

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

GENERAL OPTICAL COUNCIL

F(25)32

AND

PAUL BRINNEN - (D-33549)

**DETERMINATION OF A SUBSTANTIVE HEARING
AGREED PANEL DISPOSAL (APD)
5 FEBRUARY 2026**

Committee Members:	Louise Fox (Chair/Lay) Ann McKechin (Lay) Ben Summerskill (Lay) Sarah Baylay (Dispensing Optician) Gillian Perry (Dispensing Optician)
Legal adviser:	Clare Bunting
GOC Presenting Officer:	Neel Rokad
Registrant:	Present
Registrant representative:	John Graham (Castara Law)
Hearings Officer:	Anwar Henry
Facts found proved:	Particulars 1, 2, 3, 4 and 5
Facts not found proved:	None
Misconduct:	Found
Impairment:	Impaired
Sanction:	Suspension Order for a period of 12 months – With Review
Immediate order:	Yes

ALLEGATION

The Council alleges that you, Paul Brinnen (D-33549), a registered Dispensing Optician, whilst working at Specsavers, [redacted]:

1) Processed the following refunds onto a Mastercard ending in [redacted]:

- a. £268, on or around 27 June 2023.*
- b. £229, on or around 29 July 2023.*
- c. £259, on or around 23 December 2023.*

2) Processed the following refunds onto a Mastercard ending in [redacted]:

- a. £323, on or around 12 June 2023.*
- b. £253, on or around 22 December 2023.*

3) On or around 30 August 2023, dispensed two pairs of glasses (frames and coatings) valued at £412 to [redacted], Ms A, using a two for one discount bringing the total down to £0, without director authorisation.

4) Your actions as set out at 1 and/or 2 above were dishonest, in that you:

- a. knew that you were processing refunds onto cards belonging to you and/or [redacted], Ms B;*
- b. knew or ought to have known that you were not entitled to the money from these transactions.*

5) Your actions as set out at 3 above were dishonest in that you knew or ought to have known that you were not entitled to authorising this dispense at no cost.

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

Preliminary Matters

Privacy

1. The Committee was aware of the references to *[redacted]* within the documentation. The Chair proposed that should the Committee or parties refer to this during the hearing this should be in private *[redacted]*. This stance was supported by Mr Rokad and Mr Graham.
2. 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 *[redacted]*.
3. 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 *[redacted]*.

AGREED PANEL DISPOSAL AGREEMENT

4. Mr Rokad on behalf of the General Optical Council (GOC) informed the Committee that a provisional agreement of an Agreed Panel Disposal had been reached with regard to this case between the GOC and the Registrant.
5. The agreement, which was put before the Committee within an Agreed Panel Disposal (APD) report finalised on 14 January 2026, sets out the Registrant's full admission to the facts alleged, that the Registrant's actions amounted to misconduct and that the Registrant's fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be suspension for a period of 12 months with an immediate order.
6. The Committee considered the provisional agreement reached by the parties as set out in the APD Report, which is at Annex A of this determination.
7. The Committee clarified with the parties whether they considered a review would be appropriate towards the end of the Suspension Order. It was confirmed that they did consider this to be appropriate.
8. Mr Rokad and Mr Graham also confirmed that the agreement was that the Registrant was impaired on public interest grounds only, not public protection.

DETERMINATION

9. The Committee considered the hearing bundle of 55 pages, the APD Report and the APD Policy. The Committee also considered the two references submitted by the Registrant. The Registrant had admitted the facts of the allegation in their entirety. The

parties had agreed within the APD report that misconduct and current impairment were established and that the case could appropriately be disposed of by a 12-month suspension.

10. The Committee was mindful that the ultimate decision in respect of this matter rests with it and there were a number of options open to it, as set out at paragraph 8.3 of the GOC's APD policy and paragraph 5 of the Agreed Panel Disposal Report. These options included the Committee disagreeing with parts of the report and varying the sanction, after hearing further submissions.

Background to the allegation

11. The Registrant is a General Optical Council (the Council) registered Dispensing Optician who first registered with the General Optical Council as a student Dispensing Optician on 03 October 2017 and as a fully qualified Dispensing Optician on 21 May 2021.

12. The Registrant informed the Council's Registrations Team on 30 January 2024 that he had left Specsavers [redacted] (the Practice) due to theft in the workplace. He requested advice as to the effect this would have on his registration as a Dispensing Optician. He was advised to review the declaration guidance if he felt that his fitness to practise had been affected but no further action was taken.

13. The Council subsequently received a referral from the Ophthalmic Director at the Practice on 18 July 2024 regarding the Registrant having fraudulently processed several refunds onto debit cards belonging to him [redacted].

14. The Council obtained witness statements from [redacted], Retail Director, who conducted the internal investigation and [redacted], Ophthalmic Director, who carried out the disciplinary meeting. A statement was also obtained from [redacted], Financial Risk Support Consultant, regarding how the fraudulent transactions came to light.

15. In essence, in January 2024, the Practice was made aware, by the Specsavers Financial Risk Support Team, of potentially fraudulent refund transactions that had been made to debit/credit cards. Upon further investigation, it was established that the Registrant had processed several refund transactions to cards belonging to him [redacted]. It was further established that he had used a discount to dispense glasses to [redacted], without authorisation to do so.

16. The Registrant made full admissions during the disciplinary meeting and cited personal issues and significant financial strain. He has since re-paid the money in full.

17. The Council's case was served on the Registrant on 30 September 2025.

18. The Registrant has no prior fitness to practise history.

Findings in relation to the facts

19. The Registrant admitted the facts of the Allegation in their entirety. The Committee accepted the advice of the Legal Adviser and found the facts proved by reason of the

Registrant's admissions pursuant to Rule 40(6) of the General Optical Council (Fitness to Practise) Rules 2013 (the Rules).

20. The Committee noted the additional detail provided within the APD at paragraphs 15 – 24 in relation to the factual particulars of the Allegation. The Committee also considered the witness statements of *[redacted]*.

21. The Committee considered whether the conduct was dishonest and accepted the advice of the Legal Adviser who referred them to the case of *Ivey v Genting Casinos (UK) Lys t/a Crockfords [2017] UKSC 67* which states that when making decisions involving alleged dishonesty, the Committee will need to determine whether the Registrant acted as an honest person would have acted in the circumstances. This means asking two questions:

a) What did the Registrant know or believe as to the facts and circumstances in which the alleged dishonesty arose

b) Given the Registrant's knowledge and belief of the circumstances they were in, was the Registrant's conduct dishonest by the standards of an "ordinary decent person".

22. The Committee found that the Registrant was aware that his actions were dishonest as he admitted this to his employer and to the GOC. Consequently, the Committee found that the Registrant was dishonest by the standards of an '*ordinary decent person*'.

Findings in relation to misconduct

23. The Committee considered the written submissions provided on behalf of the Council and the Registrant including the APD Report, and the bundle of agreed evidence. It accepted the advice of the Legal Adviser.

24. The Committee proceeded to consider whether the admitted facts, which were found proved, amounted to misconduct.

25. The Committee was mindful of the overarching objective to protect the public including the public interest and was of the view that the facts found proved were serious, and that the conduct of the Registrant amounted to serious misconduct within the meaning of section 13D(2)(a) of the Act.

26. The Committee agreed with the parties' submission, set out within the APD report, that the Registrant's conduct breached the following paragraphs of the Standards of Practice for Optometrists and Dispensing Opticians (the Standards) effective from April 2016:

'16 Be honest and trustworthy

17 Do not damage the reputation of your profession through your conduct

19 Be candid when things have gone wrong'.

27. The Committee noted that the misconduct amounted to a serious departure from the standards of practice expected of a competent Dispensing Optician. The Committee noted that the dishonesty took place within the Registrant's professional

practice and concluded that the conduct was damaging to the reputation of the profession and had brought it into disrepute. Further, fellow professionals would consider the actions of the Registrant to be deplorable.

28. In the circumstances, the Committee was satisfied that the conduct of the Registrant amounted to professional misconduct, which was serious. Therefore, the Committee determined that the facts found proved, and admitted, amounted to misconduct.

Findings in relation to current impairment

29. The Committee then went on to consider whether the Registrant's fitness to practise is currently impaired by virtue of his misconduct. Whilst acknowledging the agreement between the GOC and the Registrant, the Committee has exercised its own independent judgement in reaching its decision on impairment and accepted advice from the Legal Adviser.

30. The Committee considered whether the Registrant's conduct was capable of being remediated, whether it had been remediated and whether there is a risk of repetition of the conduct in the future. The Committee went on to consider the level of insight and remediation demonstrated by the Registrant. The Committee determined that dishonesty is difficult to remediate. However, it noted that the Registrant repaid the money promptly, admitted to the misconduct at an early stage, and has demonstrated remorse. The Committee considered that due to the insight and remorse demonstrated by the Registrant it was less likely that the conduct would be repeated in the future, although it could not entirely eliminate the risk of repetition.

31. The Committee noted that the Registrant had made admissions and had co-operated with the regulator in these proceedings.

32. The Committee next considered the public interest and had regard to the test that was formulated by Dame Janet Smith in the report to the Fifth Shipman Inquiry, as approved in the case of Grant, which is as follows:

"Do our findings of fact in respect of misconduct... show that his fitness to practise is impaired in the sense that he:

- a. Has in the past acted and/or is liable in the future to so 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 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 tenants of the medical profession and/or;*
- d. Has acted in such a way that his/her integrity can no longer be relied upon.."*

33. The Committee was satisfied that limbs (b)-(d) of this test were engaged in this case. The Committee noted that there were no clinical concerns, and it was not suggested that the Registrant was a risk to the public. The Committee further noted that the Registrant had been open and honest with his next employer regarding the investigation.

34. The Committee had regard to the public interest and considered that the requirement to uphold professional standards and maintain public confidence in the profession would be undermined if no finding of impairment was made. It reached this decision due to the repeated dishonesty, motivated by financial gain, which only stopped when the Registrant was discovered. Honesty and integrity go to the heart of the profession and the upholding of proper standards.

35. Therefore, the Committee found that the fitness of the Registrant to practise as a Dispensing Optician is currently impaired.

Sanction

36. The Committee accepted the advice of the Legal Adviser and was aware that the purpose of sanctions in fitness practise proceedings are as follows:

- a) the protection of the public;
- b) the declaring and upholding of high standards in the profession; and
- c) the maintenance of public confidence in the profession.

37. The Committee was mindful that 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

38. The Committee considered the aggravating and mitigating features present in this case. In the Committee's view, the aggravating factors are as follows:

- a. the nature of the misconduct is serious dishonesty, motivated by financial gain;
- b. the Registrant's conduct was repetitive and occurred over a prolonged period until detected by the Practice.

39. The Committee identified the following mitigating factors:

- a. The Registrant has no fitness to practise history;
- b. The Registrant has engaged and co-operated with the GOC investigation;
- c. The Registrant has shown insight and remorse into his actions;
- d. The Registrant has repaid the money;
- e. The Registrant self-referred to the GOC;
- f. *[redacted]* the money obtained was not used to fund a lavish lifestyle.

The Committee gave weight to these mitigating factors.

40. The Committee considered the sanctions available to it from the least necessary to the most severe (no sanction, financial penalty, conditional registration, suspension, erasure).

41. In relation to taking no action, the Committee was of the view that this was neither proportionate nor sufficient given the seriousness of the misconduct and the public interest concerns. Further, there were no exceptional circumstances to justify taking no action in any event.

42. The Committee considered the issue of a financial penalty order; however, it was of the view that such an order was neither appropriate nor proportionate in the circumstances to uphold standards or maintain confidence in the profession and the regulatory process.

43. The Committee considered the Indicative Sanctions Guidance (ISG) in relation to the imposition of conditions. It was of the view that conditional registration would not be practicable.

44. The Committee was of the view that it would be difficult to formulate appropriate conditions in this case. The Registrant's conduct was attitudinal, and there are no workable conditions that could adequately address the concerns. Further, conditions would not sufficiently mark the seriousness of the misconduct and would not meet the public interest.

45. The Committee concluded that conditions could not be devised which would be appropriate, proportionate, workable or measurable.

46. Next, the Committee considered suspension and had regard to paragraphs 21.29 onwards of the ISG. Given the nature and seriousness of the conduct, the Committee concluded that a suspension would be appropriate and a suitable sanction which would adequately mark the seriousness of the conduct and be sufficient to ensure public confidence in the profession and its regulator is maintained.

47. The Committee considered that a 12-month suspension order was appropriate and proportionate in the circumstances of this case. Any lesser sanction would not be sufficient to mark the gravity of the conduct involving repeated dishonest behaviour over a prolonged period. The Committee balanced the interests of the Registrant with the public interest.

48. The Committee noted paragraph 22.4 of the ISG which states:-

'There is no blanket rule or 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 in light of the importance of maintaining public confidence in the profession'.

49. The Committee went on to consider erasure. In light of the insight and remorse demonstrated and particularly given the repayment of the money involved and the low risk of repetition, it concluded that erasure would be disproportionate in the circumstances of this case. Therefore, the Registrant's conduct is not fundamentally incompatible with registered practise. The Committee considered that, notwithstanding the gravity of the misconduct, the public could benefit from the Registrant's experience and return to practise, and noted he wished to return to practise in the future.

50. The Committee agreed that it would be appropriate to direct a review of the suspension order to ensure that the Registrant is fit to resume practice, either unrestricted or with conditions, and considered that the reviewing committee may be assisted by the following:-

- A reflective statement addressing professional integrity, insight, remorse and remediation, including details of how the Registrant would do things differently [redacted] in the future;
- Evidence of CPD so far as this is practicable;

- Testimonials and references from any paid or unpaid employment.

51. A review hearing will be held between four and six weeks prior to the expiration of this order. The Review Committee will need to be satisfied that the Registrant:

- has fully appreciated the gravity of the misconduct,
- has maintained his skills and knowledge and
- that the Registrant is fit to return to practise.

52. Accordingly, the Committee approved the APD report and made an order in the terms agreed by the parties, namely an order for suspension for a period of 12 months with a review as this marks the seriousness of the misconduct.

Immediate order

53. The Committee considered whether to make an immediate order in this case and had regard to the APD Report in which both parties agreed that an immediate order was warranted in this case.

54. The Committee accepted the advice of the Legal Adviser, which was to consider the statutory test in whether 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.

55. The Committee acknowledged the agreement and decided to impose an immediate order, as it was in the public interest given the seriousness of the misconduct and finding of impairment.

Conclusion

56. For the reasons set out above, the Committee determined to accept the Agreed Panel Disposal as put forward by the parties, without variation.

Chair of the Committee: Louise Fox



Signature

Date: 05 February 2026

Registrant: Paul Brinnen

Signature registrant present and emailed copy **Date: 05 February 2026**

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

**GENERAL OPTICAL COUNCIL
and
PAUL BRINNEN
(D-33549)**

AGREED PANEL REPORT

Introduction

1. *This is a substantive hearing in respect of Paul Brinnen ("the Registrant"), a registered dispensing optician who first registered with the General Optical Council ("the Council") as a student dispensing optician on 3 October 2017 and as a fully qualified dispensing optician on 21 May 2021. The Fitness to Practise Committee ("the Committee") are to consider whether to approve an agreed form of disposal under the Agreed Panel Disposal ("APD") process. Both parties agree to the proposed form of disposal set out in this report. The Registrant has had the benefit of legal advice from John Graham of Castara Law before agreeing to dispose of this case by the APD process.*
2. *Page numbers included within this document refer to the Council's bundle unless indicated otherwise and are shown in square brackets [page x].*
3. *The Council's published policy in respect of the APD process ("the Policy") is addended to this report. It is a hearing management tool, designed to assist in avoiding full hearings with the calling of evidence where the public protection and public interest objectives of the fitness to practise process would still be met by an agreed outcome. It is not a separate statutory tool or path to a finding of impaired fitness to practise. The Committee retains full jurisdiction over the procedure and, save where it would be otherwise appropriate not to do so, the proposed APD is considered at a public hearing. The options open to the Committee are:*
 - i. *To approve the report in its entirety and make the appropriate order(s);*

- ii. To vary the sanction with the agreement of both parties after inviting submissions. If one or both parties disagree with the variation suggested by the Committee, the APD hearing will be vacated and the matter will be scheduled for a substantive hearing before a new committee without an agreed report;
- iii. To disagree with all or part of the report. In this instance, the GOC and the registrant may agree to amend the report in light of the Committee's findings and resubmit this to the same committee at a reconvened hearing, otherwise the APD hearing will be vacated and the matter will be listed for a substantive hearing before a new committee without an agreed report;
- iv. If either party decides that they no longer want the case to proceed by APD, the current hearing must be immediately concluded by the Committee with no orders being made (unless there is a request for procedural directions from both parties). The matter will then be scheduled for a substantive hearing before a new committee without an agreed report.

Background

- 4. The Council's case was served on the Registrant on 30 September 2025.
- 5. The Registrant has no prior fitness to practise history.
- 6. The Registrant informed the Council's Registrations Team on 30 January 2024 that he had left Specsavers [redacted] ("the Practice") due to theft in the workplace [p3]. He also requested advice as to the effect this would have on his registration as a dispensing optician. He was advised to review the declaration guidance if he felt that his fitness to practise had been affected but no further action was taken.
- 7. The Council subsequently received a referral from the Ophthalmic Director at the Practice on 18 July 2024 [p32] regarding the Registrant having fraudulently processed several refunds onto debit cards belonging to him and his partner. The Registrant was advised by the Practice to self-refer to the Council.

8. The Council obtained witness statements from [redacted] Retail Director, who conducted the internal investigation and [redacted] Ophthalmic Director, who carried out the disciplinary meeting. A statement was also obtained from [redacted] Financial Risk Support Consultant, regarding how the fraudulent transactions came to light.
9. In essence, in January 2024, the Practice was made aware, by the Specsavers Financial Risk Support Team, of potentially fraudulent refund transactions that had been made to debit/credit cards. Upon further investigation, it was established that the Registrant had processed several refund transactions to cards belonging to himself [redacted]. It was further established that he had used a discount to dispense glasses [redacted], without authorisation to do so.
10. The Registrant made full admissions during the disciplinary meeting [redacted]. He has since re-paid the money in full.
11. The allegation is set out below.

Allegation

The Council alleges that you, Paul Brinnen (D-33549), a registered Dispensing Optician, whilst working at Specsavers [redacted]:

- 1) Processed the following refunds onto a Mastercard ending in [redacted]:
 - a. £268, on or around 27 June 2023.
 - b. £229, on or around 29 July 2023.
 - c. £259, on or around 23 December 2023.
- 2) Processed the following refunds onto a Mastercard ending in [redacted]:
 - a. £323, on or around 12 June 2023.
 - b. £253, on or around 22 December 2023.
- 3) On or around 30 August 2023, dispensed two pairs of glasses (frames and coatings) valued at £412 to [redacted], Ms A, using a two for one discount bringing the total down to £0, without director authorisation.
- 4) Your actions as set out at 1 and/or 2 above were dishonest, in that you:

- a. *knew that you were processing refunds onto cards belonging to you and/or [redacted], Ms B;*
 - b. *knew or ought to have known that you were not entitled to the money from these transactions.*
- 5) *Your actions as set out at 3 above were dishonest in that you knew or ought to have known that you were not entitled to authorising this dispense at no cost.*

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

Nature of the Recommended Disposal

12. Upon the Registrant's admissions and upon the Council and Registrant agreeing to this recommendation, the parties jointly seek and recommend to the Committee that this matter is disposed of by a determination on the following basis:

- i. All of the particulars of the allegations are admitted and found proved;*
- ii. That the Registrant's fitness to practise is impaired by reason of misconduct; and*
- iii. The appropriate and proportionate sanction is a 12-month suspension.*

Relevant Legislation

13. The procedure for principal hearings before the Fitness to Practice Committee is set out in Rule 46 of the Fitness to Practise Rules ("the Rules"). This hearing is required to be conducted in four stages:

- i. Stage 1 – findings of fact;*
- ii. Stage 2 – if the facts have been found proved, have the grounds of impairment alleged under section 13D of the Opticians Act 1989 ("the Act"), by reason of misconduct, has been established;*
- iii. Stage 3 – if the grounds of impairment alleged under section 13D of the Act have been established, is the Registrant's fitness to practise so impaired; and*
- iv. Stage 4 – if the Registrant's fitness to practise is impaired, what is the appropriate sanction, if any.*

14. Rule 40(6) provides: "the registrant may admit a fact or description of a fact, and a fact of description of a fact so admitted may be treated as proved."

Stage 1: Factual Findings

Allegation 1 and 2

- 1) Processed the following refunds onto a Mastercard ending in [redacted]:

- a. £268, on or around 27 June 2023.
- b. £229, on or around 29 July 2023.
- c. £259, on or around 23 December 2023.

- 2) Processed the following refunds onto a Mastercard ending in [redacted]:

- a. £323, on or around 12 June 2023.
- b. £253, on or around 22 December 2023.

15. In support of this allegation, the Council relies on the statements of [redacted] and exhibits SK/01 and SK/02 [pp 33-35 and pp 50-54], the statements of [redacted] and exhibits SH/01 – SH/04 [pp 6-32 and 46-49] and the statement of [redacted] [pp 36-41].

16. It is therefore submitted that on the basis of the above evidence, findings of fact can be made out, notwithstanding that the Registrant admits the facts against him in their entirety.

Allegation 3

- 3) On or around 30 August 2023, dispensed two pairs of glasses (frames and coatings) valued at £412 to [redacted], Ms A, using a two for one discount bringing the total down to £0, without director authorisation.

17. In support of this allegation, the Council relies on the statements of [redacted] and exhibits SK/01 and SK/02 [pp 33-35 and pp 50-54], the statements of [redacted] and exhibits SH/01 – SH/04 [pp 6-32 and 46-49] and the statement of [redacted] [pp 36-41].

18. It is therefore submitted that on the basis of the above evidence, findings of fact can be made out, notwithstanding that the Registrant admits the facts against him in their entirety.

Allegation 4 and 5

- 4) Your actions as set out at 1 and/or 2 above were dishonest, in that you:

- a. *knew that you were processing refunds onto cards belonging to you and/or [redacted], Ms B;*
 - b. *knew or ought to have known that you were not entitled to the money from these transactions.*
- 5) *Your actions as set out at 3 above were dishonest in that you knew or ought to have known that you were not entitled to authorising this dispense at no cost.*
- 19. *It is agreed by the Council and the Registrant that the Registrant's conduct was dishonest.*
- 20. *In assessing whether the Registrant's conduct was dishonest, the Committee may also be assisted by the relevant case law as set out below.*

DISHONESTY

- 21. *In Ivey v Genting Casinos (UK) Ltd [2017] UKSC 67, the Supreme Court set down the proper test for dishonesty. Lord Hughes, at para [74], expressed as follows:*

'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts established, the questions whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest'.
- 22. *The Ivey test does not require the Registrant to appreciate that he was dishonest. For example (and with reference to Ivey itself) a gambler may think that manipulating a deck of cards is not cheating, but that would not prevent a tribunal from finding that he had in fact acted dishonestly.*
- 23. *In General Medical Council v Krishna [2017] EWHC 2892 (Admin), the Queens Bench Division supports Ivey as the correct approach to be applied in regulatory proceedings. The court confirmed that the approach, in accordance with Ivey, was that the Panel should have first determined the Respondent's state of mind as to the facts and then gone on to consider whether his conduct was dishonest by the standards of ordinary decent people.*

24. *The Committee is respectfully invited to consider the issue of dishonesty in the following way:*

- i. Consider whether the act or omission said to be dishonest is proven on the balance of probabilities;*
- ii. Consider, on the balance of probabilities, what the Registrant's actual state of knowledge or genuine belief as to the facts was;*
- iii. Consider whether the Registrant's actions were dishonest by the standards of ordinary honest people.*

Stage 2: Misconduct and Impairment

Misconduct

25. *The Council respectfully invites the Committee to find misconduct and impairment in accordance with section 13D(2)(a) of the Act, which provides:*

'The only grounds upon which the fitness to practise of a registered optometrist or registered dispensing optician, or the fitness to undertake training of a student registrant, is "impaired" for the purposes of this Act are—

(a) misconduct;

26. *There is no strict definition of misconduct. However, Lord Clyde in Roylance v General Medical Council (No. 2) [2000] 1 A.C. 311 at para [35] stated:*

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

27. *In the case of R (on the application of) Remedy UK v General Medical Council [2010] EWHC 1245 at paragraph 37, it was stated:*

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

28. In *Nandi v GMC* [2004] EWHC 2317 (Admin), Collins J held that:

*"What amounts to professional misconduct has been considered by the Privy Council in a number of cases. I suppose perhaps the most recent observation is that of Lord Clyde in *Rylands v General Medical Council* [1999] Lloyd's Rep Med 139 at 149, where he described it as "a falling short by omission or commission of the standards of conduct expected among medical practitioners, and such falling short must be serious". The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners. It is of course possible for negligent conduct to amount to serious professional misconduct, but the negligence must be to a high degree".*

29. In the case of *Calhaem v General Medical Council* [2007] EWHC 2606 (Admin) at paragraph 39 at paragraph (1) Jackson J (as he then was) said:

"(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".

(3) "Deficient professional performance" within the meaning of section 35C(2)(b) is conceptually separate from negligence and from misconduct. It connotes a standard of professional performance which is unacceptably low and which (save in exceptional circumstances) has been demonstrated by reference to a fair sample of the doctor's work.

(4) A single instance of negligent treatment, unless very serious indeed, would be unlikely to constitute “deficient professional performance”.

(5) It is neither necessary nor appropriate to extend the interpretation of “deficient professional performance” in order to encompass matters which constitute “misconduct”.

30. Having regard to the Standards of Practice for Optometrists and Dispensing Opticians, effective from April 2016, the Council and Registrant agree that the Registrant has breached:

“16 Be honest and trustworthy

17 Do not damage the reputation of your profession through your conduct

19 Be candid when things have gone wrong”

31. It is agreed by both parties that the allegation amounts to a serious departure from the standards of practice expected of a competent dispensing optician.

32. The parties agree that the Registrant's conduct therefore amounts to misconduct within the meaning of section 13D(2)(a) of the Act.

Impairment

33. The Committee is reminded 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 for practice. The committee must look forward and not back. However, in order to form a view as to fitness to practise today, the committee will have to take account of the way in which Registrant has acted in the past: Meadow v GMC [2007] 1 All ER 1.

34. Guidance on these issues which the Committee may wish to take into account is contained at pages 22-24, paragraphs 16.1 to 17.8 of the “Hearings and Indicative Sanctions Guidance,” December 2021.

35. The Committee will be aware of the volume of case law providing guidance on the considerations involved in determining impairment of fitness to practice. The Council brings the following to the Committee's attention:

The High Court in CHRE v (1) NMC and (2) Grant [2011] EWHC 927 (Admin), considered 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:

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

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future”.*

36. *It is agreed by the parties that limbs b) to d) of the test are engaged in this case.*

37. *Silber, J set out guidance in Cohen v General Medical Council [2008] EWHC 581 (Admin) at paragraph 65:*

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

38. *In Cheatle v General Medical Council [2009] EWHC 645 (Admin), Cranston J at paras [21-22] stated:*

“21. There is clear authority that in determining impairment of fitness to practice at the time of the hearing regard must be had to the way the person has acted or failed to act in the past...

22. In my judgment this means that the context of the doctor’s behaviour must be examined. In circumstances where there is misconduct at a particular time, the issue becomes whether that misconduct, in the context of the doctor’s behaviour both before the misconduct and to the present time, is such as to mean that his or her fitness to practice is impaired. The doctor’s misconduct at a particular time may be so egregious that, looking forward, a panel is persuaded that the doctor is simply not fit to practice medicine without restrictions, or maybe at all. On the other hand, the doctor’s misconduct may be such that, seen within the context of an otherwise unblemished record, a Fitness to Practice Panel could conclude that, looking forward, his or her fitness to practice is not impaired, despite the misconduct.”

39. *In GMC v Armstrong [2021] EWHC 1658 (Admin) it was suggested at para 37 that it is very rare indeed for a person who has committed serious professional misconduct by reason of dishonesty to escape a finding of impairment. The Court further considered what may amount to exceptional circumstances in the context of dishonest conduct.*

Mr Justice Lane stated:

"In determining whether a case is exceptional, it is important not to make direct factual comparisons between one case and another. Freedman J was alive to this in Hilton and I am also. That said, the way in which the facts of other cases have been judicially addressed can shed light on what kinds of factors may or may not be regarded as possessing inherent weight or significance. Adopting this approach, what is striking about all three of the cases in which a finding of dishonesty did not lead to a finding of impairment, is that the dishonest conduct in each of them was an isolated incident; and that there was no question of financial gain. They were in the nature of uncharacteristic lapses in what may be described as "front-line" challenging clinical situations involving direct interaction between professional and patient (or patient's relative)".

40. In *Yeong v GMC* [2009] Mr Justice Sales said (at Para 21):

"It is a corollary of the test to be applied and of the principle that a FTPP is required to look forward rather than backward that a finding of misconduct in the past does not necessarily mean that there is impairment of fitness to practise - a point emphasised in Cohen and Zygmunt...in looking forward the FTPP is required to take account of such matters as the insight of the practitioner into the source of his misconduct, and any remedial steps which have been taken and the risk of recurrence of such misconduct. It is required to have regard to evidence about matter that have arisen since the alleged misconduct occurred".

(At Para 48): "Miss Grey submitted that each of Cohen, Meadow and Azzam was concerned with misconduct by a doctor in the form of clinical errors and incompetence. In relation to such type of misconduct, the question of remedial action taken by the doctor to address his areas of weakness may be highly relevant to the question whether his fitness to practise is currently (i.e. at the time of consideration by a FTPP) impaired; but Miss Grey submitted that the position in relation to the principal misconduct by Dr Yeong in the present case (i.e. improperly crossing the patient/doctor boundary by entering into a sexual relationship with a patient) is very different. Where a FTPP considers that the case is one where the misconduct consists of violating such a fundamental rule of the professional relationship between medical practitioner and patient and thereby undermining public confidence to the medical profession, a finding of impairment of fitness to practise may be justified on the grounds that it is necessary to reaffirm clear standards of professional conduct so as to maintain public confidence in the practitioner and in the profession, in such a case, the efforts made by the medical practitioner in question to address his behaviour for the future may carry very much less weight than in the case where the misconduct consists of clinical errors or incompetence. I accept Miss Grey's submissions that the types of cases which were considered in Cohen, Meadow and Azzam fall to be distinguished from the present case on the basis she puts forward".

41. When considering impairment, the Committee must have regard to public interest considerations. In *PSA v Nursing and Midwifery Council (Grant)* [2011] EWHC 927, the High Court said that, in deciding whether fitness to practise is impaired, the Committee should ask themselves:

"Not only whether the registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case.

42. *The Registrant accepts that his fitness to practise is currently impaired, in that:*

- i. he took a substantial amount of money from the Practice which he was not entitled to. His conduct was repetitive and occurred over a prolonged period. His conduct was dishonest and therefore attitudinal, which is not easy to remedy.*
- ii. it is necessary in the public interest to make a finding of impairment of fitness to practise in order to uphold professional standards and public confidence in the profession.*

Stage 3: Sanction

43. *If a finding of impairment is made, the available sanctions are set out in section 13F (3)(a) – (c) of the Act.*

44. *The purpose of sanctions in fitness practise proceedings are as follows:*

- a) the protection of the public;*
- b) the declaring and upholding of high standards in the profession; and*
- c) the maintenance of public confidence in the profession*

45. *Sanctions are not intended to be punitive. Accordingly, matters of personal mitigation carry very much secondary weight. In Bolton v The Law Society [1994] 1 WLR 512 Bingham LJ said:*

"...the reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits but that is part of the price."

46. *The Committee will be guided by to the Council's Hearings and Indicative Sanctions Guidance at paragraphs 20.1 – 21.39 and 22.4 – 22.6.*

47. *The Committee should have proper regard to the Indicative Sanctions Guidance unless the FTPC have sound reasons to depart from it – per Lindblom LJ in PSA v (1) HCPC (2) Doree [2017] EWCA Civ 319 at paragraph 29.*

48. *The Committee must have regard to the principle of proportionality. The principle requires that when considering what sanction to impose in order to fulfil the statutory over-arching objective, the Committee must take into consideration the interests of the Registrant, which may include the wider public interest in a competent dispensing optician being permitted to return to practice. The Committee should consider the sanctions available, starting with the least restrictive sanction available, judging whether that sanction will be sufficient to achieve the over-arching objective, and if it will not, moving on to consider the next least restrictive sanction.*

49. *In terms of aggravating features, the nature of the misconduct is serious dishonesty, motivated by financial gain. Equally, the Registrant's conduct was repetitive and occurred over a prolonged period until eventual detection by the Practice.*

50. *In terms of mitigating circumstances, the Registrant has shown insight by effectively making a self-declaration to the Council on 30 January 2024 and he has also shown significant remorse during the disciplinary process and Council's investigation. The Registrant has admitted to facts, misconduct and impairment for the purposes of the fitness to practise hearing. The Registrant has repaid the money to the practice. The Registrant has no fitness to practice history.*

51. *Having regard to the Council's Indicative Sanctions Guidance, the parties agree that the appropriate and proportionate sanction is a 12-month suspension.*

52. *This sanction is appropriate and proportionate in that a lesser sanction would not mark the seriousness of the misconduct or allow the Registrant to reflect sufficiently on his actions.*

No Further Action

53. *The Indicative Sanctions Guidance states that no further action may be justified in "exceptional circumstances". The Council considers that there are no exceptional circumstances to justify taking no action in this instance. The Council considers that taking no further action in light of the seriousness of the conduct involved would not uphold standards or maintain confidence in the profession and the regulatory process. The Registrant's admissions do not fully remediate the Registrant's misconduct.*

Financial Penalty Order

54. *The Indicative Sanctions Guidance suggests a financial penalty order may be appropriate where the conduct was financially motivated and/or resulted in financial gain. The Council does not consider this penalty to be appropriate in this case given that the Registrant has already re-paid the money to the practice in full. Equally, in light of the seriousness of the conduct involved, a financial penalty would be insufficient to uphold standards or maintain confidence in the profession and the regulatory process.*

Conditional Registration

55. *For conditions to be appropriate where the Committee has identified significant shortcomings in the Registrant's practice, the Indicative Sanctions Guidance states, "the Committee should satisfy itself that the registrant would respond positively to retraining which would thus allow the registrant to remedy any deficiencies in practice whilst protecting patients."*

56. *The Council does not consider that conditions would be appropriate in light of the seriousness of the misconduct. The Registrant's conduct was attitudinal, and there are no workable conditions that could adequately address the concerns in this case.*

Suspension

57. *Suspension is appropriate when some or all of the following factors are apparent:*

- 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.*

58. *The Council considers that (a)-(d) are relevant. Section (a) is engaged as the Council are of the view that Conditional Registration and no further action are not sufficient. Section (b) may be relevant as the Council acknowledges that the Registrant effectively made a self-referral to the Council and has fully engaged with his employers and with the Council's investigation. The Council does not have any evidence of repeated behaviour since the incident, and the Registrant has shown significant insight and remorse so (c) and (d) are also engaged.*

59. *The parties agree that suspension is the appropriate sanction. In considering the length of the suspension, although this remains a matter for the Committee it is submitted by the parties that 12 months is appropriate to reflect the nature of the concerns raised by the case, the Registrant's previous history and his acceptance of the allegations against him.*

Erasure

60. *The parties agree that the Registrant's conduct is not fundamentally incompatible with registered practise and that, at this stage, this sanction would be disproportionate.*

Immediate Order

61. *The parties agree that, should the Council accept the parties' recommendation for disposal, it is appropriate to impose an immediate order for the Registrant as it is necessary to do so to protect the public and it is otherwise in the public interest.*

On behalf of the Council

GOC: Hannah Sutcliffe

Date: 11 November 2025

On behalf of the registrant:

CASTARA LAW: W J Graham

Date: 14 January 2026

FURTHER INFORMATION
Transcript
A full transcript of the hearing will be made available for purchase in due course.
Appeal
Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period. The relevant court is shown at section 23G(4)(a)-(c) of the Opticians Act 1989 (as amended).
Professional Standards Authority
<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.