

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

GENERAL OPTICAL COUNCIL

F(25)31

AND

FRANCISCA GRACIA RUIZ (01-23179)

**DETERMINATION OF A SUBSTANTIVE HEARING
3-6 FEBRUARY 2026**

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| Committee Members: | Remi Alabi (Chair) Joy Tweed (Lay) Amanda Webster (Lay) Iftab Akram (Optometrist) Denise Connor (Optometrist) |
| Legal adviser: | Alice Moller |
| GOC Presenting Officer: | Tope Adeyemi |
| Registrant present/represented: | Registrant was not present or represented |
| Registrant representative: | None |
| Hearings Officer: | Terence Yates |
| Facts found proved: | Allegation 1, 2, 3a, 3b and 3c Allegation 4b in relation to Allegation 1 and 2 Allegation 4a in relation to Allegation 3a, b, c |
| Facts not found proved: | Allegation 3d |
| Misconduct: | Found |
| Impairment: | Impaired |
| Sanction: | 12 months suspension – (With Review) |
| Immediate order: | Yes |



Preliminary issues and applications

Membership of Committee

1. On 3 February 2026, two Optometrist members of the Committee provided information to the Committee of outlining connections to companies where the Registrant had worked as a locum:

Ms Connor declared the following:

"I have been employed as a part-time optometrist at Boots Opticians in [redacted] since 2011, I have not met the Registrant and work in a different area.

I worked in Specsavers [redacted] weekends/holidays as an Optical Assistant from approx. 1992 until 1997 (whilst at School/University).

I worked at the [redacted] branches of Specsavers between 2004 and 2009 firstly as an Optical Assistant while completing my Optometry degree and then as a Pre-Registration student. I then left within 2 years of qualification and have not worked for them since."

Mr Akram declared the following:

"... I worked on an occasional locum basis at the same Specsavers, [redacted] store., My work was pre-Covid. This work was infrequent, I do not recall ever meeting Francisca Gracia-Ruiz, and I have not worked there since nor do I have any intention of doing so in the future... I worked for Boots as a pre-registration optometrist and subsequently as a qualified optometrist between 2005 and 2007. I later worked infrequently at various companies including Boots & Specsavers across [redacted] between 2009 and 2015. I have not worked for Boots for over ten years and have no intention of doing so in the future."

2. Each had worked for the same company as the Registrant and/or one witness for the Council at some point. Neither Committee member had any personal or professional contact with the Registrant or witness for the Council. Detailed information was provided to the Registrant and the Council before the hearing commenced, with an invitation to raise any objections to either or both Committee member/s hearing and deciding the case.
3. Ms Adeyemi, on behalf of the Council, took instructions and then said that the Council had no objection to the Committee as constituted hearing this case. The Registrant did not respond to the information provided.
4. The Legal Adviser said that the Committee should take account of relevant principles in the authorities, including **Porter v Magill** [2002] 2 AC 357, which set out the test of apparent bias as being '*whether a fair minded and informed observer, having considered the facts, would conclude that there is a real possibility that the tribunal was biased*'. **Helow v Home Secretary** [2008] 1 WLR 2416 described a fair-minded observer as someone '*who always reserves*

judgment on every point until she has seen and fully understood both sides of the argument. She is not unduly sensitive or suspicious, nor complacent.

5. The Committee was provided with the judgment in *Suleman v GOC [2023] EWHC 2110*. At paragraph 30 the judge said:

In my judgment, the fact that [the Committee member] entertained the hope to obtain more centrally allocated locum work from Specsavers would lead the fair-minded and informed observer to conclude that there was a real possibility that, consciously or unconsciously, he would be disposed

- (i) *to find substantiated complaints advanced to the GOC by those managing Specsavers branches that the appellant had engaged in conduct likely to injure the reputation of Specsavers and/or*
 - (ii) *to resolve evidential disputes in favour of those individuals and against the appellant.*
6. The Committee was invited to consider the extent to which its members may be perceived to be unduly influenced by irrelevant factors. There were no comments or observations on the legal advice.
7. The Committee took account of submissions from counsel and legal advice. There was no suggestion that either Committee member had any financial or other interest in the outcome of these proceedings. There was no evidence to suggest that either would be unduly influenced by financial or other.
8. The Committee considered that a fair-minded and informed observer, having considered the facts, would conclude that there was no real possibility that either Committee member would be biased. The Committee considered that it may proceed on the basis that the case could be heard fairly by this Committee.
9. The Committee decided to proceed with the Committee as constituted.

Proof of service

10. A proof of service bundle was provided indicating that, in 2025, the Council had sent the requisite documents to the email and postal address provided by the Registrant.
11. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Act and Rule 61 of the Fitness to Practise Rules 2013. The Committee accepted legal advice that it may take account of proof of postage and/or receipt.
12. The Committee was satisfied that the details of the proceedings and the Notice of the hearing served within the requisite time, on the Registrant at her last known address. Notification of the substantive hearing was provided to the Registrant on the 22 December 2025. It concluded that all reasonable efforts had been made to notify the Registrant of the proceedings and this hearing, and service.

Proceeding in the absence of the Registrant

13. On behalf of the Council, Ms Adeyemi made an application to proceed in the absence of the Registrant. The Committee then went on to consider whether it would be in the public interest to proceed in the Registrant's absence in

accordance with Rule 22. The Committee accepted the advice of the Legal Adviser.

14. The Legal Adviser advised that where a Registrant is neither present nor represented at a hearing, the Committee may nevertheless proceed to consider and determine the allegation if it is satisfied that all reasonable efforts have been made to serve the Registrant with notice of the hearing in accordance with the Rules.
15. The onus is on the Registrant to engage with these proceedings: ***Adeogba [2016] EWCA Civ 162***. The Committee must consider fairness to the Registrant, but also to the Council representing the public interest in an effective regulatory system with hearings conducted fairly and expeditiously. Although attendance by the Registrant is very important, it cannot be determinative, due to the adverse impact of delays on the efficient running of hearings.
16. The Tribunal should take account of the lack of any application to adjourn, the likelihood of further delay securing the attendance of the Registrant and the fact that witnesses for the Council have been warned to attend this week. The lapse of time since the allegations were made is potentially relevant too.
17. Where a hearing is to be conducted virtually, the same considerations apply as if it were in person. Fairness to the Registrant must be balanced with the public interest, taking account of overarching objective to protect the public and wider public interest.
18. In the application, the Committee took account of the fact that these allegations date back several years, the availability of witnesses to give evidence and lack of any application to adjourn or evidence of ill-health. Although there was no request to adjourn, the Committee took account of the Registrant's lack of participation, together with its duty to hear cases expeditiously and the overall fairness of proceedings.
19. The Committee noted that the Registrant appeared not to have engaged with this hearing and taking account of the need to protect the public and maintain confidence in the profession, the Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence.
20. The Committee decided to proceed in the Registrant's absence.

Application to Amend the Allegation

21. Ms Adeyemi applied to correct a typographical error at the stem of particular 3 by substituting '2023' for '2019' to reflect the evidence.
22. The Committee accepted the advice of the Legal Adviser who referred it to Rule 46(20) and advised the Committee to consider if the proposed amendment was in the interests of justice and fair.

Rule 46 (20) says:

'Where it appears to the Fitness to Practise Committee at any time during the hearing, either upon the application of a party or of its own volition, that—

1. (a) *the particulars of the allegation or the grounds upon which it is based and which have been notified under rule 28, should be amended; and*

2. (b) the amendment can be made without injustice, it may, after hearing the parties and consulting with the legal adviser, amend those particulars or those grounds in appropriate terms.'

23. The Committee considered the proposed amendment was a reflection of the evidence served and that the Registrant would be in no doubt as to the facts of the Allegation against her by so amending it. It determined that the amendment could be made without injustice to any party and was in the public interest. The Allegation was therefore amended.

ALLEGATION (as amended)

The Council alleges in relation to you, Francisca Gracia Ruiz (01-23179), a registered Optometrist, that:

- 1. On or around January 2021 to August 2023, you undertook National Health Service Ophthalmic services without being listed on the England Ophthalmic Performers List.*
- 2. In an interview with NHS England on 7 November 2023, you stated that you had been given permission to undertake the NHS Ophthalmic services by a person at [redacted] Primary Care in January 2021, but you were unable to provide the details of who had given you permission.*
- 3. In your application to re-join the England Ophthalmic Performers List on 11 October 2019 2023, you did not declare your previous fitness to practise history, including that:*
 - a. you had been removed from the England Ophthalmic Performers List in November 2019;*
 - b. you had been subject to suspension by a Committee of the Council in October 2019;*
 - c. you had been subject of an investigation by the Council which included an adverse finding;*
 - d. you had been the subject of an investigation in relation to your previous employment which included an adverse finding.*
- 4. Your conduct at paragraphs 1, 2 and/or 3 above:*
 - a. was dishonest; and/or*
 - b. lacked integrity.*

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

DETERMINATION

24. The Registrant was not present or represented and made no admissions.

Background to the Allegations

25. The Registrant has been registered with the General Optical Council (the Council) since 17 April 2007. Any optometrist providing eyecare services for the NHS is required to be registered on the Ophthalmic Performers List ("OPL"). The Registrant had previously been included on the Performers List.

26. In 2019 a Committee of the Council found that the Registrant had attempted and/or had taken items from a shop without offering payment. On 29 October 2019 that Committee imposed a six-month Suspension Order on her registration. Consequently, the Registrant was removed from the Performers List on 26 November 2019 under section 14(1)(d) of the National Health Service (Performers Lists) (England) Regulations 2013.

27. At a substantive review hearing on 22 April 2020, the Council found that the Registrant's fitness to practice continued to be impaired and allowed the Registrant to resume unrestricted practice.

28. On 11 October 2023, the Registrant applied to rejoin the Performers List. The application was processed by the Professional Standards Team at NHS England. Ms A, a professional standards manager at NHS England, oversaw the Registrant's application.

29. As records showed that the Registrant had been removed from the Performers List in 2019, concerns were raised in relation to answers given by the Registrant in sections of the application form related to her regulatory history and declarations. The Professional Standards Team at NHS England checked the Registrant's regulatory history with the Council in order to consider the application.

30. The Council informed NHS England that the Registrant had been suspended for six months on 29 October 2019. This was the reason for the Registrant's removal from the Performers List in November 2019.

31. The Registrant's application was classified by NHS England as an application 'of note' and she was asked to attend an interview referred to as a '*structured conversation*'. This interview was conducted on 7 November 2023 by Ms B (a clinical adviser to NHS England) and Ms A. Notes from the structured conversation suggest that the Registrant described IT issues affecting the application process:

"When asked about why she had answered "no" to the questions about suspension etc she replied that she had tried to answer "yes" but when she did so, the PCSE online system would not allow her to submit any evidence. The applicant tried to communicate with PCSE about this but without success. She thus concluded that the best way was to put "no" so the application could be submitted and spoken about at a later date."

32. NHS England was concerned that the Registrant appeared to have worked for the NHS without being on the Performers List for over two years. The Registrant acknowledged that she had undertaken NHS work at Boots. A summary of the Registrant's account was recorded in Ms B's note of the structured interview:

“January 2021, she wanted to return to optical work. She reports that she spoke to someone from [redacted] Primary Care who said that it was OK for her to begin optical work again. The applicant is not clear who she spoke to or where, but it was face to face.

She then went to work at Boots in [redacted] doing GOS work and signing the GOS forms without any issues being raised, although she was not on the Performers List. She undertook GOS work at other practices until August 2023 when she went to work at Specsavers in [redacted]. They did the required pre-employment checks and found that she was not on the Performers List. At this point the new application for the Performers List, via PCSE was made.”

33. In a witness statement dated 3 January 2025, Ms C, a Senior Professional Services Officer at Boots, said that the Registrant was a contracted locum Optician at Boots Opticians in [redacted] from January 2022 to August 2023.
34. On 4 January 2024, the Registrant attended a hearing conducted by the Performers List Decision Panel (PLDP). At the conclusion of the hearing a decision was taken to refuse her application to rejoin the Performers List.

Analysis of evidence and findings of facts

35. This Committee was provided with relevant documents including the review decision of the Council’s Fitness to Practise Committee in April 2020, a note of the Registrant’s interview by NHS England in November 2023, clinical records of patients she attended to, correspondence to and from the Registrant and a referral to Council from NHS England in January 2024.
36. Witness statements were taken by the Council from Ms A in April 2024, Ms B in June 2024 and Ms C in January 2025 and included in the bundle of evidence provided to the Committee.
37. The Committee heard oral evidence from Ms C and Ms A. Both confirmed their witness statements and answered questions from counsel for the Council, Ms Adeyemi, and Committee members.
38. The Registrant did not participate in the hearing or give evidence. However, the Committee was provided with her account of events given to the PLDP.

Submissions

39. Ms Adeyemi reminded the Committee of evidence indicating that the Registrant had worked for the NHS without being on the Performers List, including the note of the Registrant’s interview with NHS England and screenshots of her application to be on the Performers List.
40. On behalf of the Council, Ms Adeyemi submitted that the evidence adduced by the Council supports the Allegation. Taking account of principles in *Ivey [2017] UKSC 67*, Ms Adeyemi invited the Committee to find that the Registrant’s actions were more likely than not to have been dishonest by the standards of ordinary decent people.
41. The Registrant put the Council to proof, by making no admissions. There were no formal submissions from the Registrant.

Legal Advice

42. The Legal Adviser said that, at this stage the Committee is required to determine whether any of the allegations have been proved. The burden of proving disputed facts is on the Council. The Registrant does not need to disprove anything in the Allegation. The standard of proof required is the civil standard, or balance of probabilities.
43. In relation to dishonesty the Committee should refer to the test in *Ivey* from the Supreme Court cited by Ms Adeyemi in her written submissions. The Committee must first ascertain the Registrant's actual, genuine beliefs as a matter of evidence and then ask itself whether, given those beliefs, her conduct was objectively honest or dishonest.
44. In relation to each allegation of dishonesty, the Committee should provide clear reasons for its decision. The Committee should also consider the possibility of carelessness and provide a clear explanation if it concludes that what was inherently improbable has been established: *McLennan v GMC [2020] CSIH 12*.
45. Other decisions, such as that from the PLDP may be relied on as evidence of general background and context, but should not be relied on as evidence to support a finding of fact where the decision is on the same disputed issues as this Allegation: *Bux v GMC [2021] EWHC 762*, *Towuaghantse v GMC [2021] EWHC 681*, *Squier v GMC [2015] EWHC 299*.
46. In *Enemuwe v NMC [2013] EWHC 2081* an appeal was allowed as there 'must be a risk' that the panel was influenced, 'even if only peripherally' by its knowledge that all the allegations had earlier been upheld. The panel should have declined to admit any evidence of the outcome of earlier investigation.
47. The Committee should consider all the oral evidence heard, in the context of documentary evidence. The Committee should analyse the evidence fairly and impartially, taking account of any gaps or apparent contradictions.
48. The Committee must reach a conclusion on each paragraph (particular) separately, but it is entitled, in determining whether a paragraph is proved, to have regard to relevant evidence in relation to any other paragraph. It may consider the evidence in the round. The Committee must be satisfied that each element of an allegation has been made out before finding a specific allegation proved.
49. Ms Adeyemi observed that the Registrant was not entitled to a good character direction; the Legal Adviser agreed. Ms Adeyemi also submitted that the Committee could reach the same conclusion as the PLDP but accepted that it should conduct its own analysis of the evidence to make findings of fact.
50. There was no other comment on the legal advice, which was given in open session. The Committee accepted the legal advice.

Particular 1

51. The Committee inferred that the Registrant had not been on the Performers List between January 2021 and August 2023 because she had been removed from it in November 2019 and there was no evidence that she had applied to rejoin the Performers List until October 2023 (when the application was not granted). The Committee was aware that a suspended optometrist is not entitled to be on the Performers List.

52. A summary of the Registrant's account of relevant events was recorded in Ms B's note of the structured conversation on 7 November 2023. Although this appeared to be a contemporaneous note, it was not signed by the Registrant.
53. It was not clear what each person had actually said during the structured conversation, as the note merge conversations with the background to the investigation and contribution participants. The Committee was unable to discern whether the note reflected a consensus or a majority view and was unable to tell if there was any expression of dissent. However, Ms A confirmed the accuracy of the record when asked questions and the Committee gave the note some weight.
54. In the record of the structured conversation, Ms B wrote:
- 'The applicant is not clear who she spoke to or where, but it was face to face. She then went to work at Boots in [redacted] doing GOS work and signing the GOS forms without any issues being raised, although she was not on the Performers List. She undertook GOS work at other practices until August 2023 when she went to work at Specsavers in [redacted]. They did the required pre-employment checks and found that she was not on the Performers List. At this point the new application for the Performers List, via PCSE was made.'*
55. Ms B's note indicated that the Registrant sought to explain why she had been practising as an optometrist. There was no evidence that the Registrant denied working as an optometrist for NHS patients at relevant times.
56. In oral evidence, Ms C estimated that about 60% of Boots' work was for the NHS. The Committee took account of this estimate as supporting the allegation that the Registrant had done some NHS work at relevant times. In oral evidence Ms C said that receptionists had marked appointments as 'NHS' to indicate National Health Service work, as opposed to private work and can be seen on the clinical records.
57. The Registrant's contract referred to NHS work. As clinical records corroborated the allegation that the Registrant had seen NHS patients at a time when she was not on the Performers list and Ms A confirmed the accuracy of the record of interview, the Committee considered that it was more likely than not that the Registrant had undertaken NHS ophthalmic services without being listed on the OPL between January 2021 and August 2023.
58. The Committee found particular 1 proved.

Particular 2

59. Particular 2 was supported by the Registrant's answers noted by NHS England on 7 November 2023. The Committee gave weight to Ms B's record of '*structured conversation*' as well as the lack of any evidence to indicate that the Registrant had disputed the record or sought to correct it, if she had received a copy.
60. Ms B's record of structured conversation recorded that the Registrant had said on 7 November 2023 that she had '*wanted to return to optical work*' and '*spoke to someone from [redacted] Primary Care who said that it was OK for her to begin optical work again. The applicant is not clear who she spoke to or where, but it was face to face.*'
61. This unchallenged record was given weight by the Committee.

62. The Committee considered it to be more likely than not that, on 7 November 2023, the Registrant had said she had been given permission to undertake NHS Ophthalmic services by a person at [redacted] Primary Care in January 2021 without being able to provide any details of who had purportedly given this permission.
63. The Committee found particular 2 proved.

Particular 3

64. The Committee was provided with the Registrant's application form to rejoin the Performers List on 11 October 2023. In a section on *Professional Details*, in answer to the question '*HAVE YOU EVER BEEN REMOVED, OR ARE YOU CURRENTLY SUSPENDED FROM, OR HAVE YOU BEEN REFUSED INCLUSION IN OR INCLUDED SUBJECT TO CONDITIONS IN ANY LIST?*' the Registrant selected 'No'.
65. However, the Registrant was suspended from the Performers List in November 2019, so the answer 'No' is incorrect. On this basis, the Committee found particular 3a proved.
66. In the same section, the Registrant selected 'No' in answer to the question '*Have you at any time during your career been subject to sanctions, conditions or suspensions imposed by your regulatory body, employer or other NHS body?*'
67. However, the Registrant was suspended by the Council for six months in October 2019, so the answer 'No' is incorrect. On this basis, the Committee found particular 3b proved.
68. In a final section headed *Declarations* on the application form, the Registrant answered 'No' to the question, '*Have you ever been the subject of any investigation by any regulatory or other body which included an No adverse finding?*' However, the Registrant was investigated by the Council in relation to an allegation of theft in 2019, so the answer 'No' is incorrect. On this basis, the Committee found particular 3c proved.
69. As the Council did not adduce direct evidence in relation to any investigation by the Registrant's previous employer/s, or adverse findings by former employers, the Committee considered that the Council had not discharged the burden on it to prove particular 3d.
70. Therefore, the Committee found particular 3d not proved.
71. In relation to particular 3a, b and c, the Committee found that the Registrant had not declared her previous fitness to practise history, in her application to re-join the England Ophthalmic Performers List on 11 October 2023. This is because relevant details relating to her investigation and suspension by the Council and removal from the Performers List were omitted when they should have been disclosed to NHS England.
72. The Committee found particular 3a, b and c proved but not particular 3d.

Particular 4

73. In relation to particulars 1 and 2, the Committee took account of evidence from Ms A that the Registrant appeared to be confused about different organisations. The Committee inferred from communications in the evidence bundle that the Registrant did not speak English as a first language, potentially compounding any difficulties the Registrant may have had in dealing with various regulatory organisations with similar or overlapping functions.
74. The Committee considered whether the facts found proved at particulars 1 and 2 amounted to dishonest conduct as alleged at particular 4(a) or whether it demonstrated a lack of integrity as alleged at particular 4(b). In doing so the Committee took account of information provided to NHS England by the Registrant, included in the bundle of evidence to the Committee:

'On 22nd December 2020, I was informed that due to an IT issue, my Performer record was not linked to my email address and it was necessary to merge my account to the email. {See evidence 3}.

[AH] wrote;

'I have now forwarded your details to our IT department as your Performer record is not linked to your email address and we need to merge your account to the email. Please could you email me as soon as possible your store TP code so I can assign you to a store once merged to populate your account. Once this is actioned I will be in contact.'

Following this, on the 13th January 2021, I provided a TP code (TP75N) from one of the practices I had been working at regularly in order that I could get access to PCSE ONLINE. I did not have access to the PCSE account until the 7th January 2022, but despite my efforts, I did enquire to rejoin the ophthalmic list since the 31st July 2020.

I tried several times by telephone and email to get any answer from the PCSE in order to rejoin PCSE and get my online registration

As I did not hear from PCSE (which I assumed was due to the global pandemic), on the 19th May 2021 I decided to visit 'Primary care in [redacted]' and I spoke to [TT] with who I had email communication (please see email 20th May 2021. Once again, as the situation was still unresolved, on the 1st June 2021 I contacted [TT] regarding the online application which I had submitted during December 2020, and she mentioned that the matter had been escalated she on the 20th May 2021 and again on 1st June 2021 on my behalf.

On 7th January 2022 I was allocated the PCSE Online role of 'GOS Claim Manager at TP614 Boots Opticians [redacted].

PCSE Wrote:

'Subject: PCSE Online Role Allocation CRM:00002463735

Dear Francisca Gracia-Ruiz,

You have been allocated the PCSE Online role of GOS Performer at TP614 - Boots Opticians [redacted].'

Since receiving the email on 7th January 2022, my understanding was that I had been reinstated as an ophthalmic performer and was able to resume

undertaking NHS work. However, during August 2023 -September 2023 I was locuming at a practice and they were unable find my registration online.'

75. The Committee considered that the following words had scope to cause confusion, even to an experienced optometrist, taking account of the impact of the Covid-19 pandemic on health services and the Registrant's use of English as an additional language: *'You have been allocated the PCSE Online role of GOS Performer at TP614 - Boots Opticians [redacted]'*
76. The Committee also considered the test in *Ivey 2017*. As the Registrant had not given evidence or been questioned, it was difficult to ascertain her state of mind, so the Committee was obliged to rely on inference from known facts. In all the circumstances, the Committee considered that the Registrant's actions as described in particulars 1 and 2 may have stemmed from a lack of due diligence, as opposed to dishonesty.
77. The Committee did not consider that the Council had discharged the burden on it to prove dishonesty in relation to undertaking NHS work without being on the Performers List or asserting that the Registrant had spoken to someone at [redacted] Primary Care in January 2021, without being able to give details of that person. There was scope for confusion in relation to both, but the Registrant should have made a greater effort to comply with applicable rules.
78. Therefore, the Committee found as fact that the Registrant's conduct in particulars 1 and 2 was not dishonest but found that lacked integrity as the Registrant had an obligation not to work for the NHS unless (until) she was (back) on the Performers List and to ensure that she provided full details of anyone who purported to give 'permission' to undertake ophthalmic services for the NHS when asked on 7 November 2023.
79. The Committee found particular 4b (lack of integrity) proved in relation to particulars 1 and 2. The Committee found particular 4a (dishonesty) not proved in relation to particulars 1 and 2.
80. In relation to particular 4b (lack of integrity), the Committee considered that optometrists and other health professionals have a duty to provide accurate answers to NHS England in any application to be on a Performers List. This is because their answers are directly relevant to public protection and all professionals have a duty to show integrity and to be honest, to justify public trust in them, the regulatory system and their profession.
81. The Committee found it was incumbent on the Registrant to give full information and honest answers in her application to rejoin the Performers List on 11 October 2023. It was not implied or asserted that the Registrant would have overlooked the Council's investigation or suspension, nor removal from the Performers List. Any dates forgotten could be ascertained and provided on the form or in a separate email. If the Registrant had IT issues, she should have sought to resolve them, rather than giving inaccurate or incomplete answers in a formal declaration.
82. The Committee determined that the Registrant knew that she had previously been removed from the OPL as she applied to and in doing so she knowingly provided false information. The Committee found that the questions asked were explicit and that the Registrant intentionally gave incorrect answers. The Registrant had an opportunity to explain her answers and/or provide further information when completing the application form or by email. The Committee found particular 4a

(dishonesty) proved in relation to particulars 3a, b and c (but not in relation to 3d as this was not proved).

Misconduct

Submissions on behalf of the Council on Misconduct

83. Ms Adeyemi submitted that the facts found proved amounted to (serious) misconduct, under section 13D (2) of the Opticians Act 1989, and that current fitness to practise is impaired by reason of that misconduct.

84. In a written skeleton argument, Ms Adeyemi relied on principles in judgments:

Roylance v GMC [2000] 1 AC 311 said that: ‘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.’

Calhaem v GMC [2007] EWHC 2606 said that misconduct ‘connotes a serious breach which indicates that the [Registrant’s] fitness to practise is impaired.’

85. Ms Adeyemi also said that, in determining misconduct, the Committee should have regard to the Council’s *Standards of Practice for Optometrists and Dispensing Opticians 2016*. She submitted that the following standards were breached:

- *Standard 6*: Recognise, and work within, your limits of competence.
- *Standard 6.3*: Ensure that you have the required qualifications relevant to your practice.
- *Standard 6.4*: Understand and comply with the requirements of registration with the General Optical Council and the legal obligations of undertaking any functions restricted by law, EG sight testing / supply of appliances.
- *Standard 16*: Be honest and trustworthy
- *Standard 16.1*: Act with honesty and integrity to maintain public trust and confidence in your profession.
- *Standard 17*: Do not damage the reputation of your profession through your conduct.
- *Standard 17.1*: Ensure your conduct, whether or not connected to your professional practice, does not damage public confidence in you or your profession.
- *Standard 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.

86. The Registrant had a duty to ensure that she had the required qualifications and permission to undertake work as an optometrist. In undertaking NHS General Ophthalmic Services without being on the Performers List she failed to comply with this duty. The Registrant was also required to act honestly and to avoid any acts that would undermine the reputation of the profession.

87. Ms Adeyemi said that the Registrant had provided false responses in her application to rejoin the Performers List, undertook NHS work when she was not on the Performers List and provided incorrect information about being given

permission to be on the Performers List. Such conduct falls far short of what was expected of her and is a breach of standards 6, 16 and 17.

88. Ms Adeyemi submitted that the Committee should take account of *PSA v HCPC and Ajeneye* [2016] EWHC 1237, where the judge said: *'Deliberate dishonesty must come high on the scale of misconduct.'*
89. Ms Adeyemi added that the Council's position is that the Registrant's dishonest actions were related to clinical practice and would be condemned by health professionals and other members of the public.
90. There were no submissions on behalf of the Registrant.

Legal Advice on Misconduct

91. The Committee has made findings of fact, so must next consider misconduct and then, if misconduct is found, go on to consider impairment of current fitness to practise. Not every case of misconduct results in a finding of impairment: *Cohen v GMC 2008 EWHC 581*.
92. The word misconduct connotes a serious breach indicating that fitness to practise may be impaired. It is important to set the matters complained of in the context of the Registrant's whole practice: *Calhaem v GMC 2007 EWHC 2606*. Misconduct was described as a wrongful or inadequate mode of performance of professional duty in *Mallon v GMC 2007 CSIH 17*.
93. In *Remedy UK v GMC 2010 EWHC 1245* the High Court said that misconduct is of two principal kinds. First, misconduct in the exercise of professional practice. Second, morally culpable or otherwise disgraceful conduct, outside or within practice. Conduct falls into the second category if it attracts some kind of opprobrium.
94. The Committee need not go on to consider the issue of impairment, if it determines that the facts found proved did not amount to serious misconduct.
95. The Court of Appeal said in *Schodlok v GMC [2015] EWCA Civ 769*
'If the Panel decides that the facts do not amount to serious misconduct that would automatically mean that the doctor's fitness to practise is not impaired. However, if the Panel decide that the facts do amount to serious misconduct it has to decide whether that misconduct has the consequence that the doctor's fitness to practise is impaired ... A finding of misconduct should not inevitably lead to a finding of impairment of fitness to practise.'
96. There was no comment on the Legal Advice from Counsel.

Analysis and conclusion of the Committee

97. The Committee took account of all evidence adduced, including submissions by counsel, legal advice and guidance.
98. The Committee was concerned that the Registrant had acted dishonestly when completing her application to rejoin the Performers List in November 2023. Such actions would be condemned by other health professionals as well as members of the public. Dishonesty by an optometrist in the context of their clinical practice would attract opprobrium.
99. Any lack of integrity in relation to professional practice as an optometrist would be of concern to patients, colleagues and other members of the public. The

Committee considered that undertaking NHS General Ophthalmic Services without being listed (as required) on the Performers List would undermine public confidence in the Registrant and the profession.

100. The Committee considered that the Registrant's actions, taken as a whole, amounted to serious misconduct. The Registrant had breached important standards, in paragraph set out below:

Standard 6.4: Understand and comply with the requirements of registration with the General Optical Council and the legal obligations of undertaking any functions restricted by law, EG sight testing / supply of appliances.

Standard 16 Be honest and trustworthy

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

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.

101. The Committee considered that the Registrant's conduct in undertaking NHS General Ophthalmic Services without being on the Performers List was related to the exercise of her professional practice. In addition, the Committee considered that providing untruthful answers in an application to rejoin the Performers List was related to professional practice. Health professionals and other members of the public would condemn the Registrant's dishonesty as morally culpable, on the basis that it would undermine protections designed to ensure that NHS patients were examined and treated by professionals entitled to provide ophthalmic services.

102. The Committee concluded that the facts found proved in relation to particulars 1, 2, 3a, 3b, 3c, 4a and 4b amounted to serious misconduct.

Impairment

Submissions on behalf of the Council on Impairment

103. In relation to current impairment of fitness to practise, Ms Adeyemi said that the Committee should take account of guidance from the Council at paragraphs 16.1-7 of the *Indicative Sanctions Guidance*.
104. On behalf of the Council, Ms Adeyemi submitted that principles in *Grant [2011] EWHC 927* are and relevant to the determination on impairment. Ms Adeyemi submitted that the facts found proved demonstrate repeated dishonesty and a failure to adhere to the obligations required for compliant practice, adding that

such behaviour brings the profession into disrepute and breaches the fundamental tenets of being honest and trustworthy and not damaging the reputation of the profession by reason of misconduct.

105. Ms Adeyemi submitted that the Committee should take account of *Cohen v GMC* [2008] EWHC 581:

'It must be highly relevant in determining if a doctor's fitness to practise is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated.'

106. Ms Adeyemi also referred to *Cheatle v GMC* [2009] EWHC 645 where the judge said: *'There is clear authority that in determining impairment of fitness to practise at the time of the hearing regard must be had to the way the person has acted or failed to act in the past... a Panel could conclude that, looking forward, his or her fitness to practise is not impaired, despite the misconduct.'*

107. Ms Adeyemi relied on *Fopma v GMC* [2018] EWHC 714, which said: *'... a failure to find impairment in any given case, whilst warnings as to future conduct can still be issued, is tantamount to an indication on behalf of the profession that conduct of the kind in question need not have regulatory consequences. If that, depending on the nature of the conduct in question, would itself be an unacceptable conclusion, then that can in any given case be a sufficient basis, in itself, to justify or indeed compel a conclusion of impairment.'*

108. Ms Adeyemi submitted that a finding of impairment is required to protect the public, to uphold professional standards and to maintain public confidence in the profession. The Registrant has not provided evidence of insight into her misconduct, or remediation. Ms Adeyemi indicated that it would undermine trust in the profession if the Committee did not conclude with a finding of current impairment of fitness to practise.

109. Ms Adeyemi focused on limbs b, c and d of Grant on the basis that there was no evidence that the Registrant had placed patients at unwarranted risk of harm, adding that there could be a future risk if the Registrant did not comply with the requisite provisions and guidance.

110. There were no submissions on behalf of the Registrant.

Legal Advice

111. The Legal Adviser reminded the Committee that, at the impairment stage, there is no burden or standard of proof. It is a question of judgment for the Committee. Impairment may be based on historical matters or a continuing situation, but it is to be decided at the time of the hearing. To do this the Committee must look forward, taking account of any reparation or changes in behaviour, conduct or attitude since the relevant time.
112. In determining impairment, the Committee must consider whether or not the Registrant's misconduct indicates any future risk of harm, breach of a fundamental tenet of her profession, bringing optometrists into disrepute or dishonesty: *Grant* [2011] EWHC 927.

113. The need to maintain public confidence in the health professions or declare standards of behaviour may mean that a clinician's fitness to practise is impaired by reason of misconduct. This is because the public simply would not have confidence in her, or in the profession's standards, if the Committee regarded the misconduct in question as leaving fitness to practise unimpaired.
114. A finding of impairment may be necessary, even in the absence of ongoing risk, to reaffirm to the public and optometrists the standard of conduct expected: *Yeong v GMC [2009] EWHC 1923*.
115. Ms Adeyemi made no comment or observations on the Legal Advice.

Analysis and decision

116. The Committee accepted the advice of the Legal Adviser. It took account of all evidence and submissions presented by the Council and information from the Registrant contained in the bundle, as well as legal advice and guidance. The Committee understood that it had to determine whether the Registrant's *current* fitness to practise is impaired, or not.
117. The Committee took account of the Council's *Indicative Sanctions Guidance* (ISG) in relation to impairment and dishonesty in that context:
- 16.1 Relevant factors for the committee to consider when determining impairment include: whether the conduct which led to the allegation is remediable; whether it has been remedied; and whether it is likely to be repeated. Certain types of misconduct (for example, cases involving clinical issues) may be more capable of being remedied than others.
 - 17.1 The GOC's Code of Conduct for individual registrants and Standards document both state that the registrant must "*be honest and trustworthy*". Dishonesty is particularly serious as it may undermine confidence in the profession...
 - 17.8 The Committee 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.*'
118. The Committee was aware of the fact that there were no concerns in relation to the Registrant's clinical practice.
119. However, the Committee was concerned about the Registrant having been in practice without being on the Performers List for over two years. The Committee was *concerned* by the Registrant having given dishonest answers in a formal application to rejoin the Performers List.
120. The Committee considered principles in *Grant* which set out the appropriate test for panels considering impairment of fitness to practise. The questions are:
- 'Do our findings of fact in respect of [the Registrant's] misconduct... show that [her] fitness to practise is impaired in the sense that [she]:*
- 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.'*

121. The Committee took account of the factors identified by the High Court in Grant as relevant; the value of this test is threefold:

'It identifies the various types of activity which will arise for consideration in any case where fitness to practise is in issue; it requires an examination of both the past and the future; and it distils and reflects, for ease of application, the principles of interpretation which appear in the authorities.'

122. The Committee had no evidence that the Registrant had put patients at risk of harm, but she had brought the profession of optometry into disrepute by her dishonesty in relation to the application to rejoin the Performers List. This breached a fundamental tenet of optometry and undermined public trust.

123. The Committee considered dishonesty to be inherently difficult to remediate, particularly when it has been repeated. Although ethics and probity courses are useful and may trigger or enhance the development of insight, these would not be sufficient (without more) to demonstrate a change in attitude or behaviour.

124. The Committee considered that the Registrant's misconduct was likely to have been motivated by a desire to remain in practice. It was unclear how aware she was of potential consequences for patients, who trusted her to act professionally. If an optometrist gives incorrect information to NHS England when applying to rejoin the Performers List, this could leave patients without the requisite protections and undermine confidence in the profession.

125. The Committee determined that although the Registrant's conduct, including lack of integrity and dishonesty, may be remediable, she did not provide the Committee with written evidence of remorse. The Committee was concerned that the Registrant had not demonstrated insight into the catalysts for her actions or potential consequences of dishonesty for patients; her misconduct had undermined public confidence in the profession and the regulatory system.

126. The Registrant did not give evidence or provide written reflections to show any changes in attitude to probity. The Committee was unable to find that future risks had been minimised by way of development or reflection.

127. As the Registrant had provided no evidence of insight or remediation, the Committee identified an ongoing risk of repetition, taking account of the history of dishonesty.

Conclusion

128. The Committee was concerned that the Registrant may be dishonest in future, breach a *fundamental* tenet of the profession and/or bring the profession of optometry into disrepute. The Committee took account of the overarching statutory objective and concluded that a finding of impairment is required in the wider public interest to uphold standards and to maintain confidence in the profession.

129. In all the *circumstances*, the Committee determined that the Registrant's fitness to practise is impaired by reason of misconduct.

Sanction

130. Having determined that the Registrant's fitness to practise is currently impaired by reason of misconduct, the Committee went on to consider whether it was impaired to a degree which required action to be taken in relation to registration.

Submissions on behalf of the Council

131. On behalf of the Council, Ms Adeyemi referred to section 13F(3)(a)-(c) and section 13H of the Act in relation to sanction. Ms Adeyemi said that the Committee should have regard to the principles of proportionality and weigh the interests of the public against those of the Registrant. Public interest considerations include public protection, maintaining confidence in the profession and upholding standards of conduct and behaviour.
132. Ms Adeyemi also referred to the Council's *Indicative Sanctions Guidance (ISG)*. The Committee should consider the range of sanctions in ascending order from least restrictive to most restrictive. Ms Adeyemi submitted that the Committee is entitled to give greater weight to the public interest than to the consequences to the Registrant of a sanction: *Bolton v Law Society* [1994] 2 All ER 486.
133. *Siddiqui v GMC* [2013] EWHC 1083 emphasised the importance of public confidence in professionals: '*...the effect of dishonesty by professionals as far as confidence in the public is concerned... is a primary consideration for a Fitness to Practice panel*'. *PSA v NMC* [2015] EWHC 1887 said that: '*The overriding factor... was the public interest in maintaining the reputation of the profession. The [NMC] and the public are entitled to the highest standards of honesty and integrity from the Registrants...*'
134. In *Parkinson v NMC* [2010] EWHC 1898 the judge said: '*A nurse who has acted dishonestly, who does not appear before the panel either personally or by solicitor or counsel to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, effectively forfeits the small chance of persuading the panel to adopt a lenient or merciful outcome and to suspend for a period rather than to direct erasure.*'
135. However, in *Lusinga v NMC* [2017] EWHC 1458, the High Court said that there was a scale of dishonesty, ranging from the more serious forms of dishonesty involving fraud and financial gain, to less serious forms which '*merely undermine*' trust to a greater or lesser extent rather than '*destroying trust instantly*'. In other words, care must be taken to consider where on a properly nuanced scale of dishonesty the misconduct falls.
136. Ms Adeyemi also submitted that paragraph 22.4 of the ISG is relevant: '*There is no blanket rule or presumption that erasure is the appropriate sanction in all cases of dishonesty. The Committee must balance all the relevant issues in a proportionate manner whilst putting proper emphasis on the effect a finding of dishonesty has on public confidence in the profession.*'
137. In considering what sanction, if any, to impose the Committee should consider any mitigating and aggravating factors. Ms Adeyemi only identified aggravating factors in this case:

- The dishonest conduct was repeated.
- The misconduct related to the Registrant's professional obligations.
- The Registrant has previously been found to be dishonest by her regulator.
- There was no evidence of remorse, insight or reflection from the Registrant.

138. Ms Adeyemi submitted that conditions would not be appropriate to deal with the concerns identified by the hearing. In addition, Ms Adeyemi argued that there are deep-rooted attitudinal issues, taking account of the previous instance of dishonest misconduct, albeit not in a clinical context.

139. On behalf of the Council, Ms Adeyemi invited the Committee to erase the name of the Registrant from the Register of Optometrists. This is the only sanction that would uphold standards and maintain confidence in the profession.

140. There were no submissions on behalf of the Registrant.

Legal Advice

141. The Legal Adviser said that, at the Sanction stage of proceedings, there is no burden or standard of proof and the decision on sanction is a matter for the Committee's judgement alone.

142. *Raschid v GMC* [2007] 1 WLR 1915 indicates that the Committee is mainly concerned with the reputation of the profession, despite the fact that sanctions may have a punitive effect. *Bijl v GMC* [2001] UKPC 42 said that a Committee should not be obliged to erase an otherwise competent and useful healthcare professional who presents no danger to the public.

143. The ISG is intended to be flexible and is not specific or comprehensive in describing all circumstances. Although a Committee need not adhere to the ISG, it should have proper regard to it and explain any deviation: *Bramhall v GMC* [2021] EWHC 2109.

144. *Sawati v GMC* [2022] EWHC 283 reminds Committees that erasure for dishonesty is not automatic. The nature and extent of dishonest actions must be evaluated. There is a spectrum of dishonest actions.

145. In deciding what sanction, if any, to impose the Committee should consider the available options starting with the least restrictive. It should also take account of the principle of proportionality and the need to weigh the interests of the public against those of the Registrant.

146. The Committee should consider evidence of apology, remorse, insight and remediation, including the Registrant's witness statement and CPD. Account should be taken of submissions from counsel, previous evidence and findings by the Committee.

The Committee's decision on sanction

147. The Committee accepted legal advice and took account of the ISG which confirms that options are to be considered in ascending order of restrictiveness. The Committee accepted that the purpose of a sanction was not to be punitive, but to protect members of the public; also that the wider public interest includes

declaring and upholding professional standards and maintaining public confidence in both the profession and the regulatory process.

148. In reaching a decision on sanction, the Committee took account of all evidence and submissions from counsel, decisions at earlier stages of this hearing, the *ISG* and relevant law.
149. The Committee considered and balanced the aggravating and mitigating factors identified in this case.

Aggravating and mitigating factors

150. The Committee considered paragraph 14.3 of the *ISG* and identified the following aggravating factors:
- The Registrant gained from paid employment for over two years without being on the Performers List.
 - The Registrant had previously been found to have been dishonest by her regulator.
 - The dishonest conduct was repeated, in that the Registrant gave incorrect answers to several questions when applying to rejoin the Performers List.
 - The Registrant's misconduct, including lack of probity, related to her professional practice.
 - The Registrant did not provide evidence of reflection, apology, remorse, insight or remediation.
151. The Committee identified the duration of the Registrant's misconduct, repetition of dishonesty and lack of insight as the most serious aggravating factors.
152. The Committee considered that the Registrant's confusion about different organisations and speaking English as an additional language were potentially mitigating factors in relation to the facts found proved. However, these were given very little weight in relation to the dishonesty matters because the Committee found that the Registrant had deliberately given false information in her application to rejoin the Performers List.
153. Another potentially mitigating factor identified by the Committee was lapse of time since the Registrant's misconduct, with no evidence of further breach of the Standards or other issues. However, the Committee was unable to attach much weight to this in the absence of evidence of insight, remediation or change.
154. The Committee sought to adopt a proportionate approach, balancing mitigating with aggravating factors. After weighing the aggravating and mitigating factors discussed above, the Committee considered each option / sanction in ascending order of severity, starting with the least restrictive outcome.

No further action

155. The Committee considered whether to conclude the case by taking no further action. Taking no action after a finding of impaired fitness to practise is appropriate only in exceptional circumstances. The Committee determined that there are no exceptional circumstances that would justify taking no further action. To take no action would not be proportionate or in the public interest, given the seriousness of the Registrant's dishonest misconduct.

156. No further action would not uphold standards or maintain public confidence in the profession. The Committee found that a sanction was required.

Conditional Registration Order

157. The Committee next considered whether to impose conditions of practice for up to three years on the Registrant. Any conditions would have to be appropriate and workable.

158. The Committee took account of paragraph 21.25 of the ISG:

21.25 Conditional registration may be appropriate when most, or all, of the following factors are apparent (this list is not exhaustive):

a. No evidence of harmful deep-seated personality or attitudinal problems...

g. It is possible to formulate appropriate and practical conditions to impose on registration and make provision as to how conditions will be monitored.

159. The Committee considered that the dishonest actions of the Registrant may indicate attitudinal problems, but there was no evidence that the Registrant was incapable of change or remediating her approach to making declarations.

160. The Committee was not presented with any proposed conditions by Counsel or the Registrant, so did not consider any conditions to be workable or appropriate.

161. In any event, the Committee concluded that imposing a Conditional Registration Order on the Registrant would not be sufficient to uphold standards or maintain public confidence in the profession of optometry, taking account of the seriousness of the misconduct and lack of evidence of insight or remediation.

Suspension Order

162. The Committee next considered whether to suspend the Registrant from practice for up to twelve months. Suspension can have a deterrent effect, and it would send a signal to the Registrant, the profession, and the public as to the standards expected of registered optometrists.

163. A Suspension Order with a review may be most appropriate where there is an acknowledgement of fault and the Committee is satisfied that the misconduct is unlikely to be repeated. It would protect the public during the suspension and give the Registrant time to develop insight and to remediate, before any review.

164. The Committee took account of relevant criteria in paragraph 21.29 of the ISG:

21.29 This sanction [Suspension] 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 ...

165. The Registrant's misconduct breached several professional standards, and the Committee did not consider that a sanction less restrictive than a suspension order would be sufficient to maintain confidence in the profession.
166. The Committee has already identified a risk of repetition of misconduct, due to the lack of evidence of insight or remediation. The Committee was not satisfied that the Registrant has insight and could not conclude that the Registrant does not pose a risk of repeating her misconduct, without developing insight or taking steps to remediate.
167. The Registrant did not attend this hearing or provide any evidence or submissions. It would be speculative to conclude that the Registrant had deep seated personality or attitudinal problems, in view of the lack of evidence of the Registrant's current situation or response to these proceedings.
168. These allegations stemmed from the Registrant's work while not on the Performers List and dishonesty when applying to rejoin that list. The Committee did not consider the Registrant's dishonesty to be on the lesser end of a spectrum of dishonesty because it was repeated, but nor was it on the most serious end of a spectrum of dishonesty.
169. In all the circumstances, the Committee did not consider the Registrant's behaviour to be fundamentally incompatible with being a registered professional. The Committee was aware that there is a public interest in facilitating the safe and appropriate return to practice of an otherwise competent health professional.
170. The ISG says that there is no presumption that erasure is the appropriate sanction in all cases of dishonesty, although a failure to impose any sanction for dishonesty may be found to be unreasonable due to the importance of maintaining public confidence in the profession: *PSA v GMC [2019] EWHC 1638*.
171. A suspension with a review would mark the seriousness of the dishonest misconduct and allow the Registrant time to reflect, develop insight into the reasons for her actions and their potential consequences for patients, colleagues and public trust in the profession.
172. In determining the length of a suspension, the Committee took account of the seriousness of the Registrant's misconduct and considered that the maximum length was required in this case, to allow sufficient time to reflect, participate in relevant courses and obtain any relevant testimonials to demonstrate changes in attitude and conduct.
173. A Review Committee would be assisted by the following:
- Oral and/or written evidence from the Registrant, including a reflective statement to demonstrate engagement, remorse, insight and remediation
 - Evidence of continuing professional development, focused on probity and keeping the Registrant's knowledge up to date.
174. Before concluding its deliberations, the Committee considered whether erasure was required to uphold standards and maintain public confidence in the profession.
175. The Committee took account of relevant sections of the ISG, including particulars 14.3 14.5, 21.35 and 21.37 of the ISG:

14.3 Previous finding by Council or another regulator

14.5 If a registrant's conduct shows they are fundamentally unsuited for registration as a healthcare professional, no amount of remorse or apology, or indeed positive personal qualities in other respects, can mitigate the seriousness of that conclusion and its impact on registration.

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...

f. Dishonesty (especially where persistent and covered up).

21.37 Erasure from the register is appropriate if it is the only means of protecting patients and/or maintaining public confidence in the optical profession.'

176. The Committee considered that the Registrant's behaviour was very serious but did not conclude that her misconduct is fundamentally incompatible with continued registration. Although the Registrant's dishonesty was repeated, the most recent instance was not sustained over time. Completing an application form with false information would have taken a few minutes, so although several incorrect answers were given, the Registrant's actions took place in relation to one form.

177. The Committee took account of the grave financial and reputational impact of erasure (and suspension) on registrants. In all the circumstances, the Committee concluded that a sanction of erasure is not necessary in the public interest.

178. A Suspension with a review is the least restrictive sanction required to protect the public interest. A 12-month Suspension Order is the appropriate, proportionate and necessary sanction. The Committee decided that erasure of the Registrant's name from the register of optometrists would be unnecessary and disproportionate. This is because erasure is not the only means of maintaining public confidence in the optical profession; there was no evidence of harm to any patients from the Registrant.

179. A 12-month Suspension Order with a Review is sufficient and necessary to protect patients, promote and maintain public confidence in the profession of optometry, and to uphold proper professional standards and conduct for members of the profession.

Decision on the Council's Application for an Immediate Order

180. Having determined to suspend the Registrant's name from the register of optometrists, the Committee has considered if her registration should be subject to an immediate order, in accordance with section 131 of the Opticians Act 1989 and paragraph 23 of the ISG.

Submissions

181. Ms Adeyemi applied for an immediate order of suspension due to the risk of repetition and to be consistent with the Committee's substantive determination.

Legal Advice

182. The Committee may impose an immediate order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the Registrant; the standard is necessity. An immediate order might be particularly appropriate in cases where the Registrant poses a risk to patient safety.
183. Immediate action may also be taken to protect public confidence in the profession. In relation to the wider public interest, the bar is high, close to necessity.

Decision of the Committee

184. The Committee took account of relevant paragraphs of the ISG. In particular, it considered paragraph 23:

'23.3 If the Committee has made a direction for (suspension or) erasure, it should consider whether there are reasons for ordering immediate suspension. Before doing so, the Committee must be satisfied that to do so is necessary for the protection of members of the public, otherwise in the public interest or in the best interests of the Registrant.'

23.4 If the Committee thinks there may be grounds for immediate conditions or suspension, it must inform the Registrant of these concerns and invite representations on this issue from both the Presenting Officer and the Registrant's representative. The Committee must then decide whether to impose an Immediate Order and give reasons.

23.5 The Committee must always make clear in its determination that it has considered whether to make an Immediate Order and explain the factors considered, even if it decides that an Immediate Order is not necessary.'

185. The Committee, having heard and accepted the advice of the Legal Adviser, decided to impose an immediate order. In view of its findings that a suspension order was required to maintain public confidence in the profession and to uphold standards, the Committee considered that an immediate order was necessary to in the public interest.
186. The direction to suspend the Registrant's name from the register of optometrists will take effect 28 days from when notice is deemed to have been served on her, unless she lodges an appeal in the interim. A notice explaining her right of appeal will be sent to her. 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.

Revocation of Interim Order

187. The Committee hereby revokes the interim order of suspension that was imposed on 27 March 2024.



Chair of the Committee: Remi Alabi

A handwritten signature in black ink, appearing to read 'Remi Alabi', with a stylized flourish at the end.

Signature

Date: 6 February 2026

Registrant: Francisca Gracia Ruiz

Signature *not present and received via email*

Date: 6 February 2026



| FURTHER INFORMATION |
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| 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 |
| <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 www.professionalstandards.org.uk or by telephone on 020 7389 8030.</p> |
| 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 Level 29, One Canada Square, London, E14 5AA or by telephone, on 020 7580 3898. |