

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

**GENERAL OPTICAL COUNCIL**

**F(24)32 & F(24)51**

**AND**

**STEVEN SMITH (D-16822)**

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**DETERMINATION OF A SUBSTANTIVE HEARING  
23-26 JUNE 2025**

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<b>Committee Members:</b>	Mr Graham White (Chair/Lay) Ms Miriam Karp (Lay) Ms Diane Roskilly (Lay) Ms Gillian Perry (Dispensing Optician) Mr Ian Taylor (Dispensing Optician)
<b>Legal adviser:</b>	Ms Clare Bunting
<b>GOC Presenting Officer:</b>	Ms Holly Huxtable
<b>Registrant present/represented:</b>	Not present and not represented
<b>Hearings Officer:</b>	Ms Natasha Bance
<b>Facts found proved:</b>	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30
<b>Facts not found proved:</b>	None
<b>Misconduct:</b>	Found
<b>Impairment:</b>	Impaired
<b>Sanction:</b>	Erasure
<b>Immediate order:</b>	Yes

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## **Preliminary Matters**

### **Proof of service**

1. As the Registrant was not present, nor was he represented, the Committee heard an application from Ms Huxtable, on behalf of the Council, for the matter to proceed in the Registrant's absence.
2. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Opticians Act and Rule 61 of the Fitness to Practise Rules 2013. The Committee had before it a service bundle, containing documentation relating to the service of the Notice of Hearing. The Committee received and accepted the advice of the Legal Adviser.
3. The Committee noted that the notice of the hearing was served on the Registrant by email dated 23 April 2025 at his registered email address. The Committee noted that the Registrant had previously agreed to accept service by electronic communication. Service is effected if it is sent to the Registrant's registered email address. The notice served on the Registrant provided for a hearing from 23 June 2025 to 27 June 2025. Following communication between the Council and the Registrant he informed the Council by email on 18 June 2025 that he would not be attending the hearing as he was working.
4. The Committee was satisfied that the documents had been served in accordance with Section 23A of the Opticians Act 1989 ('the Act') and Rule 61 of the Fitness to Practise Rules 2013 ('the Rules'). The Committee was satisfied that effective service has taken place and that all reasonable efforts had been made to notify the Registrant of the hearing.

### **Proceeding in the absence of the Registrant**

5. 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.
6. Ms Huxtable on behalf of the Council submitted that the Registrant was aware of the hearing and he had communicated with the Council on a number of occasions and had latterly advised that he would not be attending as he was working. Ms Huxtable identified that the Registrant had received sufficient notice of the hearing, had made no application for an adjournment and had voluntarily absented himself. It was submitted that if the hearing was adjourned, there was no likelihood that the Registrant would attend any future hearing and there was a strong public interest in proceeding in the Registrant's absence. It was submitted that the public interest in proceeding outweighed any prejudice caused to the Registrant by proceeding in his absence.

7. Ms Huxtable submitted that there are a vast number of allegations against the Registrant involving criminal convictions for violence against women and alleged acts of dishonesty. It was submitted that the matters were serious and the public interest in proceeding outweighed any prejudice to the Registrant.
8. The Committee accepted the advice of the Legal Adviser that where the Registrant is neither present nor represented at a hearing, the Committee may nevertheless proceed if:-
  9. *'It is satisfied that all reasonable efforts have been made to notify the Registrant of the hearing in accordance with section 23A and rule 61; and*
  10. *Having regard to any reasons for absence which have been provided by the Registrant, it is satisfied that it is in the public interest to proceed'.*
11. The Legal Adviser advised the Committee of the factors that it should take into account when considering the application to proceed in the Registrant's absence. This included reference to Rule 22 of the Rules and the case of *R v Jones [2002] UKHL 5*. The Legal Adviser advised the Committee that if having determined that all reasonable efforts had been taken by the Council to serve notice of the hearing, it should balance any disadvantage caused to the Registrant in choosing not to attend with the Regulator's overriding duty to bring the matter to a fair and expeditious conclusion.
12. The Legal Adviser advised that the Committee had a discretion as to whether to proceed in absence which should be exercised with great care. The Committee was advised that 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.
13. The Committee took account of the case of *General Medical Council v Adeogba [2016] EWCA Civ 2348* and was mindful that the discretion to proceed in the Registrant's absence must be exercised with the utmost care and caution. In deciding whether to proceed in absence, the Committee carefully weighed its responsibilities for public protection and the proportionate, expeditious disposal of this hearing with the Registrant's right to a fair hearing.
14. The Committee was mindful that this hearing was listed for a substantive hearing with a witness in attendance virtually. The Committee was satisfied that the Registrant was fully aware of this hearing and that he had the option to attend. However, he had chosen not to do so. The Committee was aware that the Registrant had filed an email dated 10 June 2025 with some [redacted] information in readiness for the hearing and had made no application for an adjournment.
15. 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 concluded that the Registrant had voluntarily absented himself, that an adjournment would be unlikely to secure the Registrant's attendance and that no useful purpose would be served by an adjournment.

16. The Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence.

### **Privacy Application**

17. Ms Huxtable on behalf of the Council identified that there may be issues relating to the Registrant's [redacted] raised during the course of the hearing, which it was submitted should be heard in private.
18. The Committee was aware that Rule 25 states that as a general rule hearings must be held in public in accordance with the 'open justice' principle and that there are certain situations in which it may be in the interests of justice for parts of the hearing to be heard in private, particularly if it is to protect the [redacted] and / or private life of the Registrant.
19. The Committee was aware that transparency is a fundamental principle of good regulation which it should only depart from in exceptional circumstances as set out in Article 6(1) of the European Convention on Human Rights. The Committee was aware that it should take a proportionate approach and consider steps to maintain the interests of justice. Accordingly, the Committee determined that there should be partial privacy where reference was made to the Registrant's [redacted].

### **Application to amend the Allegation**

20. Ms Huxtable on behalf of the Council made an application to amend the allegation due to a minor typographical error in Allegation 30 where it refers to allegation 27 rather than 28. It was requested that the allegation be amended at number 30 to read 28 not 27. It was submitted that the amendment would not alter the substantive allegation and that there would be no injustice caused.
21. The Committee was aware that it had the power to amend the Allegation under Rule 46(20), if the amendment can be made without injustice.
22. The Committee was satisfied that the amendment could be made without unfairness or injustice to the Registrant. Accordingly, the Committee granted the application to amend the Allegation.

### **Application to admit evidence**

23. Ms Huxtable addressed the Committee in relation to Allegation 4 where there was no Memorandum or Certificate of Conviction, however, the Council had provided an extract from the Nottingham Magistrates Court Register from 19 April 2007. Ms Huxtable invited the Committee to accept the Court Register as conclusive evidence of the offence committed in accordance with Rule 40(3). Ms Huxtable submitted that the Court Register showed the offence which the Registrant had been convicted of and the sentence which was passed.
24. Ms Huxtable submitted that the Court Register which was endorsed by the Court and was stamped was sufficient evidence of the fact of the conviction which dated

back to 2007. It was submitted that due to the age of the conviction this may have been all that the Court was able to provide.

25. It was identified by the Legal Adviser that the document contained within the bundle at pages 70 and 71 had been redacted and did not show a date of birth of the defendant to enable the Committee to be satisfied that the Court Register related to this Registrant. Ms Huxtable confirmed that she had sight of the unredacted document which she stated could not be shared with the Committee for Data Protection reasons and that it showed the same date of birth as that of the Registrant.
26. At the Committee's request Ms Huxtable subsequently provided the Committee with a new copy of the Court Register which was unredacted to the extent that it showed the date of birth of the person convicted of that offence, which matched the previously supplied date of birth of the Registrant.
27. The Committee received advice from the Legal Adviser that the wording of Rule 40(3) refers specifically to a Certificate. However, it was a matter for the Committee to determine whether a Court Register could fall within the definition set out in Rule 40(3). The Committee was further advised that if it concluded that a Court Register was not a 'certificate' which is conclusive evidence of the offence committed, it could still go on to consider whether there was sufficient evidence to prove that Allegation on the balance of probabilities. The Committee was advised that it is a matter for it to determine whether it is satisfied on the balance of probabilities of the fact of the conviction and that it relates to this Registrant.

### **ALLEGATION (as amended)**

**2023/280a**

*The Council alleges that you, Mr Steven Smith (D-16822), a registered Dispensing Optician:*

1. *On 13 July 2015 were convicted at Buckinghamshire Magistrates' Court of:*
  - a. *assault by beating between 5 January 2015 and 24 January 2015 contrary to section 39 of the Criminal Justice Act 1988;*
  - b. *assault by beating on 24 January 2015 contrary to section 39 of the Criminal Justice Act 1988;*
  - c. *assault by beating between 24 January 2015 and 10 February 2015 contrary to section 39 of the Criminal Justice Act 1988;*
  - d. *assault by beating on 11 February 2015 contrary to section 39 of the Criminal Justice Act 1988;*
  - e. *pursuing a course of conduct which amounted to harassment between 12 February 2015 and 29 March 2015 contrary to*

*section 2(1) and (2) of the Protection from Harassment Act 1997.*

- 2. On 16 September 2015 were convicted at Buckinghamshire Magistrates' Court of assault by beating on 28 July 2015 contrary to section 39 of the Criminal Justice Act 1988;*
- 3. On 16 September 2015 were convicted at Buckinghamshire Magistrates' Court of:*
  - a. assault by beating on 22 June 2015 contrary to section 39 of the Criminal Justice Act 1988;*
  - b. assault by beating on 23 June 2015 contrary to section 39 of the Criminal Justice Act 1988;*

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

*2023/280b*

*The Council alleges that you, Mr Steven Smith (D-16822), a registered Dispensing Optician:*

**2007 conviction**

- 4. On 19 April 2007, you received a conviction from Nottingham Magistrates Court for an offence in that, on 12 April 2007 you were charged in the city of Nottingham for driving a motor vehicle namely a Volvo [REGISTRATION REDACTED] on a road namely [REDACTED ROAD] after consuming so much alcohol that the proportion of it in your blood, namely 101 milligrammes of alcohol in 100 millilitres of blood exceeded the prescribed limit contrary to Section 5(1)(A) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;*
- 5. Failed to declare on your restoration application dated 6 March 2008 that you received a conviction in relation to the offence at 4) above*

**2011 conviction**

- 6. On 12 October 2011, you received a conviction from Nottingham Crown Court for an offence of Assaulting a person thereby occasioning them actual bodily harm on 5 June 2011;*
- 7. Failed to declare on your online retention application dated 2 March 2015 that you received a conviction in relation to the offence at 6) above;*

8. *Failed to declare on your online retention application dated 15 March 2016 that you received a conviction in relation to the offence at 6) above;*
9. *Failed to declare on your fully qualified restoration form dated 17 February 2018 that you received a conviction in relation to the offence at 6) above;*
10. *Failed to declare on your online retention application dated 16 March 2018 that you received a conviction in relation to the offence at 6) above;*
11. *Failed to declare on your online retention application dated 23 February 2019 that you received a conviction in relation to the offence at 6) above;*
12. *Failed to declare on your online retention application dated 12 March 2020 that you received a conviction in relation to the offence at 6) above;*
13. *Failed to declare on your online retention application dated 1 March 2021 that you received a conviction in relation to the offence at 6) above;*
14. *Failed to declare on your online retention application dated 17 February 2022 that you received a conviction in relation to the offence at 6) above;*
15. *Failed to declare on your online retention application dated 17 February 2023 that you received a conviction in relation to the offence at 6) above;*
16. *Failed to declare in your online self-declaration dated 18 September 2023 that you received a conviction in relation to the offence at 6) above;*

### **2015 conviction**

17. *Failed to declare on your online retention application dated 2 March 2015 that you were under police investigation for the offence of battery;*
18. *Failed to declare on your online retention application dated 15 March 2016 that you were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~];*
19. *Failed to declare on your fully qualified restoration form dated 17 February 2018 that you were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~];*



20. Failed to declare on your online retention application dated 16 March 2018 that you were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~];
21. Failed to declare on your online retention application dated 23 February 2019 that were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~];
22. Failed to declare on your online retention application dated 12 March 2020 that you were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~];
23. Failed to declare on your online retention application dated 1 March 2021 that you were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~];
24. Failed to declare on your online retention application dated 17 February 2022 that you were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~];
25. Failed to declare on your online retention application dated 17 February 2023 that you were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~];
26. Only declared to the GOC that you were convicted of offences of battery and harassment on 13 July 2015, and offences of battery on 16 September 2015 [~~and 21 September 2015~~] because the job role you were applying for at this time required an Enhanced DBS check and/or outcome from the GOC;

### **2023 conviction**

27. On 19 April 2023, you received a conviction from Southern Derbyshire Magistrates Court for an offence in that, on 31 August 2022 at [REDACTED] being the driver of a mechanically propelled vehicle, namely [REDACTED], owing to the presence of which on a road or other public place, namely [REDACTED], an accident occurred whereby damage was caused to another vehicle, namely [REDACTED], and not having given your name and address to a person having reasonable grounds for requiring you to do so, failed to report the accident at a police station or to a constable as soon as was reasonably practicable, and in any case within twenty-four hours of the occurrence of the accident. Contrary to section 170(4)



*of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Act 1988;*

*28. Failed to declare on your online retention application dated 17 February 2023 that you were under police investigation in relation to the offence at 27) above;*

*29. Failed to declare in your online self-declaration dated 18 September 2023 that you received a conviction in relation to the offence at 27) above;*

*30. Your conduct at 5) and/or 7) and/or 8) and/or 9) and/or 10) and/or 11) and/or 12) and/or 13) and/or 14) and/or 15) and/or 16) and/or 17) and/or 18) and/or 19) and/or 20) and/or 21) and/or 22) and/or 23) and/or 24) and/or 25) and/or 26) and/or 28) and/or 29) above was:*

- i. Lacking integrity; and/or*
- ii. Misleading; and/or*
- iii. Dishonest*

*And by virtue of the facts set out above, your fitness to practise is impaired by reason of misconduct and/or conviction(s).*

## DETERMINATION

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

28. As the Registrant was not present, nor represented, there were no admissions made to the Allegation. The Allegation was read into the record.

### Background to the Allegations

29. This matter arises from a declaration made by the Registrant to the Council on 18 September 2023 which stated:

*'In 2015, I was arrested for assaulting an ex-partner and was subsequently fined and put on probation which is now spent. I successfully completed an intense rehabilitation programme /course and have now, put this all behind me. I have not committed (sic) any offence since and I am married and have [redacted]. Please forgive me, I am worried sick that I may lose my hard-earned profession and livelihood and this is why I didn't declare, when I should of; I'm so sincerely sorry. I've been a locum for a while now but now have the chance to become an Optical manager for Asda. I am having an Enhanced DBS check and they were very pleased about my outlook to going that extra mile, for my Patients and my references. My future and that of my little family all depends on them accepting the outcome of my DBS check AND what the outcome, from your good selves, within the Goc. They also want proof that I've contacted you and what the outcome will be please. With all very much, respect to you; this is of an urgent matter.'*

30. In response to the declaration, the Council sought the Memorandum of Conviction in relation to the 2015 matter. The Council was provided with a document which confirmed that the Registrant had been convicted in September 2015 in respect of two offences of assault by beating committed on 22 and 23 June 2015. The Court imposed a sentence of 24 weeks imprisonment suspended for 24 months with requirements.

31. The initial conviction was referred directly to the Committee in accordance with rule 4(5) of the Rules:

*'(5) The registrar must refer an allegation falling within section 13D(2)(c) relating to a conviction which has resulted in the imposition of a custodial sentence, whether immediate or suspended, to the Fitness to Practise Committee.'*

32. During the Council's investigation, it became apparent that the Registrant was convicted of further offences in 2015, notably:

- a. a conviction for assault by beating on 28 July 2015;
- b. a conviction for assault by beating between 5 January 2015 and 24 January 2015;
- c. a conviction for assault by beating on 24 January 2015;
- d. a conviction for assault by beating between 24 January 2015 and 10 February 2015;

- e. a conviction for assault by beating on 11 February 2015;
  - f. a conviction for pursuing a course of conduct which amounted to harassment between 12 February 2015 and 29 March 2015.
33. The *Council* sought to obtain the Memorandum of Conviction in respect of the additional matters but was informed by the service team for Berkshire, Buckinghamshire and Oxfordshire Magistrates' Courts that no further offences could be found. The Council could not therefore refer any further offences directly to the Committee in accordance with rule 4(5) of the Rules.
34. The Council established that the Registrant also had convictions for offences in 2007, 2011 and 2023, all of which are evidenced by documents from the court. A closer examination of all applications for retention and restoration made by the Registrant between 2008 and 2023 revealed that he had failed to declare any of these convictions to the Council.
35. The further convictions give rise to case 2023-280b, which was referred to the Committee through the Case Examiners. This matter relates to additional, but linked, allegations of misconduct.
36. The respective matters (2023-280a and 2023-280b) were joined at a procedural hearing on 28 February 2025.
37. The Council endeavoured to pursue the memorandum of conviction in respect of the remaining 2015 convictions. This material was provided to the Council by the Magistrates' Court service team on 30 April 2025.
38. The Memorandum of Conviction confirmed that the Registrant was sentenced on 21 September 2015 in respect of several offences of domestic abuse involving two complainants ('complainant 1 and 2'). All matters were dealt with together. The offences can be apportioned as follows:

Complainant 1

- Assault by beating on 22 June 2015.
- Assault by beating on 23 June 2015.
- Assault by beating on 28 July 2015.

Complainant 2

- Assault by beating between 5 January and 24 January 2015.
- Assault by beating on 24 January 2015.
- Assault by beating between 24 January and 10 February 2015.
- Assault by beating on 11 February 2015.
- Harassment between 12 February and 29 March 2015.

39. The Allegations were amended by the Committee, upon application by the Council, at a procedural hearing on 03 June 2025 to reflect the additional convictions for assault and harassment in 2015.

### **The Hearing**

40. The Committee heard live evidence on affirmation from Witness A, a Registrations Officer with the Council. It admitted his statements dated 6 December 2023 and 28 February 2024 as his evidence in chief. In addition, the Committee reviewed the documentary evidence contained within the 190-page hearing bundle, the Registrant's email dated 10 June 2025 and [redacted] letter, and the Council's Skeleton Argument of 21 pages dated 06 June 2025.
41. Ms Huxtable in closing submissions referred to the skeleton argument dated 06 June 2025 and invited the Committee to conclude that the Memorandums and Certificates of Conviction, as well as the Court Register were sufficient to provide conclusive evidence of the conviction Allegations at 1, 2, 3, 4, 6 and 27.
42. Ms Huxtable submitted that the Registrant had been convicted of a number of violent offences against women committed within a domestic context, and also driving offences, between 2007 and 2023, which he had failed to declare to the Council on multiple occasions during the online retention process, and when he submitted his fully qualified restoration form in 2018. It was submitted that there was no reasonable explanation for his failures to declare, and the declaration only came about due to the Registrant seeking new employment which required an enhanced DBS check.
43. It was submitted on behalf of the Council that the Registrant had ample opportunity to declare the convictions and he had failed to do so. Ms Huxtable identified that the Registrant had completed the Fully qualified restoration form in 2018 and where it was asked about criminal convictions he stated 'None' and 'N/A'. Ms Huxtable also highlighted the Application for Restoration dated 06 March 2008 where the Registrant ticked 'No' when asked about any criminal or disciplinary proceedings.
44. Ms Huxtable submitted that all Registrants were provided with Declarations Guidance from 2013 and that the Registrant would have known what was expected of him. In his declaration dated 18 September 2023 the Registrant stated that he knew he should have declared his convictions but was worried and concerned he may lose his profession and his livelihood. In addition, the statement submitted by the Registrant for the Case Examiners, which was received on 18 October 2024, acknowledged that he knew that what he was doing was wrong.
45. Ms Huxtable submitted that Registrants have a duty to uphold professional standards and that the Registrant had actively and deliberately failed to disclose his convictions on a number of occasions. The 2018 declaration only disclosed part of the Registrant's offending history and it was submitted that the Registrant has attempted to minimise his offending by stating that he received probation when he actually received a suspended sentence of imprisonment. In addition,

there had been two victims, and the Registrant mentioned only one. Further, the Registrant stated he had not committed any offence since, when this was not true.

46. Ms Huxtable invited the Committee to conclude that the Registrant's failures to disclose his convictions were done deliberately and knowingly to ensure that his career was not impacted, which it was submitted shows a propensity to be dishonest over a prolonged period.
47. The Committee accepted the advice of the Legal Adviser that the burden of proving the allegations was on the Council, on the balance of probabilities. The Committee must be satisfied that the act alleged is more likely than not to have occurred before it can be proved. The Committee was advised it must look at each allegation independently and in reaching its decision consider whether the facts set out in the allegation are proved, assessing the oral and written evidence, the credibility of the witness and attaching such weight as it sees fit to each piece of evidence.
48. The Committee was referred to Rule 40 which states  
*'The Fitness to Practise Committee may admit any evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a court of law'*
49. Subject to sub paragraph 3 which states:-  
*'Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed'*.
50. The Committee was advised that in assessing whether the Registrant's conduct was lacking in integrity and/or misleading, the Committee should consider the Registrant's actions and apply the everyday meaning of those words. The word 'misleading' was defined as *'Giving the wrong idea or impression'* or *'Causing someone to believe something that is not true'*. The word 'Integrity' is defined as *'the quality of being honest and having strong moral principles'*.
51. The Committee was also referred to the test for dishonesty as set out in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords (Respondent) [2017] UKSC 67*, which brought the test for dishonesty in criminal and regulatory proceedings in line with civil proceedings. The Committee was advised to consider the issue of dishonesty in the following way:
  - i. Consider on the balance of probabilities, what the Registrant's actual state of knowledge or genuine belief as to the facts was;
  - ii. Consider whether the Registrant's actions were dishonest by the objective standards of ordinary honest people.
52. The Committee was also advised that it should be mindful of the guidance given in *Lusinga v NMC [2017] EWHC 1458 (Admin)* about the scale of dishonesty: "...dishonest conduct can take various forms; some criminal, some not; some destroying trust instantly, others merely undermining it to a lesser or greater

extent.” The GOC’s Code of Conduct for individual registrants and Standards documents both state that the registrant must “*be honest and trustworthy*”. Dishonesty is particularly serious as it may undermine confidence in the profession.

53. The Committee enquired as to the online retention process and sought further clarification from the Council of the questions asked of the Registrant online which led to the web report showing ‘No Web Declaration’.
54. Ms Huxtable on behalf of the Council made an application to admit a further statement of Witness A dated 27 May 2025 which had been omitted from the hearing bundle due to an oversight and had not been served on the Registrant. It was submitted that the evidence was relevant to the issues which the Committee were determining and described the process the Registrant would have gone through when submitting his online applications.
55. The Committee was advised by the Legal Adviser that under Rule 40 it may admit any evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a court of law. The Committee was advised to consider the interests of justice and any potential prejudice or injustice this would cause to the Registrant as he had not had sight of the statement.
56. The Committee determined that as the evidence was relevant to the issues in the case, and that it was something that the Registrant would expect the Committee to have sight of as screenshots relating to the online declaration were already within the hearing bundle. The Committee found that it was fair and in the interests of justice to admit Witness A’s statement dated 27 May 2025. It considered that the public interest in receiving the evidence outweighed any potential prejudice which may be caused to the Registrant who had voluntarily absented himself from the hearing.
57. In further evidence on affirmation Witness A confirmed that his statement dated 27 May 2025 was true and it was admitted in evidence as his Evidence in Chief. Witness A clarified when questioned that there was no available further detail behind the screenshots for the online retention forms predating 2018. However, he confirmed that the questions would have been there as data on declarations of criminal convictions were still captured prior to 2018. The guidance on declarations published in 2013 clearly states that a Registrant must declare any criminal convictions. The screenshots all confirmed that no declarations of any kind, including of criminal convictions, had been made.

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

58. The Committee considered all of the written and oral evidence in this case in determining whether each allegation was found proved or not on the balance of probabilities.



Allegation 1 is found proved

59. The Committee referred to Rule 40(3) which states '*Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed*'.
60. The Committee had sight of a Memorandum of Conviction from Buckinghamshire Magistrates Court dated 21/09/2025 which confirmed that the Registrant had been convicted on 13 July 2015 of the following offences:-
- a. assault by beating between 5 January 2015 and 24 January 2015 contrary to section 39 of the Criminal Justice Act 1988;
  - b. assault by beating on 24 January 2015 contrary to section 39 of the Criminal Justice Act 1988;
  - c. assault by beating between 24 January 2015 and 10 February 2015 contrary to section 39 of the Criminal Justice Act 1988;
  - d. assault by beating on 11 February 2015 contrary to section 39 of the Criminal Justice Act 1988;
  - e. pursuing a course of conduct which amounted to harassment between 12 February 2015 and 29 March 2015 contrary to section 2(1) and (2) of the Protection from Harassment Act 1997.
61. The Committee cannot look behind a criminal finding and must accept it as evidence. Accordingly, it found Allegation 1 proved.

Allegation 2 is found proved

62. The Committee had sight of a Memorandum of Conviction from Buckinghamshire Magistrates Court dated 21/09/2025 which confirmed that the Registrant had been convicted on 16 September 2015 of the following offence:-
- Assault by beating on 28 July 2015 contrary to section 39 of the Criminal Justice Act 1988.
63. For the reasons set out at paragraphs 56 and 58 above the Committee found Allegation 2 proved.

Allegation 3 is found proved

64. The Committee had sight of a Memorandum of Conviction from Buckinghamshire Magistrates Court dated 21/09/2025 which confirmed that the Registrant had been convicted on 16 September 2015 of the following offences:-
- a. assault by beating on 22 June 2015 contrary to section 39 of the Criminal Justice Act 1988;

b. assault by beating on 23 June 2015 contrary to section 39 of the Criminal Justice Act 1988;

65. Allegation 3 is worded that on 21 September 2015 the Registrant was convicted of those offences rather than on 16 September 2015. The Committee noted that the Registrant was sentenced by the Court on 21 September 2015 having changed his plea to guilty on 16 September 2015 (the date he was convicted).
66. The Committee utilised its powers to amend the allegation of its own volition under Rule 46(20) in the interests of justice due to this minor error. The substance of the allegation has not changed, and no injustice will be caused to either party. The Memorandum of Conviction shows that the Registrant pleaded guilty on 16 September 2015. That is the date of conviction, and the allegation is amended to reflect this.
67. The Committee looked at the other allegations which also refer to convictions on 21 September 2015 and decided of its own volition that it was necessary and in the interests of justice that these be amended also to better reflect the facts. The allegations which were amended are 18-26 which are highlighted and struck through within the Allegation (as amended) above.
68. For the reasons set out at paragraphs 56 and 58 above the Committee finds Allegation 3, as amended, proved.

#### Allegation 4 is found proved

69. The Committee had sight of a Court Register from Nottingham Magistrates Court dated 19 April 2007 which shows that Steven Lee Smith was convicted on 19 April 2007 of driving a motor vehicle over the prescribed alcohol limit, for which he was charged on 12 April 2007. The Committee also had sight of the PNC print dated 22 December 2023 which confirmed details of the conviction.
70. The Committee concluded that the Court Register is not certified as a true copy and is not a 'Certificate' for the purposes of Rule 40(3). The Committee could not therefore utilise this evidence as conclusive evidence of the offence committed.
71. The Committee was satisfied however on the balance of probabilities that the conviction relates to the Registrant, as the date of birth is the same as that held for the Registrant, and it is satisfied that Allegation 4 is found proved.

#### Allegation 5 is found proved

72. In support of this allegation the Committee referred to the evidence of Witness A and the restoration application at pages 164-167 of the bundle.
73. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within Allegation 4 and he failed to do so by declaring 'No' when asked if he had any criminal or disciplinary proceedings.

Allegation 6 is found proved

74. The Committee had sight of a Certificate of Conviction from Nottingham Crown Court dated 26 February 2024 which confirmed that the Registrant had been convicted on 12 October 2011 of an offence of assaulting a person thereby occasioning them actual bodily harm on 5 June 2011.
75. For the reasons set out at paragraphs 56 and 58 above the Committee found Allegation 6 proved.

Allegation 7 is found proved

76. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 82 of the bundle. Whilst the Committee did not have sight of any of the details behind the screen shots or from the forms in existence at that time, it was satisfied on the balance of probabilities that declaration data for criminal convictions or cautions was being captured on the forms at that time.
77. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within Allegation 6, and he failed to do so.

Allegation 8 is found proved

78. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 84 of the bundle. Whilst the Committee did not have sight of any of the details behind the screen shots or from the forms in existence at that time, it was satisfied on the balance of probabilities that declaration data for criminal convictions or cautions was being captured on the forms at that time.
79. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 6, and he failed to do so.

Allegation 9 is found proved

80. In support of this allegation the Committee referred to the evidence of Witness A and the fully qualified restoration form at pages 86-97 of the bundle.
81. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within Allegation 6. He failed to do so within section 5 by stating 'None' and by stating 'N/A' when asked if he had any declarations to make regarding criminal or disciplinary proceedings.

82. Allegation 10 is found proved

83. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 101 of the bundle.

84. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 6, and he failed to do so.

Allegation 11 is found proved

85. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 103 of the bundle.
86. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 6, and he failed to do so.

Allegation 12 is found proved

87. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 105 of the bundle.
88. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 6, and he failed to do so.

Allegation 13 is found proved

89. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 107 of the bundle.
90. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 6, and he failed to do so.

Allegation 14 is found proved

91. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 109 of the bundle.
92. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 6, and he failed to do so.

Allegation 15 is found proved

93. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 111 of the bundle.
94. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 6, and he failed to do so.

Allegation 16 is found proved

95. In support of this allegation the Committee referred to the evidence of Witness A and the online self-declaration at pages 78-79 of the bundle.
96. The Committee found as a matter of fact that the Registrant did not declare the 2011 conviction as part of the self-declaration. Whilst the Registrant was not specifically asked to declare all convictions, the Committee considered that the self-declaration form would have prompted the Registrant to declare all criminal convictions and not just some. The Committee considered that the Registrant was under an ongoing duty of candour to be honest and trustworthy. The Committee further considered the Guidance document at pages 113-156 of the bundle and concluded that the Registrant was aware of the duty to declare all of his criminal convictions.
97. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 6, and he failed to do so.

Allegation 17 is found proved

98. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 82 of the bundle. Whilst the Committee did not have sight of any of the details behind the screen shots or from the forms in existence at that time it was satisfied on the balance of probabilities that declaration data for criminal convictions or cautions, and ongoing police investigations, was being captured at that time.
99. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the police investigation, and he failed to do so.

100. Allegation 18 is found proved

101. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 84 of the bundle. Whilst the Committee did not have sight of any of the details behind the screen shots or from the forms in existence at that time, it was satisfied on the balance of probabilities that declaration data for criminal convictions or cautions was being captured on the forms at that time.
102. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the convictions as set out within allegations 1, 2 and 3, and he failed to do so.

Allegation 19 is found proved

103. In support of this allegation the Committee referred to the evidence of Witness A and the fully qualified restoration form at pages 86-97 of the bundle.

104. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the convictions as set out within allegations 1, 2 and 3. He failed to do so within section 5 by stating 'None' and by stating 'N/A' when asked if he had any declarations to make regarding criminal or disciplinary proceedings.

Allegation 20 is found proved

105. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 101 of the bundle.
106. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the convictions as set out within allegations 1, 2 and 3, and he failed to do so.

Allegation 21 is found proved

107. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 103 of the bundle.
108. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the convictions as set out within allegations 1, 2 and 3, and he failed to do so.

109. Allegation 22 is found proved

110. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 105 of the bundle.
111. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the convictions as set out within allegations 1, 2 and 3, and he failed to do so.

Allegation 23 is found proved

112. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 107 of the bundle.
113. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the convictions as set out within allegations 1, 2 and 3, and he failed to do so.

Allegation 24 is found proved

114. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 109 of the bundle.



115. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the convictions as set out within allegations 1, 2 and 3, and he failed to do so.

Allegation 25 is found proved

116. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 111 of the bundle.
117. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the convictions as set out within allegations 1, 2 and 3, and he failed to do so.

Allegation 26 is found proved

118. The Committee carefully considered the wording of this allegation as to whether there was evidence before it that the job application of the Registrant and enhanced DBS check were the only reasons why the Registrant made the self-referral in relation to a 2015 conviction.
119. The Committee considered the self-declaration at pages 78-79 of the bundle and concluded from the Registrant's comments within the declaration that the reason for the self-referral related solely to his new job role which required an enhanced DBS check.
120. The Registrant stated in his self-declaration '(sic) *Now have the chance to become an optical manager for Asda. I am having an enhanced DBS check...*'.
121. He further stated:-  
*'My future and that of my little family all depends on them accepting the outcome of my DBS check AND what the outcome, from your good selves, within the Goc. They also want proof that I have contacted you and what the outcome will be please'*.
122. As the Registrant had multiple previous opportunities to declare the convictions and failed to do so, the Committee was satisfied on the balance of probabilities that this allegation is found proved.

Allegation 27 is found proved

123. The Committee had sight of a Memorandum of Conviction from South Derbyshire Magistrates Court dated 5 July 2023 which confirmed that the Registrant had been convicted on 19 April 2023 of an offence of failing to report an accident which occurred on 31 August 2022.
124. For the reasons set out at paragraphs 56 and 58 above the Committee found Allegation 27 proved.

Allegation 28 is found proved

125. In support of this allegation the Committee referred to the evidence of Witness A and the online retention application at page 111 of the bundle.
126. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within allegation 27, and he failed to do so.

Allegation 29 is found proved

127. In support of this allegation the Committee referred to the evidence of Witness A and the online self-declaration at pages 78-79 of the bundle.
128. The Committee found as a matter of fact that the Registrant did not declare the 2023 conviction as part of the self-declaration. Whilst the Registrant was not specifically asked to declare all of his convictions, the Committee considered that the Registrant was under an ongoing duty of candour to be honest and trustworthy. The Committee further considered the Guidance document at pages 113-156 of the bundle and concluded that the Registrant was aware of his duty to declare all criminal convictions. The conviction would have been fresh in the mind of the Registrant at the time the declaration was made.
129. The Committee was satisfied on the balance of probabilities that the Registrant was under a duty to declare the conviction as set out within Allegation 27, and he failed to do so.

130. Allegation 30 is found proved

131. The Committee considered first of all which of the proven allegations constituted a lack of integrity which is defined as *'the quality of being honest and having strong moral principles'*.
132. The Committee found as a matter of fact that the Registrant had failed to declare all of his criminal investigations and subsequent convictions. It concluded that the Registrant had a duty to declare his convictions and his actions in failing to do so lacked integrity in that the Registrant cannot be said to have been acting honestly.
133. Accordingly, all of the matters found proven at 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28 and 29 constitute the Registrant lacking integrity.
134. The Committee considered whether the Registrant's actions were misleading defined as *'Giving the wrong idea or impression'* or *'Causing someone to believe something that is not true'*.
135. The Registrant has been found to have failed to declare criminal convictions when the specific declaration was required of him. There is an ongoing duty of candour on Registrants and a requirement to be honest and trustworthy. The wording of the Registrant's self-declaration in 2023 suggests that he was aware of the duty to declare his convictions and chose not to declare them at the time of conviction,

or in subsequent restoration and retention applications, in order to enable him to continue in the profession.

136. In addition, the Committee found the self-declaration in 2023 to be lacking in that it did not disclose all of the offences the Registrant had been convicted of. In considering allegation 26 the Committee concluded that the failure of the Registrant to declare all of his convictions was misleading as it gave the impression that he was being open and transparent when he was not.
137. The Registrant's conduct in relation to allegations at 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28 and 29 was also found to be misleading.
138. The Committee then went on to consider whether the actions of the Registrant were dishonest and considered the principles set out in the case of *Ivey v Genting*. The Committee was satisfied on the evidence before it, that the Registrant knew that he was required to declare the convictions and he deliberately chose not to.
139. The Committee was satisfied that the Registrant's conduct at 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28 and 29 was dishonest, due to the knowledge of the Registrant, and by applying the objective standards of ordinary decent people.

### **Decision on Grounds**

140. The Committee was aware that the only grounds upon which the fitness to practise of a registered Dispensing Optician is impaired, which are being relied upon in this case, are misconduct and conviction.

### **Findings in relation to proof of conviction**

#### Acceptance of Certificate of Conviction

141. The Committee took account of Rule 40 (3)(5) and (7) of the Rules in relation to the Certificate and Memoranda of Conviction recording that the Registrant was convicted of the offences set out in allegations 1, 2, 3, 4, 6 and 27.
142. The Committee took account of Rule 40(3) to determine that the Certificate and Memoranda of Conviction are conclusive evidence of matters proved in the Courts.
143. The Committee was not advised of any extant appeal or challenge to the provenance of the Certificates and Memoranda of Conviction, nor any assertion that it related to a Defendant other than the Registrant. The Committee accepted that the bundle copies were admissible as proof of the convictions.

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

144. Having found all of the alleged facts proved, the Committee proceeded to consider whether they amounted to misconduct. The Committee heard submissions from

Ms Huxtable on whether the facts found proved, amounted to misconduct as set out in section 13D(2)(a) of the Opticians Act 1989. Ms Huxtable referred to the Council's skeleton argument dated 06 June 2025 and submitted that there had been breaches of the 2010 Code of Conduct and the 2016 Standards of Practice in the matters found proved.

145. Ms Huxtable submitted that there had been multiple failures by the Registrant to declare his convictions, some of which were for violence offences, and the offending and failures to declare occurred over a prolonged period. Ms Huxtable invited the Committee to conclude that the Registrant had been intrinsically dishonest as even in his self-declaration he sought to minimise his offending and was untruthful when he stated that there had not been any further offences since 2015. Ms Huxtable further submitted that the Registrant's conduct would be considered deplorable by fellow professionals and is damaging to the reputation of the profession as a whole.
146. The Committee received and accepted advice from the Legal Adviser who referred to paragraphs 15.5-15.9 of the Council's Hearings and Indicative Sanctions Guidance and advised that misconduct has no definitive meaning. She referred to *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311 where the Privy Council defined 'misconduct' as a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.
147. The Committee was advised that whether conduct amounts to misconduct, which was serious, is a decision entirely for the Committee to decide. Further, the Committee was advised that it needed to consider whether the conduct was sufficiently serious to amount to professional misconduct. The misconduct is qualified in two respects. First, it is qualified by the word 'professional' which links the misconduct to the profession. Secondly, the misconduct is qualified by the word 'serious'. It is not any professional misconduct which will qualify. The professional misconduct must be 'serious'.
148. The Legal Adviser referred the Committee to the case of *Remedy UK v General Medical Council* [2010] EWHC. As to seriousness, Collins J, in *Nandi v General Medical Council* [2004] EWHC (Admin), emphasised, at paragraph 31 of his judgment: *'the need to give it proper weight, observing that in other contexts it has been referred to as 'conduct which would be regarded as deplorable by fellow practitioners'*.
149. The Committee was also referred to the case of *Calhaem v General Medical Council* [2007] EWHC 2606 (Admin), in which Jackson said at paragraph 39 at paragraph (1):  
*'(1) Mere negligence does not constitute 'misconduct' within the meaning of section 35C(2)(a) of the Medical Act 1983. Nevertheless, and depending upon the circumstances, negligent acts or omissions which are particularly serious may amount to 'misconduct'.*  
*(2) A single negligent act or omission is less likely to cross the threshold of 'misconduct' than multiple acts or omissions. Nevertheless, and depending*

*upon the circumstances, a single act or omission, if particularly grave, could be characterised as 'misconduct'.*

150. The Committee determined that the facts found proved amount to the statutory ground of misconduct as the Registrant's behaviour fell far short of what is proper in the circumstances. The misconduct is serious and was dishonest, occurring in a professional context when the Registrant was making declarations on his renewal and retention forms to his regulator. The Committee considered that the failures to declare were based on a positive act by the Registrant, rather than an omission, as on his restoration forms he ticked the declaration to confirm that he had no criminal convictions to declare and in addition completed the box to state that there were 'None' and also stated 'N/A'. On the retention forms there were sections to declare his convictions which he chose to not complete when submitting the forms. The dishonesty occurred on multiple occasions over a prolonged period and was persistent.
151. The Committee also considered that when the Registrant made his self-declaration, he had minimised his conduct and did not fully disclose all of his criminal convictions, which was a deliberate omission to protect himself.
152. The Committee concluded that fellow professionals would consider the conduct of repeated dishonesty to be deplorable, and his conduct would seriously damage the public's confidence in the Registrant and the profession as a whole, and would bring the profession into disrepute.
153. The Committee had regard to the Council's Code of Conduct for Optometrists, Dispensing Opticians, Student Optometrists and Student Dispensing Opticians effective from April 2010 and considered that the Registrant had departed from the following codes by virtue of his conduct.
  - a. Code 10 - be honest and trustworthy.
  - b. Code 17 – register with and maintain registration with the GOC.
  - c. Code 19 – ensure your conduct, whether or not connected to your professional practice, does not damage public confidence in you or your profession.
154. The Committee also had regard to the Council's Standards of Practice for Optometrists and Dispensing Opticians, effective from April 2016 and considered that the Registrant had departed from the following standards by virtue of his conduct.
  - a. Standard 16 – be honest and trustworthy.
  - b. Standard 17 - do not damage the reputation of your profession through your conduct.
  - c. Standard 19 – be candid when things go wrong.
155. The Committee was satisfied that the behaviour of the Registrant amounted to serious professional misconduct.

### Findings regarding impairment

156. The Committee next went on to consider whether the Registrant's fitness to practise is currently impaired by virtue of his misconduct and / or conviction.
157. The Committee had regard to the submissions of Ms Huxtable and accepted the advice of the Legal Adviser. Ms Huxtable submitted that the Registrant's fitness to practise is currently impaired. She referred the Committee to the Council's skeleton argument dated 6 June 2025 and reminded it of the factors it must consider when determining impairment with reference to the case law.
158. Ms Huxtable submitted that dishonesty is attitudinal in nature and not easily remediable. She further submitted that there was no evidence that the Registrant had done anything to remediate, demonstrate insight or anything to suggest that the risk of repetition had been reduced.
159. Ms Huxtable invited the Committee to conclude that the Registrant presents a risk of harm to the public and that a finding of impairment was required to uphold professional standards. She submitted that the public's confidence in the profession would be undermined if there was no finding of impairment. Ms Huxtable submitted that a finding of impairment was required for public protection and in the wider public interest.
160. The Committee was aware that there was no burden or standard of proof at the impairment stage and the issue of impairment was a question of judgment for it. The Committee referred to the guidance set out in paragraphs 16.1 to 17.8 of the Hearings and Indicative Sanctions Guidance, December 2021.
161. The Committee was advised that the purpose of Fitness to Practise proceedings is not to punish the Registrant for past wrongdoings but to protect the public from acts of those who are not fit to practise. The Committee was advised to look forward not back in determining current impairment and was reminded of the need to have regard to public interest considerations.
162. The Committee was referred to the case of *Cohen v General Medical Council [2008] EWHC 581 (Admin)* which indicated that the relevant factors for a committee to consider when determining impairment include whether the conduct which led to the allegation is easily remediable; whether it has been remedied; and whether it is highly unlikely to be repeated.
163. In addition, the Committee was advised that it should be guided by principles set out by the High Court in *CHRE v (1) NMC and (2) Grant [2011] EWHC 927 (Admin)*, that an appropriate approach for panels considering impairment might be that which was formulated by Dame Janet Smith in the report to the Fifth Shipman Inquiry. The Committee was advised it should determine whether or not the Registrant's convictions and / or misconduct indicate that his fitness to practise as a Dispensing Optician is impaired in the sense that 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 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 profession.
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future’.

164. The Committee was aware that it may consider the lapse of time since the dates of offences, as well as any remorse, insight, remediation or other evidence of change, or lack of evidence of development, in assessing future risk. The Committee took into account the explanations provided by the Registrant in his 18 September 2023 declaration, his statement provided to the case examiners and his email to the Council dated 10 June 2025.
165. The Committee considered the need to uphold the GOC Standards of Practice and public confidence in the profession, in deciding whether a finding of impairment should be made
166. The Committee considered that the acts which led to the findings of misconduct and conviction are remediable, albeit not easily remediable as the dishonesty was attitudinal and persistent in nature. Further, the Committee concluded that the criminal convictions were serious involving violence against women in a domestic context, which attracted a custodial sentence. The Committee considered that most professionals and the public would be shocked at such violent behaviour and harassment.
167. The Committee determined that there was limited evidence of remedial action by the Registrant. The evidence shows that the Registrant continued to act dishonestly over a prolonged period and his criminal convictions span fifteen years. Further, the Committee found that the Registrant had only declared some of the convictions when he was required to do so in seeking new employment. In addition, whilst the Registrant had stated he had completed an intense rehabilitation course which was part of his suspended sentence, and voluntary counselling, there was limited information about this to provide reassurance to the Committee.
168. The Committee cannot rule out the risk of repetition of acting dishonestly due to the repeated nature of the allegations before it. In addition, the Committee was unable to find that the risk of repetition of violent offences had been minimised or that patients, colleagues or others would not be at risk of harm.
169. The Committee was concerned by the Registrant’s apparent inability to accept responsibility for the violent assaults, one of the victim’s statements being described as ‘harrowing’ during sentencing. The Committee was of the view that in his response to the Council he sought to minimise his actions and shift blame towards the victims. The Registrant’s apology lacks sincerity, and he does not appear to acknowledge the seriousness of his actions.
170. The Committee took into account the Registrant’s reflective statement including his apology. However, it considered that the remorse expressed was primarily focussed on the impact of his actions on himself, his relationship with, and impact on, his family and his own finances. The Registrant has not properly reflected on

and understood the seriousness of his actions and dishonest behaviour, nor considered the impact of his convictions and misconduct on his victims, his colleagues and the regulator. The Committee therefore concluded that the lack of proper reflection and insight and the absence of any meaningful remediation makes the risk of repetition of the misconduct found highly likely.

171. The propensity to use violence, the repeated nature of the Registrant's criminal acts and his misconduct has the potential to place patients at a risk of unwarranted harm.
172. Although the criminal offences did not take place in a clinical context, any propensity to be violent would cause concern to members of the public. The Committee was not provided with any evidence that the Registrant had insight into the impact of his violent behaviour on colleagues, the reputation of the profession or in the public's trust in the profession. By not attending the hearing the Registrant has not taken the opportunity to persuade the Committee that he has the insight to avoid repetition of his behaviours.
173. The Committee concluded that a finding of impairment was required to protect the public.
174. The Committee also considered the wider public interest and the need to uphold standards and maintain public confidence in the profession. Taking account of the factors outlined in *Grant*, the Committee concluded that the Registrant had brought the profession into disrepute by his actions and was liable in the future to bring the profession into disrepute. It reached this conclusion due to the nature and number of convictions which the Registrant had failed to declare over a prolonged period.
175. The Committee concluded that the Registrant's self-declaration in 2023 was partial with the Registrant being selective with the truth in what he disclosed. The Registrant was not candid and has sought to excuse his behaviour. The Committee considered that the evidence supported its view that the Registrant had demonstrated repeatedly that he placed his own needs before the requirements of his regulator in order to protect himself. The Committee has no confidence that the Registrant would act with honesty and integrity in the future to prevent patients being placed at risk of harm, or that he would declare any issues which may impact his fitness to practise.
176. The Registrant breached a fundamental tenet of the profession by not acting in such a way that any patients could trust him as a professional. The Committee concluded that he was liable in the future to breach a fundamental tenet of the profession due to the prolonged and repeated acts of dishonesty. The Registrant's actions were found to be in breach of Standards 16, 17 and 19 of the Council's Standards of Practice for Optometrists and Dispensing Opticians, effective from April 2016. These Standards required the Registrant to be honest and trustworthy, not to damage the reputation of the profession, and to be candid when things go wrong – all fundamental tenets of the profession.

177. In addition, the Registrant was found to have breached Codes 10, 17 and 19 the Council's Code of Conduct for Optometrists, Dispensing Opticians, Student Optometrists and Student Dispensing Opticians effective from April 2010.
178. The Committee found that the Registrant had acted dishonestly and was liable to act dishonestly in the future. It was particularly concerned by the prolonged nature of the Registrant's dishonesty in relation to his criminal convictions which deprived his regulator of the ability to investigate to ensure that only those who are fit to practise safely and effectively are permitted to do so. The Registrant's actions frustrated the whole purpose of the regulatory process which is to protect the public.
179. In all the circumstances, the Committee determined that a finding of impairment is required in the public interest, to uphold professional standards, to maintain public confidence in Dispensing Opticians and to protect members of the public, including patients.
180. The Committee found that the fitness of Steven Smith to practise as a Dispensing Optician is impaired.

### **Sanction**

181. The Committee next went on to consider what would be the appropriate and proportionate sanction, if any, to impose in this case. It heard submissions from Ms Huxtable on behalf of the Council. No further material was placed before the Committee at this stage.
182. Ms Huxtable referred to the Council's skeleton argument dated 06 June 2025 and submitted that the Registrant was intrinsically dishonest with a propensity to violence. Accordingly, it was submitted that the attitudinal nature of the conduct was too serious to be dealt with by taking no further action or imposing a financial penalty. Further, it could not readily be addressed with conditions, particularly as the Registrant lacked insight and had failed to fully remediate.
183. Ms Huxtable submitted that the conduct of the Registrant was fundamentally incompatible with registered practice, and that erasure was the most appropriate and proportionate sanction.
184. The Committee received and accepted the advice of the Legal Adviser and was referred to the Hearings and Indicative Sanctions Guidance. The Committee was aware that the purpose of a sanction was not primarily punitive, but to protect patients and the wider public interest. The Committee was aware of the need to balance any aggravating and mitigating features against the requirement to protect the public.
185. The Committee was advised that it should take a proportionate approach in deciding what sanction to impose, weighing the interests of the public against the interests of the Registrant. The Committee was further advised that in deciding what sanction is appropriate, it should start with the least severe and only move on to consider the next sanction if the one under consideration does not sufficiently

protect the public, promote, and maintain public confidence in the profession and promote and maintain proper professional standards and conduct, having regard to the circumstances of the case and the over-arching objective.

186. The Committee firstly considered any aggravating and mitigating features. In the Committee's view the aggravating features in this case are as follows:-

- The lack of insight demonstrated by the Registrant. He has failed to demonstrate the timely development of insight, even when the 18 September 2023 declaration was made it was selective and limited;
- The cumulative effect of the repeated dishonesty carried out over fifteen years - the Registrant had the opportunity each year to declare his convictions and chose not to;
- The lack of any remediation in relation to the dishonesty;
- The multiple violent convictions;
- The Registrant's failure to be candid with his regulator.

187. The Committee considered whether mitigating factors were present and concluded that:

- The Registrant had engaged in some rehabilitation and counselling in relation to the violent offending;
- The Registrant had engaged with the regulator, although this has been limited and sporadic;
- The Registrant has no previous regulatory history having been in practice since 1998. However, the Committee considered that this was due in part to the fact that the Registrant had failed to declare his convictions in a timely manner;
- Although there had been no criminal convictions since 2015, the Committee noted that the Registrant had received a caution for common assault in 2019 and there was a conviction for a driving offence in 2023, and therefore attached little weight to this aspect;
- The Registrant had indicated that he had [redacted] but provided no further details or [redacted]. Accordingly, the Committee attached little weight to this aspect.

188. The Committee next considered the sanctions available to it from the least restrictive to the most severe, starting with no further action.

189. The Committee considered taking no further action as set out in paragraphs 21.3 to 21.8 of the Guidance. It concluded that this would not be an appropriate outcome in this case. The Committee considered that taking no further action was neither proportionate nor sufficient given the seriousness of the allegations and the public interest concerns. There were no exceptional circumstances to justify taking no action in this case.

190. The Committee considered the issue of a financial penalty order. However, it was of the view that such an order was not appropriate, given that it had no information relating to the financial position of the Registrant and his ability to pay a financial order. It also would not be a sufficient sanction to meet the public interest due to the serious nature of the allegations.
191. The Committee considered the Guidance in relation to the imposition of conditions. It was of the view that conditional registration would not be practicable due to the nature of the misconduct, which did not involve identifiable clinical areas of practice in need of assessment or retraining, which conditions often seek to address. In addition, conditions would not sufficiently mark the serious nature of the Registrant's misconduct or address the public interest concerns identified.
192. The Committee concluded that conditions could not be devised which would be appropriate, proportionate, workable or measurable in this case due to the attitudinal nature of the concerns. Further, the Committee could not be satisfied that the Registrant would comply with any conditions on his registration due to the nature of the findings.
193. The Committee next considered suspension and had regard to paragraphs 21.29 to 21.31 of the Guidance. In particular, the Committee considered the list of factors contained within paragraph 21.29, that indicate that a suspension may be appropriate, which are as follows:

**'Suspension (maximum 12 months)**

*21.29 This sanction may be appropriate when some, or all, of the following factors are apparent (this list is not exhaustive):*

- a. A serious instance of misconduct where a lesser sanction is not sufficient.*
- b. No evidence of harmful deep-seated personality or attitudinal problems.*
- c. No evidence of repetition of behaviour since incident.*
- d. The Committee is satisfied the registrant has insight and does not pose a significant risk of repeating behaviour.*
- e. In cases where the only issue relates to the registrant's health, there is a risk to patient safety if the registrant continued to practise, even under conditions'.*

194. The Committee was of the view that the level of dishonesty present in this case indicated a deep-seated attitudinal problem. In addition, the dishonesty was repeated and was an attempt by the Registrant to mislead his regulator for his own benefit. The Registrant chose his own interests over complying with the requirements of his regulator which are in place to protect the public, and the Committee has no evidence that he would not continue to do that. Further, the

Committee only has evidence of limited insight and remediation by the Registrant such that it could not rule out the risk of repetition.

195. In considering paragraph 21.26 the Committee was of the view in respect of a) that this was a serious incident of misconduct where a lesser sanction is not sufficient. However, in relation to b, c and d, there was evidence of harmful attitudinal problems, repetitive behaviour, a lack of insight and a significant risk of repetition.
196. The Committee was of the view that a suspension order was insufficient to address the public interest concerns that it had identified. It considered that a suspension order would not adequately mark the seriousness of the Registrant's misconduct which it considered was at the upper end of the scale of seriousness. It would also fail to maintain confidence in the profession and declare and uphold proper standards of professional conduct and behaviour.
197. The Committee went on to consider erasure. The Committee was of the view that several of the factors listed in the Guidance at paragraph 21.35 (a)-(h), which lead towards the sanction of erasure being appropriate, applied in this case. Paragraph 21.35 states as follows:

#### **Erasure**

*'21.35 Erasure is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered professional and involves any of the following (this list is not exhaustive):*

- a. Serious departure from the relevant professional standards as set out in the Standards of Practice for registrants and the Code of Conduct for business registrants;*
- b. Creating or contributing to a risk of harm to individuals (patients or otherwise) either deliberately, recklessly or through incompetence, and particularly where there is a continuing risk of harm to patients;*
- c. Abuse of position/trust (particularly involving vulnerable patients) or violation of the rights of patients;*
- d. Offences of a sexual nature, including involvement in child pornography;*
- e. Offences involving violence;*
- f. Dishonesty (especially where persistent and covered up);*
- g. Repeated breach of the professional duty of candour, including preventing others from being candid, that present a serious risk to patient safety; or*
- h. Persistent lack of insight into seriousness of actions or consequences'.*



198. The Committee was of the view that factors a, e, f, g and h were all engaged in this case. The Committee considered that this especially applied given that the Registrant's dishonesty was persistent. The Committee concluded that under the Guidance there were more factors indicating that erasure was the appropriate sanction rather than in relation to suspension.
199. The Committee had regard to the section on dishonesty at paragraph 22.4 of the Guidance. It noted that there was no blanket rule or presumption that erasure is the appropriate sanction in all cases of dishonesty and that it was required to balance the circumstances of the case against the effect a finding of dishonesty has on public confidence in the profession.
200. The Committee determined that given that the seriousness of the Registrant's misconduct, the degree of dishonesty involved, and the aggravating factors detailed above, which far outweighed the mitigating factors that were present, the Registrant's behaviour was fundamentally incompatible with continued registration.
201. The Committee was of the view that a reasonable and well-informed member of the public would be extremely concerned if a Dispensing Optician, who had a number of criminal convictions and findings of repeated dishonesty was permitted to practise.
202. The Committee had limited information as to how this decision will impact the Registrant's livelihood beyond the knowledge that he is employed. The Committee considered the Registrant's references to [redacted], particularly his [redacted], but was of the view that it did not have sufficient information before it, [redacted], to conclude that these issues were relevant to the commission of the acts which have been found proved against him. In all the circumstances, the Committee concluded that the interests of the public and the protection of the public outweigh the Registrant's own interests. The Committee concluded that the proportionate and appropriate sanction in this case was one of erasure. Any lesser sanction would not be sufficient to protect the public nor to uphold standards and it would undermine confidence in the profession and its Regulator.
203. The Committee therefore ordered that the Registrant be erased from the Register.

### **Immediate Order**

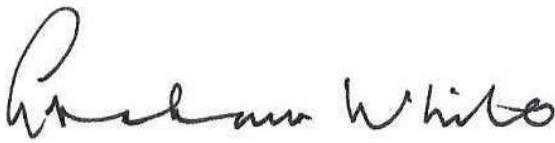
204. The Committee invited representations on whether an immediate order should be imposed. Ms Huxtable, on behalf of the Council, invited the Committee to exercise its discretion to impose an immediate suspension order under Section 13I of the Opticians Act 1989. She reminded the Committee that if the Registrant appealed, the order for erasure would not come into effect for several months whilst the appeal was pending. Ms Huxtable submitted that an immediate order was necessary as there was nothing prohibiting the Registrant from returning to practise during the appeal period and any subsequent appeal. She stated that the Committee may consider that there are grounds to do so based upon the risks it had already identified in its earlier findings.

205. The Committee accepted the advice of the Legal Adviser, which was that to make an immediate order, the Committee must be satisfied that the statutory test in section 131 of the Opticians Act 1989 is met, i.e., that the making of an order is necessary for the protection of members of the public, otherwise in the public interest or in the best interests of the Registrant.
206. The Committee had regard to the statutory test, which required that an immediate order had to be necessary to protect members of the public, be otherwise in the public interest or in the best interests of the Registrant.
207. The Committee bore in mind that it had found that the misconduct was particularly serious, the Registrant lacked insight and there remained a risk of repetition. The Committee was therefore concerned that if no immediate order was made, the Registrant could practise during any appeal process. The Committee therefore concluded that an immediate order was necessary in order to protect members of the public and was otherwise in the wider public interest.
208. The Committee also bore in mind that it had concluded that erasure was the only appropriate and proportionate sanction in this case. In the circumstances, the Committee decided that it was also in the public interest that an immediate order be imposed, given the serious nature of the misconduct and the Committee's findings, in order to protect the wider public interest and maintain confidence in the profession and the Regulator.
209. The direction to erase the Registrant's name from the Register of Dispensing Opticians will take effect 28 days from when notice is deemed to have been served on him, unless he lodges an appeal in the interim. A notice explaining his right of appeal will be sent to him. If the Registrant lodges an appeal, the immediate order of suspension will remain in place until such time as the outcome of any appeal is determined.
210. Accordingly, the Committee imposed an Immediate Order of suspension.

### **Revocation of Interim Order**

211. The Committee was informed that there was no Interim Order to revoke.

**Chair of the Committee:** Graham White

**Signature** 

**Date:** 26 June 2025

**Registrant:** Steven Smith

**Signature** *Registrant not present, sent via email*

**Date:** 26 June 2025

<b>FURTHER INFORMATION</b>
<b>Transcript</b>
A full transcript of the hearing will be made available for purchase in due course.
<b>Appeal</b>
Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period. The relevant court is shown at section 23G(4)(a)-(c) of the Opticians Act 1989 (as amended).
<b>Professional Standards Authority</b>
<p>This decision will be reported to the Professional Standards Authority (PSA) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. PSA may refer this case to the High Court of Justice in England and Wales, the Court of Session in Scotland or the High Court of Justice in Northern Ireland as appropriate if they decide that a decision has been insufficient to protect the public and/or should not have been made, and if they consider that referral is desirable for the protection of the public.</p> <p>Where a registrant can appeal against a decision, the Authority has 40 days beginning with the day which is the last day in which you can appeal. Where a registrant cannot appeal against the outcome of a hearing, the Authority's appeal period is 56 days beginning with the day in which notification of the decision was served on you. PSA will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless PSA has been notified by the GOC of a change of address).</p> <p>Further information about the PSA can be obtained from its website at <a href="http://www.professionalstandards.org.uk">www.professionalstandards.org.uk</a> or by telephone on 020 7389 8030.</p>
<b>Effect of orders for suspension or erasure</b>
To practise or carry on business as an optometrist or dispensing optician, to take or use a description which implies registration or entitlement to undertake any activity which the law restricts to a registered person, may amount to a criminal offence once an entry in the register has been suspended or erased.
<b>Contact</b>
If you require any further information, please contact the Council's Hearings Manager at Level 29, One Canada Square, London, E14 5AA or by telephone, on 020 7580 3898.