

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

F(24)17

GENERAL OPTICAL COUNCIL

AND

HELEN HOLMAN (SD-6050)

**DETERMINATION OF A SUBSTANTIVE HEARING
AGREED PANEL DISPOSAL (APD)
21 OCTOBER 2024**

Committee Members:	Anne Johnstone (Chair/Lay) Kevin Connolly (Lay) Nicola Enston (Lay) Adrian Street (Dispensing Optician) Sarah Castree (Dispensing Optician)
Legal adviser:	Graeme Dalgleish
GOC Presenting Officer:	Yasmin Omotosho
Registrant:	Present and unrepresented
Registrant representative:	N/A
Hearings Officer:	Latanya Gordon
Facts found proved:	All
Facts not found proved:	None
Misconduct:	Found
Impairment:	Impaired
Sanction:	Erasure
Immediate order:	Yes

ALLEGATION

The allegations the Council has put forward to the Registrant are as follows:

The Council alleges that in relation to you, Ms Helen Holman (SD-6050), a registered student dispensing optician, between 18 October 2021 and 12 March 2022, while working as a Store Manager at Specsavers Ltd Store A (“[redacted]”) you:

1. *Informed [redacted] that you had submitted your pre-qualification portfolio (“PQP”) to the Association of British Dispensing Officers (“ABDO”) when in fact you had not.*
2. *You undertook restricted activities in that you:*
 - a. *Conducted 11 unsupervised dispenses to patients under 16 years of age;*
 - b. *Conducted 56 unsupervised collections to patients under 16 years of age.*
3. *Your actions in (1) was dishonest in that you knew you had not submitted the PQP.*

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

Background

1. This matter was initially referred to the Council on 7 July 2022 by Specsavers Limited Store A (“[redacted]”). The Registrant was employed as a Store Manager at [redacted] from 18 October 2021 to 12 March 2022.
2. During the recruitment process, the Registrant had informed [redacted] that she submitted her final Association of British Dispensing Opticians (“ABDO”) Pre-Qualification Portfolio (“PQP”) and therefore would soon be a registered Dispensing Optician (“DO”). Between 18 October 2021 and 12 March 2022, the Registrant maintained upon questioning that she was still awaiting her registration papers, which were delayed in being finalised due to Covid-restrictions. On 7 March 2022, she indicated to her employers that she had been told by ABDO in January 2022 that she had not passed her final PQP submission for her course. On 12 March 2022, she explained that she had in fact never submitted her PQP portfolio to ABDO. The Registrant was suspended the same day on the basis that she had knowingly lied about her qualifications.

3. At the outset of this hearing, Ms Omotosho, on behalf of the GOC, informed the Committee that prior to this hearing a provisional agreement for a consensual panel determination had been reached in this case between the GOC and the Registrant. Ms Omotosho advised that the Registrant has been fully engaged in the process. Ms Omotosho set out the background to the case and referred the Committee to the proposed agreement and to the GOC guidance.
4. The agreement, which was put before the Committee, sets out the Registrant's full admission to the facts alleged in the Allegation. She admits that her actions amounted to misconduct and also admits that her 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 an order of Erasure.
5. The Committee considered the provisional agreement reached by the parties. The full Agreed Panel Determination (APD) report is set out in Annex A to this determination.

DETERMINATION

6. The Committee decided to accept the consensual panel determination.
7. The Committee heard and accepted the advice of the Legal Adviser who reminded the Committee of the guidance from the GOC on APD. He reminded it that the principle issues when considering the APD were the overarching objectives of the GOC, that is to protect the public, to maintain public confidence in the profession and to uphold and declare proper professional standards. It was for the Committee to decide whether the facts are proved, whether they amount to misconduct, whether the Registrant's fitness to practise is impaired and, if so, what sanction is appropriate and proportionate. The Committee may accept or reject the APD, or it may seek further information from the parties before making the decision.
8. The Registrant has admitted all the particulars of the allegation by way of the consensual panel determination as well as admitting misconduct and impairment. The Committee was mindful of the GOC guidance on APD and of the central importance of the overarching objectives of the regulator.
9. 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.*" The Committee considered all the papers before it. These support the allegation and include witness statements and an audit of records from the employer. The Committee took account of all of the evidence and the admissions from the Registrant, and it found the allegation was proved.

10. The Committee then went on to consider whether the Registrant's conduct amounted to misconduct. It was mindful of the GOC submissions which stated that:-

“ It is the Council's case that the Registrant's conduct breached the following paragraphs of the Standards of Practise for Optometrists and Dispensing Opticians:-

16. Be honest and trustworthy;

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

16.4 Ensure that you do not make false or misleading statements when describing your individual knowledge, experience, expertise and specialities, including by the use of titles.

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

17.1 Ensure your conduct, whether or not connected to your professional practise, 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 practise, and all requirements of the General Optical Council.”

11. The Committee accepted legal advice and considered the Standards of Practice and the guidance in *Roylance v GMC (no.2) [2000] 1 A.C. 311.* It also took account of the admission from the Registrant. The Committee decided that the dishonesty admitted was very serious and that it fell far short of what was proper. The Registrant, over a lengthy period, lied about her professional qualifications and she knowingly dispensed and permitted the collection of many restricted category prescriptions without holding proper qualifications and without the required supervision. In doing so, she placed service users at risk of harm and she breached fundamental tenets of the profession, namely honesty and integrity. The Committee concluded that the facts proved amounted to misconduct.

12. The Committee next considered whether the Registrant's fitness to practise is currently impaired. Whilst acknowledging the admissions and the agreement between the GOC and the Registrant, the Committee has exercised its own independent judgement in reaching its decision on impairment. It accepted legal advice and was mindful of the guidance from the GOC and in the authoritative case of *CHRE v NMC and Grant [2011] EWHC 927 (Admin).*

13. Given the nature and gravity of the misconduct, which was repeated and deliberate, the Committee was of the view that both on public protection and public interest grounds a finding of impairment was appropriate and was

required. Not to do so would undermine public confidence in the profession and the regulator.

14. The Committee next considered the sanctions available to it from the least restrictive to the most severe - no sanction, financial penalty, conditional registration, suspension, erasure. It took legal advice, considered the GOC sanctions guidance, and it was mindful of the need for proportionality. It also took account of the APD and the agreed sanction of Erasure.
15. The dishonesty and misconduct found are very serious. The dishonesty was deliberate, persistent and premediated and it was covered up and sustained over a lengthy period of time. The Registrant placed her interests ahead of those of service users and whilst holding a senior position. Whilst there is no evidence of actual harm, the Committee found there was a real risk of harm to service users in dispensing hundreds of prescriptions without proper qualifications or supervision. The Committee has found that the misconduct represented a serious departure from professional standards and was a breach of fundamental tenets of the profession.
16. The Committee was mindful of the sanction's guidance. It agreed with the submissions on sanction made by the GOC in the APD report as follows:-

"No Further Action

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 misconduct involved would not uphold standards or maintain confidence in the profession and the regulatory process.

Financial Penalty Order

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 do not consider this penalty to be applicable to the circumstances of this case.

Conditional Registration

For conditions to be appropriate where the FTPC has identified significant shortcomings in the Registrant's practise, 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 practise whilst protecting patients."

The Council do not consider that conditions would be appropriate considering the nature of misconduct, there are no conditions which can be framed to address dishonesty.

Suspension

Given the nature and seriousness of the allegations, the Council does not consider that a suspension would be appropriate or sufficient to protect the public from dishonest behaviour, nor would it adequately safeguard public confidence in the profession."

Erasure

The parties agree that the Registrant's conduct is fundamentally incompatible with registered practice and that, at this stage, this sanction would be the appropriate course of action.

The FTPC is referred to the case of Yeong v GMC [2009] EWHC 1923 per Sales J at paragraphs [50] and [51]; Nicholas-Pillai v GMC [2009] EWHC 1048 at paragraph [27]:

"In cases of actual proven dishonesty, the balance ordinarily can be expected to fall down on the side of maintaining public confidence in the profession by a severe sanction against the practitioner concerned. Indeed, that sanction will often and perfectly properly be the sanction of erasure, even in the case of a one-off instance of loyalty (SIC)."

The Council submits that there are no exceptional circumstances that should distinguish this case from the ordinary regulatory approach, which is to sanction with erasure. Erasure may be appropriate in cases of even a one-off instance of loyalty (SIC). In this case, the dishonesty continued for 6 months, under questioning and whilst dispensing to patients."

17. The Committee agreed with the reasoning of the GOC and the agreed disposal. (Noting the error in the quote from the *Nicholas-Pillai* case referring to "loyalty" rather than "dishonesty"). It has found, given the seriousness and the gravity of the misconduct, that to impose a sanction of less than Erasure would fail to sufficiently protect the public and would also fail to maintain public confidence in both the profession and the regulator.

18. The Committee accordingly order the Erasure of Ms Helen Holman's name from the register.

Immediate order

19. The Committee heard submissions from Ms Omotosho on behalf of the GOC. Ms Holman advised that she was not presently working in the profession but did not oppose the order. The Committee accepted the advice of the Legal Adviser.

20. The Committee decided to impose an immediate erasure order to cover the appeal period, which would otherwise run before the sanction is imposed. The Committee was mindful of its earlier findings and concluded that not to impose an immediate order would be wholly incompatible with those serious findings and the sanction of Erasure imposed. The Committee found that in the circumstances of this case, an immediate order was necessary to protect the public and was also appropriate and required to maintain public confidence in the profession and regulator.

Chair of the Committee: Anne Johnstone

Signature 

Date: 21 October 2024

Registrant: Helen Holman

Signature: Present via MS Teams

Date: 21 October 2024

ANNEX A

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

IN THE MATTER OF

THE GENERAL OPTICAL COUNCIL

- and -

HELEN HOLMAN (SD-6050)

AGREED PANEL DISPOSAL REPORT

1. This is an Agreed Panel Disposal (“APD”) hearing in respect of Ms Helen Holman (“the Registrant”) (SD-6050). The Registrant first registered with the General Optical Council (“the Council”) as a Student Dispensing Optician on 2 August 2013.
2. She has no relevant fitness to practise history.
3. The Fitness to Practise Committee (“FTPC”) must consider whether to approve an agreed form of disposal under the APD process. Both parties agree to the proposed form of disposal set out in this report. The Registrant does not have legal representation.
4. The Council’s published policy on the APD process is appended 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 FTPC 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.
5. The options open to the FTPC 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 FTPC, 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 FTPC'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 FTPC 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

6. This matter was initially referred to the Council on 7 July 2022 by Specsavers Limited Store A (“[redacted]”). The Registrant was employed as a Store Manager at [redacted] from 18 October 2021 to 12 March 2022.
7. During the recruitment process, the Registrant had informed [redacted] that she submitted her final Association of British Dispensing Opticians (“ABDO”) Pre-Qualification Portfolio (“PQP”) and therefore would soon be a registered Dispensing Optician (“DO”). Between 18 October 2021 and 12 March 2022, the Registrant maintained upon questioning that she was still awaiting her registration papers, which were delayed in being finalised due to Covid-

restrictions. On 7 March 2022, she indicated to her employers that she had been told by ABDO in January 2022 that she had not passed her final PQP submission for her course. On 12 March 2022, she explained that she had in fact never submitted her PQP portfolio to ABDO. She was suspended the same day on the basis that she had knowingly lied about her qualifications.

Allegation

8. The proposed allegations the Council has put forward to the Registrant are as follows:

The Council alleges that in relation to you, Ms Helen Holman (SD-6050), a registered student dispensing optician, between 18 October 2021 and 12 March 2022, while working as a Store Manager at Specsavers Ltd Store A (“[redacted]”) you:

4. *Informed [redacted] that you had submitted your pre-qualification portfolio (“PQP”) to the Association of British Dispensing Officers (“ABDO”) when in fact you had not.*
5. *You undertook restricted activities in that you:*
 - a. *Conducted 11 unsupervised dispenses to patients under 16 years of age;*
 - b. *Conducted 56 unsupervised collections to patients under 16 years of age.*
6. *Your actions in (1) was dishonest in that you knew you had not submitted the PQP.*

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

Nature of the Recommended Disposal

9. Upon the Registrant’s admissions and upon the Council and Registrant agreeing to this recommendation, the parties jointly seek and recommend to the FTPC 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 particulars of the allegations amount to misconduct;*
- iii. *That the Registrant's fitness to practise is impaired by reason of misconduct; and*
- iv. *The appropriate and proportionate sanction is erasure.*

Relevant law

10. The matter is governed by The Opticians Act 1989 ("the Act") and The General Optical Council (Fitness to Practise) Rules Order of Council 2013 ("the Rules").

11. In accordance with Rule 46, a hearing is required to be conducted in three stages:

- a. Stage 1 – Findings of fact;
- b. Stage 2 – Findings on whether, as a result of the facts proved, the Registrant's fitness to practise is impaired by reason of misconduct;
- c. Stage 3 – Consideration of the appropriate sanction, if any.

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

13. More detailed submissions are set out below in respect of each stage.

Stage 1: Factual Findings

14. The Council received [redacted] referral on 7 July 2022. [Redacted] referred the matter to the Council on the grounds that the GOC Standards for Optometrists and Dispensing Opticians state that Registrants must *"act with honesty and integrity to maintain public trust and confidence in your profession."*

15. The Registrant was recruited to [redacted] on the understanding that she was a DO, with her paperwork pending finalisation due to delays caused by COVID, which were beyond her control. It is alleged by the witness, Witness A, that the Registrant referred to herself as a DO on the phone when she accepted the job. Further, in the job offer email sent to the Registrant,

Witness A wrote that *“the offer would be dependant on your DO qualification”* and the Registrant’s employment contract states at 2.1.6 that a condition of the offer is her registration at the GOC as a Registered Optician.

16. Between 18 October 2021 and 12 March 2022, she maintained upon questioning by [redacted] that she was still awaiting her registration papers. The Store Managers of [redacted] have provided evidence that they requested updates from the Registrant regarding her qualification throughout her employment, and the Registrant consistently responded that the paperwork was just about to be finalised. On 7 March 2022, she indicated to one of the Store Managers during a meeting that she had been told by ABDO in January 2022 that she had not passed her final PQP submission for her course. On 12 March 2022, she explained that she had in fact never submitted her PQP portfolio to ABDO and she was suspended that day on the basis that she had lied about her progress.
17. [Redacted] established that the Registrant had in fact commenced her training some 20 years previously. She had been granted an extension in 2015 when the syllabus had been changed, had been in contact with ABDO about delays due to Covid, but had no further communication with ABDO.
18. The Registrant admitted during her investigative meeting that she had been dishonest with the managers at [redacted] regarding the submissions of her PQP portfolio.
19. The Registrant further admitted to [redacted] that she had not sought supervision for any dispenses, including the restricted category dispenses (i.e. dispenses to under 16s or the partially sighted). The Financial Risk Support (“FRS”) audit report identified that the Registrant had carried out 56 unsupervised collections and 36 dispenses to customers under the age of 16 at [redacted] during the time of her employment. Overall, she carried out 377 dispenses and 341 collections whilst she was unregistered. The Registrant confirmed her resignation on 17 March 2022, apologising for her actions.

20. In the Hearings Questionnaire, the Registrant admitted to all allegations put to her. On 30 April 2024, the Registrant agreed with the proposed allegations put forward by the Council.

21. During the course of the Council's investigation, the following information and evidence was obtained:

- a. Initial complaint letter from [redacted] to the Council;
- b. Email correspondence between [redacted] and the Council;
- c. Witness statement and exhibits of Witness A, Retail Director at [redacted]
 - i. Email with job offer from Witness A to the Registrant;
 - ii. Job description and employment contract;
 - iii. Email with summary of meeting between Witness A and the Registrant;
 - iv. Suspension letter from Witness A to the Registrant;
 - v. Notes from meeting between Witness A and the Registrant;
 - vi. Resignation letter from the Registrant to Witness A;
 - vii. Audit findings and report from FRS;
- d. Supplementary statement and exhibits of Witness A
 - i. Appendix 15 of FRS Report;
 - ii. Email of Witness B and [redacted] Transaction Analysis spreadsheet;
- e. Witness statement of Witness C, Ophthalmic Director at [redacted]
 - i. Registrant's CV;
- f. Supplementary statement of Witness C
 - i. Socrates settings screenshot;
- g. Witness statement of Witness D, Legal Counsel at Specsavers Optical Superstores
 - i. FRS Report and Appendices 1-6;
- h. Representations of Registrant;
- i. Email correspondence between the Council and Registrant regarding proposed allegations.

Stage 2: Misconduct and Impairment

Misconduct

22. With regard to the issue of misconduct, there is no definition, but a review of some of the authorities provides some guidance. In *Roylance v GMC (no.2) [2000] 1 A.C. 311* Lord Clyde, in his judgment at page 331, 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.”

23. It is the Council’s case that the Registrant’s conduct breached the following paragraphs of the Standards of Practise for Optometrists and Dispensing Opticians:

16. Be honest and trustworthy;

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

16.4 Ensure that you do not make false or misleading statements when describing your individual knowledge, experience, expertise and specialities, including by the use of titles.

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

17.1 Ensure your conduct, whether or not connected to your professional practise, 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 practise, and all requirements of the General Optical Council.

24. It is agreed by both parties that the allegations amount to a serious departure from the standard of practise expected of a DO.

25. The Registrant agrees in the Hearings Questionnaire that her actions were dishonest in that she knew she had not submitted the PQP whilst employed

at [redacted]. Both parties therefore agree that the Registrant's conduct therefore amounts to misconduct within the meaning of section 13D(2)(a) of the Act.

Impairment

26. The FTPC is referred to General Medical Council v Nwachuku [2017] EWHC 2085 (Admin), [45]-[50]:

"45. Dishonesty encompasses a very wide range of different facts and circumstances. Any instance of it is likely to impair a professional person's fitness to practise. (emphasis added)

46. Dishonesty constitutes a breach of a fundamental tenet of the profession of medicine: PSA v GMC and Iqwilo [2016] EWC 524. A finding of dishonesty lies at the top end in spectrum of gravity of misconduct.

48. However, it will be an unusual case where dishonesty is not found to impair fitness to practise. PSA v Health and Care Professions Council and Ghaffar [2014] EWHC 2723 per Carr J at paragraphs [45] and [46].

49. The attitude of a practitioner to the allegations made and any admissions of responsibility for the misconduct will be taken into account as relevant factors in determining whether or not fitness to practise has been impaired: Nicholas-Pillali v GMC [2009] EWHC 1048 per Mitting J at paragraph [18]."

27. The Registrant has admitted impairment. During the Case Management Meeting, the Registrant admitted that, *"I wouldn't practise at the moment and not practise at all...I received the letter from the GOC and signed it to say I won't be undertaking any of those duties."*

Stage 3: Sanction

28. Where the FTPC find that a registrant's fitness to practise is impaired, the powers of the FTPC are listed under section 13F(2) (3) and (4) of the Act. Section (2) states that the FTPC may, if they think fit, give a direction specified in subsection (3).

29. The purpose of sanctions in fitness to 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.

30. Sanctions are not intended to be punitive. Accordingly,

31. 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."

32. The FTPC should have proper regard to the Indicative Sanctions Guide 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.

33. The FTPC must consider the full range of sanctions, starting with the least restrictive option available. The Panel should first assess whether that sanction would be sufficient to meet the overarching objective. If the Panel determines that the least restrictive sanction is insufficient, it should proceed to consider the next least restrictive option.

34. The Registrant has admitted the allegations, which the Council firmly submits will negatively impact the reputation of the profession.

35. In terms of mitigation, the Registrant has no prior history of adverse findings regarding fitness to practise.

36. In light of the Council's Indicative Sanctions Guidance, both parties agree that erasure is the appropriate and proportionate sanction. This is justified by the Registrant's misconduct, which involved dishonesty—a well-established ground for impairing fitness to practise and undermining public trust in the profession. The gravity of the misconduct is further exacerbated by the fact that she conducted dispensing and collections without the proper

qualifications. A lesser sanction would not adequately reflect the seriousness of this behaviour.

No Further Action

37. 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.

38. The Council considers that taking no further action in light of the seriousness of the misconduct involved would not uphold standards or maintain confidence in the profession and the regulatory process.

Financial Penalty Order

39. The Indicative Sanctions Guidance suggests a financial penalty order may be appropriate where the conduct was financially motivated and/or resulted in financial gain.

40. The Council do not consider this penalty to be applicable to the circumstances of this case.

Conditional Registration

41. For conditions to be appropriate where the FTPC has identified significant shortcomings in the Registrant's practise, 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 practise whilst protecting patients."

42. The Council do not consider that conditions would be appropriate considering the nature of misconduct, there are no conditions which can be framed to address dishonesty.

Suspension

43. Given the nature and seriousness of the allegations, the Council does not consider that a suspension would be appropriate or sufficient to protect the

public from dishonest behaviour, nor would it adequately safeguard public confidence in the profession.

Erasure

44. The parties agree that the Registrant's conduct is fundamentally incompatible with registered practice and that, at this stage, this sanction would be the appropriate course of action.

45. The FTPC is referred to the case of Yeong v GMC [2009] EWHC 1923 per Sales J at paragraphs [50] and [51]; Nicholas-Pillai v GMC [2009] EWHC 1048 at paragraph [27]:

"In cases of actual proven dishonesty, the balance ordinarily can be expected to fall down on the side of maintaining public confidence in the profession by a severe sanction against the practitioner concerned. Indeed, that sanction will often and perfectly properly be the sanction of erasure, even in the case of a one-off instance of loyalty."

46. The Council submits that there are no exceptional circumstances that should distinguish this case from the ordinary regulatory approach, which is to sanction with erasure. Erasure may be appropriate in cases of even a one-off instance of loyalty. In this case, the dishonesty continued for 6 months, under questioning and whilst dispensing to patients.

Immediate Order

47. The parties agree that, should the FTPC accept the parties' recommendation for disposal, it is appropriate to impose an immediate order as it is necessary to do so in the public interest.

On behalf of the Council: KINGSLEY NAPLEY LLP

Date

On behalf of the Registrant: Helen Holman

Date

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 10 Old Bailey, London, EC4M 7NG or, by telephone, on 020 7580 3898.