records and the recollection of Patient M was correct.
238. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 3 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS form to record a date prior to his suspension and he had in fact seen the Patient on 3 September 2016 whilst he was suspended.

k) Patient D

239. The Committee had regard to its finding at paragraph 1 above in relation to this patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
240. The Committee noted that there was no appointment detailed in the records for Patient D on 20 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 3 September 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
241. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 3 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 3 September 2016 whilst he was suspended.

l) Patient J

242. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
243. The Committee noted that there was no appointment detailed in the records for Patient J on 20 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 27 August 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
244. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 27 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 27 August 2016 whilst he was suspended.

m) Patient K

245. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
246. The Committee noted that there was no appointment detailed in the records for Patient K on 20 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 3 September 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
247. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 3 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 3 September 2016 whilst he was suspended.

n) Patient P

248. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
249. The Committee noted that there was no appointment detailed in the records for Patient P on 20 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 3 September 2016. This was supported by the audit response of Patient P. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records and the recollection of Patient P was correct.
250. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 3 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 3 September 2016 whilst he was suspended.

o) Patient Y

251. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
252. The Committee noted that there was no appointment detailed in the records for Patient Y on either the 23 or 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 26 August 2016. This was supported by the audit response of Patient Y. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records and the recollection of Patient Y was correct.
253. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 26 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 26 August 2016 whilst he was suspended.

p) Patient Z

254. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
255. The Committee noted that there was no appointment detailed in the records for Patient Z on 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 31 August 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
256. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 31 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 31 August 2016 whilst he was suspended.

q) Patient E

257. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
258. The Committee noted that there was no appointment detailed in the records for Patient E on 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 31 August 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the dates in the records were correct.
259. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 31 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 31 August 2016 whilst he was suspended.

r) Patient C

260. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
261. The Committee noted that there was no appointment detailed in the records for Patient C on 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 31 August 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
262. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 31 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 31 August 2016 whilst he was suspended.

s) Patient L

263. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly

been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.

264. The Committee noted that there was no appointment detailed in the records for Patient L on 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 1 September 2016. This was supported by the audit response of Patient L. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records and the recollection of Patient L was correct.
265. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 1 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 1 September 2016 whilst he was suspended.

t) Patient F

266. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
267. The Committee noted that there was no appointment detailed in the records for Patient F on 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 26 August 2016. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
268. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 26 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 26 August 2016 whilst he was suspended.

u) Patient 5

269. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly

been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.

270. The Committee noted that there was no appointment detailed in the records for Patient 5 on 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 31 August 2016. This was supported by the audit response of Patient 5. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records and the recollection of Patient 5 was correct.
271. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 31 August 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 31 August 2016 whilst he was suspended.

v) Patient 2

272. The Committee had regard to its finding at paragraph 1 above in relation to this Patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
273. The Committee noted that there was no appointment detailed in the records for Patient 2 on 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 1 September 2016. This was supported by the audit response of Patient 2. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records and the recollection of Patient 2 was correct.
274. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 1 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 1 September 2016 whilst he was suspended.

w) Patient N

275. The Committee had regard to its finding at paragraph 1 above in relation to this patient and in particular that the date on the GOS 1 form had clearly been altered. The Committee noted that the GOS 1 form recorded that the Registrant had conducted a sight test and therefore had seen the Patient.
276. The Committee noted that there was no appointment detailed in the records for Patient N on 24 August 2016 as claimed on the form. In the view of the Committee the records demonstrated that there was an appointment on 2 September 2016. This was supported by the audit response of Patient N. In light of its findings that the GOS 1 form had been altered it considered that it was more likely that the date in the records was correct.
277. It was the evidence of Witness A that the secretary of the Registrant's practice pointed out to him the handwriting on the records that belonged to the Registrant. The Committee had no reason to doubt this evidence. The Committee noted that the handwriting in the records for the 2 September 2016 was that of the Registrant. This was after the Registrant had been suspended on 24 August 2016. The Committee concluded that the Registrant had altered the date on the GOS 1 form to record a date prior to his suspension and he had in fact seen the Patient on 2 September 2016 whilst he was suspended.

3. Practised as an optometrist between 24 August 2016 and 13 July 2017, whilst subject to an interim suspension order imposed by a Fitness to Practise Committee of the General Optical Council on 24 August 2016 and continued on 31 January 2017.

278. The Committee was satisfied that the Registrant was suspended on an interim basis by a Fitness to Practise Committee of the General Optical Council on 24 August 2016 and remained suspended until 13 July 2017. The Committee had regard to its earlier conclusions and in particular its findings in relation to the Patients in respect of Paragraph 2 above.
279. The Committee has set out in detail above its findings that the Registrant saw each of the Patients in Paragraph 2 on a date that he was suspended, and that for each, he purported to carry out a sight test when he was, in fact, for the majority of those patients carrying out a Contact Lens Assessment ("CLA").

The Committee also had regard to Witness A's written statement in which he said:

"an examination of the patient clinical notes which were present reveal widespread examinations by Mr Lydon in breach of the suspension order imposed by the GOC"

"There are no circumstances under which a practitioner would be allowed to practise and conduct a sight test, CLA or other regulated activity while suspended by their regulatory body."

Furthermore, the Committee considered the spreadsheet produced by Witness A in which he sets out all the Patients examined by the Registrant during the period of suspension.

280. In these circumstances the Committee was satisfied that the records of those Patients demonstrated that the Registrant was practising as an optometrist whilst subject to an interim suspension order.
281. The Committee therefore finds this paragraph of the Allegation proved.

4. The matters set out at paragraph 1 above were misleading and/or dishonest, in that you knew and/or ought to have known, that contact lens assessments and/or contact lens aftercare cannot be claimed for using GOS 1 and or GOS 3;

282. The Committee noted that the Registrant appeared to accept in his response to the NHS investigation dated 27 November 2020 that there was a “*subtle distinction between the GOS sight test and a contact lens aftercare appointment.*”
283. The Committee took account of the fact that the Registrant was an experienced optometrist and had held an Ophthalmic Services contract since at least 2012.
284. The Committee accepted the evidence of Mr Abery that optometrists are used to distinguishing between contact lens assessments and sight tests. The Committee noted his report at paragraph 3.2.2 which states:
- “I do not consider that a reasonably competent optometrist could think a GOS 1 should be used for claiming payment for any clinical activity other than a Sight Test, for instance a contact lens assessment.”*
285. The Committee had no difficulty in concluding that in submitting GOS claim forms for matters other than sight tests, the Registrant’s actions were misleading.
286. The Committee went on to consider whether the Registrant’s actions were dishonest. In reaching its conclusions on this aspect of the allegation, it had regard to the advice of the Legal Adviser and applied the approach as set out in the case of *Ivey v Genting Casinos* [2017] UKSC 67
287. The Committee considered that the Registrant, as an experienced optometrist who had held an Ophthalmic Services contract since at least 2012, would have been aware that he was not allowed to submit claims for contact lens assessments or contact lens aftercare using GOS claim forms. The GOS1 forms produced in evidence were, in the Committee’s view, clear, and required the Performer to declare they had tested the sight of the person named in the form. The Contractor is required to declare that the information on the form is correct and complete.
288. There was no evidence before the Committee that the Registrant was confused or that he did not understand the GOS1 process. The Registrant, in his response to the investigation appeared to appreciate there was a difference and offered to repay the overpayment.
289. In the circumstances, the Committee concluded that the Registrant was aware that he was not permitted to claim via a GOS1 form for the matters set out in paragraph 1 of the Allegation.

290. The Committee considered that in making financial claims for appointments where sight tests were not carried out, knowing that this was not permitted under the GOS1 scheme, the Registrant's actions would be considered dishonest by the standards of ordinary, decent people.
291. The Committee therefore finds this particular proved, in relation to the sub paragraphs it found proved at Paragraph 1.

5. The matters set out at paragraph 2 above were misleading and/or dishonest, in that you altered the dates on GOS 1 forms to conceal having seen patients during a period of interim suspension.

292. The Committee noted its earlier findings that it was satisfied that the Registrant had altered the dates on the GOS 1 forms. It was clear to the Committee that each form had been backdated to a date prior to the Registrant's suspension.
293. The Committee considered that the inference to be drawn from this was that the Registrant was attempting to convey that he had not seen patients whilst subject to an interim suspension of his registration and that the sight tests had been undertaken before the suspension. The Committee could not infer any other reasonable explanation for altering the dates.
294. The Committee considered that altering the dates presented a misleading picture and it was the Registrant's intention to conceal that he had seen patients whilst subject to an interim suspension.
295. The Committee concluded that the actions of the Registrant were both misleading and dishonest and would be considered dishonest by ordinary, decent people. The Panel found this paragraph proved in its entirety.

6. The matters at paragraph 3 above were misleading and/or dishonest in that you knew and/or ought to have known that you were not permitted to provide services to patients for which your registration was required whilst subject to an interim suspension.

296. The Committee considered that the determination of the Fitness to Practise Committee would have been sent to the Registrant immediately following the hearing on 24 August 2016. The Committee considered that it would have been clear to the Registrant from that determination that he was not permitted to provide services to patients whilst he was suspended.
297. The Committee has found that the Registrant continued to practise as an optometrist whilst he was suspended. The Committee considered the telephone note dated 26 October 2016 between the Registrant and a member of the Council which set out that the Registrant believed that the interim order would not take effect for three months.
298. In line with the approach in *Ivey v Genting Casinos* the Committee considered whether that was a genuine belief and concluded that it was not. In the circumstances, given the information provided to the Registrant by the Council

about the interim order hearing and the interim suspension order imposed, the Committee concluded that the Registrant could have been in no doubt that he was not permitted to provide services to patients for which his registration was required.

299. The Registrant's actions in backdating the GOS 1 forms to a date prior to his suspension is further evidence that the Registrant was aware that he could not provide services whilst suspended. The Committee considered that all the evidence supported the conclusion that the Registrant was aware he was not able to provide services and continued to do so. Further, he knew that his actions were dishonest. The Committee concluded that the Registrant's actions were both misleading and dishonest and would be considered dishonest by the standards of ordinary, decent people.
300. The Panel found this paragraph proved in its entirety.

Resumed Hearing 6 November 2023

Proof of Service

301. The Registrant was not present at the resumed hearing and was not represented. The Committee heard an application from Mr Bridges, Counsel, on behalf of the Council, for the matter to proceed in the Registrant's absence. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Opticians Act 1989 and Rules 28, 34(2) and 61 of the Rules.
302. Mr Bridges submitted that the Registrant had been notified of the resumed hearing and he referred the Committee to the Notice of Inquiry sent under cover of the letter dated 20 September 2023. Mr Bridges submitted that these documents contained all of the information as required by the Rules. He also informed the Committee that the Council provided the Registrant with a copy of the transcript of the substantive hearing which took place between 17 and 25 July 2023.
303. Mr Bridges submitted that the Committee could be satisfied that the Registrant had received these documents by reference to the "track and trace" documentation which demonstrated that the letter had been signed for on 21 September 2023.
304. The Committee accepted the advice of the Legal Adviser, who set out the rules on proof of service. He confirmed that notice of the hearing, including the Notice of Inquiry, was sent to the Registrant's postal address, as it appears on the Register, via recorded delivery on 20 September 2023, that notice set out today's date, time and that the hearing was to be heard remotely. He confirmed that the Rules do not require proof of delivery, but the Committee must be satisfied the information was sent to the Registrant's address as shown on the Register, by the appropriate method and that all the documents that are required to be sent were sent by that method. In this case, the Committee also had sight

of the Track and Trace documentation which also shows delivery of the notice on 21 September 2023.

305. The Committee was satisfied, in the circumstances, that there had been effective service of the Notice of Inquiry and the notice of hearing and that all reasonable efforts had been made to notify the Registrant of the hearing in accordance with the Rules.

Proceeding in the absence of the Registrant.

306. The Committee then went on to consider whether it would be in the public interest to proceed in the Registrant's absence in accordance with Rule 22.
307. Mr Bridges on behalf of the Council, submitted that it was in the public interest to proceed in the absence of the Registrant, as he had again voluntarily waived his right to attend. He had not provided any reason for his absence and there had been a long history of non-engagement in these proceedings. No adjournment had been requested by the Registrant and there was nothing to suggest that if the case was adjourned, he would attend a future hearing.
308. Mr Bridges submitted that when considering whether to proceed with the hearing, the Committee ought to factor into the balance the seriousness of the Allegation and submitted that there was a public interest in cases being heard expeditiously and in good time. Mr Bridges reminded the Committee this was a resumed hearing from July 2023 and submitted that it would run counter to the public interest if the Registrant could frustrate the Regulatory process by not engaging with it and he invited the Committee to determine that it was in the public interest to proceed.
309. The Committee accepted the advice of the Legal Adviser who advised that the Committee did have the power to proceed in the absence of the Registrant pursuant to Rule 22 of the FTP Rules. He emphasised the Committee must be satisfied that (a) all reasonable efforts have been made to notify the registrant of the hearing; and (b) it is in the public interest to proceed, having regard to any reasons for absence provided by the Registrant. He reminded the Committee to exercise its discretion with the utmost care and caution.
310. The Legal Adviser referred the Committee to the criminal case of **R v Hayward and Jones**, which sets out the factors to consider when proceeding in absence. They include:
- the nature and circumstances of the Registrant's absence;
 - whether an adjournment is likely to secure attendance at a later date and, if so, the likely length of any such adjournment;
 - whether it can be considered that the Registrant has waived their right to attend;
 - and also bearing in mind the extent of any disadvantage if the Registrant is not present to present their case.

311. The Committee was advised that the above approach was confirmed in the regulatory context in the 2016 case of **GMC v Adeogba and Visvardis** with the added reminder that the Committee must bear in mind the purpose of the General Optical Council's overarching objective to protect the public and the public interest.
312. The Legal Adviser further advised the Committee to take into account the general public interest in the timely disposal of proceedings, and that the Registrant has an obligation as a professional to engage with his regulator. **Adeogba** confirmed that it would run counter to the objectives of effective regulation if a Registrant could frustrate the process simply by their non-engagement.
313. The Committee was satisfied that the Registrant was aware of today's hearing and that he had the option to attend, however, he had chosen not to do so and instead voluntarily absented himself. There was no engagement from the Registrant at the July hearing and there has been none since then. The Registrant has not made an application to adjourn the case. In the circumstances, the Committee could not see any basis for not proceeding today and there would be nothing gained by adjourning the hearing, as there was nothing to reassure the Committee that the Registrant would attend a future hearing. The Committee had found a large number of the paragraphs of the Allegation proved at the July hearing, including that the Registrant had acted dishonestly. The matters before the Committee were serious in nature and it was in the public interest to determine them without delay.
314. Accordingly, the Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence.

Misconduct

315. Mr Bridges referred to Committee to the written skeleton argument served on behalf of the Council and made oral submissions. He submitted that the facts found proved were not clinical failures but dishonestly amending clinical records and dishonestly practising whilst the Registrant was suspended. He further submitted the Registrant had breached the GOC Standards of Practice for Optometrists April 2016 ('the Standards'), particularly Standards 7, 7.1, 8, 8.1, 16 and 16.1. Accordingly, he submitted that the matters found proved are so serious as to be properly described as misconduct.
316. The Committee received no written representations from the Registrant.
317. The Committee heard and accepted the advice of the Legal Adviser, who advised the Committee that whether proven facts amounted to misconduct was entirely a matter for the Committee's judgement.
318. The Committee was advised there was no definition of misconduct in the legislation, but assistance can be derived from the case law.
319. The Committee's attention was directed to Lord Clyde's judgement in **Roylance v General Medical Council (No.2) [2000] 1 A.C. 311**, where at paragraph 331B-334B he stated:

“Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed.....in the particular circumstances. First it is qualified by the word ‘professional’ which links the misconduct to the profession of medicine. Secondly, the misconduct is qualified by the word ‘serious’. It is not any professional misconduct which will qualify. The professional misconduct must be serious”.

320. Furthermore, the Committee’s attention was directed to **Remedy UK Ltd v General Medical Council [2010] EWHC 1245 (Admin)** where at paragraph 37 the Court said:

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

“Misconduct within the first limb need not arise in the context of a doctor exercising his clinical practice, but it must be in the exercise of the doctor’s medical calling. There is no single or simple test for defining when that condition is satisfied.”

“Conduct falls into the second limb if it is dishonourable or disgraceful or attracts some kind of opprobrium; that fact may be sufficient to bring the profession of medicine into disrepute. It matters not whether such conduct is directly related to the exercise of professional skill.”

321. The Committee was also taken to **Nandi v General Medical Council [2004] EWHC 2317 (Admin)**, where Mr Justice Collins at paragraphs 31 and 32 stated:

“The adjective ‘serious’ must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners. It is of course possible for negligent conduct to amount to serious professional misconduct, but the negligence must be to a high degree.

“There are no closed categories and the appropriate standard is a matter for the Committee to decide. It is not restricted to conduct which is morally blameworthy. It could, as I have indicated, include seriously negligent treatment or failure to provide treatment measured by objective professional standards. Obviously dishonest conduct can very easily be regarded as serious professional misconduct, but conduct which does not amount in any way to dishonesty can constitute serious professional misconduct if it falls far short of the standard that is considered appropriate by the profession.”

322. The Legal Adviser directed the Committee’s attention to **Lawrence v General Medical Council [2015] EWHC 586**. At para 38 Collins J stated:

“Dishonesty by a doctor can undoubtedly amount to misconduct. Indeed, it usually will, even if it has nothing to do with professional competence.

323. The Legal Adviser directed the Committee's attention to the Standards and reminded the Committee that the Council submit the Registrant was in breach of:

7. Conduct appropriate assessments, examinations, treatments and referrals

7.1 Conduct an adequate assessment for the purposes of the optical consultation, including where necessary any relevant medical, family and social history of the patient. This may include current symptoms, personal beliefs or cultural factors.

8 Maintain adequate patient records

8.1 Maintain clear, legible and contemporaneous patient records which are accessible for all those involved in a patient's care.

16. Be honest and trustworthy.

16.1 Act with honesty and integrity to maintain public trust and confidence in your profession

324. In addition to the above Standards, he also brought to the Committee's attention:

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

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

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

325. The Legal Adviser advised it was entirely for the Committee to decide which, if any, Standards were breached by the Registrant and whether the facts found proved amounted to misconduct.

The Committee's Decision on Misconduct

326. The Committee noted the multitude of particulars in Paragraphs 1 and 2 which had been found proved, in relation to the submission of GOS1 and 3 forms for matters other than sight tests, and of altering dates on GOS1 forms. Furthermore, Paragraph 3 of the Allegation was proved, in that the Registrant practised as an Optometrist between 24 August 2016 and 31 January 2017 whilst he was the subject of an Interim Suspension Order. In addition, the Registrant had misled and acted dishonestly in relation to Paragraphs 1, 2 and 3 of the Allegation.
327. The Committee determined the actions of the Registrant amounted to serious misconduct, in that he made dishonest claims under the GOS scheme, altered multiple forms in relation to multiple patients, and derived a benefit of [redacted]

through his conduct. This was a substantial sum of money which had been dishonestly acquired from the National Health Service. The Committee determined that it was a particularly serious aspect of the facts proved that the Registrant had continued to practise whilst suspended from so doing by his Regulator. It noted that any interim restriction on practise is only imposed after an assessment of risk and is put in place to either protect the public or to satisfy the wider public interest.

328. The Committee considered that the Registrant's conduct was in breach of multiple Standards, 7, 7.1, 8, 8.1, 16, 16.1, 17, 17.1 and 17.3.
329. The Committee determined that the Registrant's behaviour would be regarded as deplorable by fellow members of the profession and was sufficient to bring the Optometry profession into disrepute. The conduct fell far short of how the public would expect an Optometrist to behave.

Impairment

330. Mr Bridges referred the Committee to the written skeleton argument served on behalf of the Council and made oral submissions. He submitted the Registrant was currently impaired by reason of his misconduct.
331. Mr Bridges outlined cases which discuss the way in which regulatory Committees should approach impairment. He referred the Committee to **Cohen v GMC [2008] EWHC 581 (Admin)**, where Silber J stated (at para 65):
- "It must be highly relevant in determining if a doctor's fitness to practice 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."*
332. Mr Bridges also referred the Committee to the case of **Zygmunt v GMC [2008] EWHC 2643 (Admin)**, where Mr Justice Mitting (at para 29) adopted the summary of potential causes of impairment offered by Dame Janet Smith in the Fifth Shipman Inquiry, namely that impairment would arise where a doctor:
- a) presents a risk to patients;
 - b) has brought the profession into disrepute;
 - c) has breached one of the fundamental tenets of the profession;
 - d) has acted in such a way that his/her integrity can no longer be relied upon.
333. Mr Bridges submitted that factors (b)-(d) were engaged in this case.
334. Mr Bridges drew the Committee's attention to Paragraph 16 of the Hearings and Indicative Sanctions Guidance(the 'HISG') on Impairment, and submitted that this case presents a need to uphold professional standards. Public confidence in the profession would be undermined if a finding of impairment were not made.
335. The Committee received no written representations from the Registrant.
336. The Committee accepted the Legal Advice of the Legal Adviser.
337. The Committee was advised to consider the guidance set out in **Cheatle v General Medical Council [2009] EWHC 645 (Admin)**, the Committee must proceed to consider whether, by reason of his behaviour, the Registrant's fitness to practise is currently impaired.

338. The Committee was reminded that in **Cohen v GMC [2008] EWHC 581**, the High Court stated that in determining impairment, relevant factors for the Committee to take into account include:
- a. Whether the conduct which led to the Allegation is remediable;
 - b. Whether it has been remedied; and
 - c. whether it is highly unlikely to be repeated.
339. In coming to a conclusion on impairment, the Committee was advised to look forward, not back. The Committee was advised it may determine that the conduct may be so bad that even looking forward the Registrant is not fit to practise without restrictions or at all. On the other hand, the misconduct may be such that, seen within the context of an otherwise unblemished record, the Committee could conclude that, looking forward, his fitness to practise is not impaired, despite the misconduct.
340. The Committee was advised that the level of insight, remorse, reflections and attempts at remediation shown by the Registrant is central to a proper determination of impairment.
341. The Committee was advised the approach which should be adopted by the Committee is set out in the High Court case of **Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council**. In this case the approach taken by Dame Janet Smith in the report to the Fifth Shipman Inquiry was cited with approval:

“Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

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 in the future 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.”

342. In relation to whether the Registrant is impaired on public interest grounds, the Committee’s attention was directed to the case of **Yeong v General Medical Council [2009] EWHC 1923 (Admin)**, where the following was articulated by Lord Justice Sales at para 48:

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

The Committee’s Decision on Impairment

343. The Committee first approached the question of impairment by reference to the questions set out by Dame Janet Smith in the 5th Shipman Report, as set out above. The Committee considered whether the Registrant:

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.

344. The Council did not submit the Registrant had acted or is liable in the future to act so as to put patients at unwarranted risk of harm. The Committee accepted that there was no evidence of any patients being actually harmed by the Registrant’s actions. However, after careful consideration the Committee determined that the Registrant deliberately and dishonestly recorded that he had carried out sight tests when in fact he had not done so, in relation to multiple patients. It was the Committee’s view that doing so carried with it a potential risk of harm to each patient whose GOS1 forms were inaccurate, as it may have created the impression to the patient signing the form that the full GOS sight test had been carried out, when it had not.

345. The Committee therefore determined the Registrant has in the past acted in a way that had the potential to harm patients.

b. has in the past brought and/or is liable in the future to bring the [Optometry] profession into disrepute.

346. The Committee determined the Registrant, through acting in a misleading and dishonest way in relation to multiple patients, and in practising whilst suspended, had clearly brought the profession into disrepute in the past.

c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the [Optometry] profession.

347. The Committee determined that the Registrant, in acting dishonestly and continuing to practise whilst suspended, has breached the fundamental tenet of integrity.

d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.

348. The facts proved against the Registrant include that he acted dishonestly in relation to a number of patients and whilst suspended from practising.
349. The Committee next considered the guidance provided in **Cohen v GMC**. It considered that whilst dishonesty is difficult to remediate, efforts can be made by a Registrant to demonstrate remediation. However, the Registrant has not engaged with his regulator and has voluntarily absented himself from participating in these proceedings. He has not provided any written material, submissions or evidence which would enable the Committee to consider whether he has taken action to demonstrate remediation. Furthermore, the Committee have not been provided with any statements of reflection or remorse. There is no evidence before this Committee that the Registrant has any insight into his misconduct. The Committee has therefore determined the Registrant's conduct has not been remedied. In the absence of any evidence of insight, reflection or remediation, the Committee determined that the misconduct is highly likely to be repeated.
350. The Committee concluded therefore that the Registrant is liable in future to pose a potential risk to patient safety, to bring the profession into disrepute, to breach the fundamental tenet of integrity and to act dishonestly.
351. The Committee considered that the Registrant's misconduct not only presents a potential risk to patient safety, but that his actions have undermined public confidence in the Optometry profession. Therefore, a finding of impairment of fitness to practise is required on the grounds that it is necessary to reaffirm clear standards of professional conduct so as to maintain public confidence in the profession.

Resumed hearing 8 November 2023.

Sanction

352. Mr Bridges drew the Committee's attention to the Council's written submissions on sanction. During oral submissions, he drew the Committee's attention to the authorities of **Abbas and GMC [2017] EWHC 51, Tait v RCVS [2003] UKPC 34** and **Parkinson v NMC [2010] EWHC 1898 (Admin)**. Based on these authorities and the Hearings and Indicative Sanctions Guidance published by the Council, he submitted the only appropriate and proportionate sanction in the circumstances of this case would be erasure.
353. The Registrant did not attend the hearing. The Committee has not received any written submissions on sanction from the Registrant nor has it been provided with any testimonials, reflection, evidence of remediation or mitigation.
354. The Committee accepted the advice of the Legal Adviser, who advised it was a matter for the Committee to consider what, if any, sanction to impose on the Registrant.
355. The Committee was reminded that the purpose of sanction was not to punish the Registrant, although it may be punitive in effect.

356. The Committee was reminded of the purpose of sanctions to:

- (a) protect members of the public;
- (b) maintain public confidence in the profession and the Council;
- (c) declare and uphold proper standards of conduct and performance within the optometry profession.

357. The Committee was advised the following options were available:

- a) order that no further action be taken;
- b) imposition of financial penalty order;
- c) imposition of conditions;
- d) imposition of a period of suspension; or
- e) order erasure.

358. The Committee was advised to have regard to the Hearings and Indicative Sanctions Guidance issued by the Council, which stated the Committee should take a proportionate approach in deciding what sanction to impose, if any.

The Committee's Decision on Sanction

359. The Committee first determined that the following aggravating factors were present in this case:

- Lack of insight. There was no evidence placed before the Committee to suggest that the Registrant had developed any insight whatsoever as a result of his actions. The Committee has not received evidence of any remorse, apology or clear acceptance of wrongdoing from the Registrant. There is no evidence to suggest the Registrant has taken steps to remediate his conduct.
- The Registrant has a previous finding of misconduct/impairment. The Committee were provided with unredacted parts of the determination of a substantive hearing which took place on 13 July 2017, when the Registrant faced allegations of clinical failures, poor record keeping and failing to cooperate with the GOC investigation. At the conclusion of that hearing, the Fitness to Practise Committee imposed Conditions on the Registrant's practice for a period of 12 months.
- Abuse of trust or/and position. The Registrant took advantage of his position as an Optometrist by misleading patients into signing GOS1 forms to say they had had sight tests and dishonestly falsifying multiple claims for multiple patients.
- Dishonesty. The Committee determined the Registrant's misconduct represented dishonesty at the high end of the scale. The persistent and prolonged nature of the dishonesty in claiming for GOS sight tests for multiple

patients resulted in significant financial gain for the Registrant. The Registrant clearly disregarded an Interim Suspension Order and he dishonestly altered the dates that he had seen patients in order to cover up practising whilst suspended. The Committee were of the view that this demonstrated the Registrant had no regard for the decisions of the regulator.

360. Despite the lack of information provided by the Registrant, the Committee looked for mitigating factors. It noted that the Registrant did agree to pay back over [redacted] to the NHS at the rate of [redacted] per month.
361. The Committee next considered the most appropriate and proportionate sanction, starting with the least restrictive and bearing in mind the principle of proportionality, weighing the Registrant's interests with the public interest. In so doing, the Committee bore in mind the aggravating and mitigating factors it has identified, weighing them against the central aim of sanctions, as outlined above.
362. The Committee determined this was clearly a case where a sanction was necessary and appropriate. The Registrant's behaviour represented a serious case of professional misconduct, with particularly serious aspects of dishonest behaviour. Taking no action would not reflect the seriousness of the misconduct, protect the public or maintain confidence in the profession. There were no exceptional circumstances identified to justify such a course of action.
363. The Committee determined that the imposition of a financial penalty order would not protect the public, maintain public confidence or uphold professional standards of conduct and performance. Disposing of this case by way of financial penalty would be disproportionate.
364. The Committee considered whether to impose a period of conditional registration. However, given the serious nature of the misconduct and weighing the aggravating factors it has identified, in particular the Registrant's propensity to act dishonestly not just in relation to his clinical practice but also in relation to decisions made by his regulator, the Committee determined conditions were not proportionate or appropriate. The Registrant's conduct demonstrated attitudinal problems. There was the potential for patients to be put at risk of harm. The imposition of conditions in these circumstances was unworkable.
365. The Committee considered whether a period of suspension would be appropriate and proportionate. It had regard to paragraph 21.29 of the HISG, and factors indicating suspension might be appropriate. This was a serious instance of misconduct where a lesser sanction was not sufficient, however, the dishonest conduct as identified in the aggravating factors demonstrated deep seated attitudinal problems. The Committee has no evidence of insight, remorse or remediation and the Committee has previously determined there is a real risk of repetition. Accordingly, the Committee has determined a period of suspension is neither appropriate nor proportionate.
366. The Committee therefore considered paragraph 21.35 of the HISG, in relation to the sanction of erasure. It noted that any of the factors identified would indicate erasure was appropriate. Taking the seriousness of the dishonest conduct into account, as set out in the aggravating factors identified, the Committee determined that the following sub paragraphs were relevant:

- (a) a serious departure from the relevant professional standards as set out in the Standards of Practice;
- (b) contributing to a risk of harm to patients (the Committee identified a potential risk of harm);
- (c) an abuse of position and/or trust;
- (f) Dishonesty (persistent), and
- (h) Persistent lack of insight into seriousness of actions or consequences.

The Committee therefore determined that the behaviour of the Registrant is fundamentally incompatible with being a registered professional.

367. Accordingly, given the circumstances of this particular case, the Committee concluded that erasure of the Registrant's name from the register is the only appropriate and proportionate sanction.

Immediate Order

368. The Committee heard submissions from Mr Bridges on behalf of the Council, who seek an immediate order of suspension.

360. The Committee has accepted the advice of the Legal Adviser. It has noted that at this stage, pursuant to section 13I of the Opticians Act 1989 and paragraph 23 of the Hearings and Indicative Sanctions Guidance, the Committee has the power to order immediate suspension if it is satisfied that it is (i) necessary for the protection of members of the public, (ii) otherwise in the public interest or (iii) in the best interests of the registrant.

370. Given the circumstances of this case, and the Committee's decision to order erasure, the Committee is satisfied that the imposition of an immediate suspension order is necessary to protect the public and is otherwise in the public interest.

Chair of the Committee: Jayne Wheat



Signature

Date: 08 November 2023

Registrant: Donald Lydon

Signature ...not present..... **Date: 08 November 2023**

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.

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).

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.

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.