

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

GENERAL OPTICAL COUNCIL

F(24)10

AND

GARETH HARRIS (D-11904)

**DETERMINATION OF A SUBSTANTIVE HEARING
01 – 02 JULY 2024**

Committee Members:	Ian Crookall (Chair/Lay) Jackie Alexander (Lay) Alice Robertson -Rickard (Lay) Philip Cross (Dispensing Optician) Leigh Nelson (Dispensing Optician)
Clinical Adviser	Dr Desmond Dunleavy (01 July 2024)
Legal adviser:	Jennifer Ferrario
GOC Presenting Officer:	Alexander Adamou, Counsel
Registrant present/represented:	Yes, not represented
Registrant representative:	N/A
Hearings Officer:	Arjeta Shabani
Facts found proved:	Found
Facts not found proved:	None
Misconduct:	N/A
Impairment:	Impaired
Sanction:	6 month Suspension order without a review hearing
Immediate order:	No

Preliminary Matters

Application to amend the Allegation

1. Mr Adamou made an application on behalf of the General Optical Council ('the Council') to amend the allegation. He informed the Committee that the proposed amendments were as follows (in red),

The Council alleges that you, Mr Gareth Harris (D-11904), a registered dispensing optician:

*On 8 **14** November 2022 you were convicted at Newport Magistrates Court for an offence in that on 14 August 2022 you drove a motor vehicle after consuming a controlled drug that the proportion of it in your blood, namely 406 micrograms of drug per litre exceeded the specified limit contrary to section 5A (1) (a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.*

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

2. Mr Adamou submitted that the proposed amendments would serve to 'properly reflect' the evidence. He said that the incorrect date had been inserted and the date of the conviction as supported by the evidence in the bundle was the 14 November 2022. In terms of the statutory ground, Mr Adamou said that the evidence in the bundle clearly depicted that this was a conviction case. He submitted that neither of the proposed amendments would materially change the factual circumstances as alleged by the Council and therefore there ought to be no injustice caused to the Registrant.
3. The Registrant said that he understood the Council's application and had no objection.
4. The Committee accepted the advice of the Legal Adviser. The Committee was advised to consider rule 46(20) of the General Optical Council (Fitness to Practise) Rules ('the FTP Rules'). The Legal Adviser advised that the key issue is fairness to the Registrant and the Committee ought to decide whether the proposed amendments were minor or significant and if the latter, whether allowing the amendment would be unfair to the Registrant. The Legal Adviser referred to the cases of ***The PSA v The HCPC & Doree [2017]*** and ***Ahmedsowida v GMC [2021]***. She advised that if the Committee is satisfied that the Registrant would be aware of the case that he had to meet if the amendments were permitted, no injustice ought to be caused to him in allowing the application.
5. The Legal Adviser advised that the Committee was under a duty to be proactive in making sure that the case before it was properly presented. This included ensuring that the allegation adequately reflected the alleged conduct as set out in the cases of ***Ruscillo v Council for the Regulation of Health Care Professionals [2004] EWCA Civ 1356*** and ***The PSA v The NMC and Macleod [2014] EWHC 4354 (Admin)***.

6. The Committee considered the proposed amendments, Mr Adamou's submissions and the Registrant's response and determined that the amendments were minor. The Committee noted that the amendments properly reflected the evidence and it was satisfied that there would be no material change to the allegation or impact for the Registrant if the amendments were permitted.
7. The Committee granted the Council's application to amend the particulars of the allegation, namely the date of the conviction and the statutory ground.

ALLEGATION (AS AMENDED)

The Council alleges that you, Mr Gareth Harris (D-11904), a registered dispensing optician:

On 14 November 2022 you were convicted at Newport Magistrates Court for an offence in that on 14 August 2022 you drove a motor vehicle after consuming a controlled drug that the proportion of it in your blood, namely 406 micrograms of drug per litre exceeded the specified limit contrary to section 5A (1) (a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

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

Application to hear evidence or submissions in private

8. Mr Adamou on behalf of the Council applied for evidence or submissions relating to the Registrant's health to be heard in private.
9. The Registrant said that he would prefer for these matters to be heard privately.
10. The Committee accepted the advice of the Legal Adviser. The Committee was advised that in accordance with Rule 25 (1) of the FTP Rules, all substantive hearings must be held in public. The Committee was further advised that there are exceptions to this rule including Rule 25(3) which provided that when the hearing considered the physical or mental health of the Registrant, the evidence or submissions must be held in private. The Legal Adviser advised that the Committee could move into private session as and when it considered it appropriate to do so and resume a public hearing when the consideration of the Registrant's health had concluded.
11. The Committee considered the Council's application, the Registrant's response and the relevant FTP Rules and determined that when the Registrant's physical or mental health was raised during the hearing, the hearing would move into private session.

DETERMINATION

Admissions in relation to the particulars of the allegation

The Registrant admitted the factual allegation of the conviction.

Background to the allegations

12. The Registrant was entered onto the General Optical Council's ('the Council's') register as a student dispensing optician on 18 January 2006 and qualified as a Dispensing Optician on 14 August 2006.
13. On 15 March 2023 the Registrant declared a criminal conviction when completing his GOC Registration Annual Retention form.
14. The criminal conviction was that on 14 November 2022, the Registrant was convicted for driving a motor vehicle on 14 August 2022 after consuming a controlled drug, such that that the proportion of it in his blood exceeded the legal limit. The controlled drug was Cocaine and the proportion of it in the Registrant's blood exceeded the legal limit by a factor of eight.
15. The Registrant did not attend the first court hearing at Newport Magistrates on 8 November 2022. A warrant was issued for his arrest and when this was executed, the Registrant attended the Magistrates Court on 14 November 2022 and pleaded guilty to the offence. He was disqualified from driving for 12 months and ordered to pay a financial penalty in the sum of [redacted].

Findings in relation to Proof of Conviction

16. The Committee heard and accepted the advice of the Legal Adviser. The Committee was advised to have due regard to Rule 46(6) which provided that where the Registrant admitted the facts, the Chair must announce that such facts had been found proved. The Committee was further advised that in accordance with Rule 40(3) of the Rules, a certificate of conviction shall be conclusive evidence of the offence committed. The Committee was reminded that the Registrant had admitted the particulars of the allegation in their entirety.
17. The Committee considered the Registrant's admission and the FTP Rules and was satisfied on a balance of probability that the factual allegation had been proved.

Impairment

18. Mr Adamou made submissions on impairment and invited the Committee to find that the Registrant's current fitness to practise is impaired. He invited the Committee to disregard the Council's reference to misconduct in the Statement of Facts document and submitted that the sole statutory ground relied upon was the Registrant's conviction. He also invited the Committee to disregard the first bullet point at paragraph 40 of the Council's Statement of facts document as the Council were not suggesting any dishonesty or lack of trustworthy conduct by the Registrant.
19. Mr Adamou said that 'not every conviction will lead to a finding of impairment' but in this case he submitted that it should. He said that the Registrant would be required to make decisions at work when under pressure and the Committee

would need to satisfy itself that he would exercise sound judgement. He submitted that this was a case involving damage to public confidence and that a reasonable well-informed member of the public would be shocked or surprised to learn of his conviction and concerned about the risk of repeat behaviour. He submitted that whilst the Registrant had provided some favourable character references, he had not adequately addressed insight, reflection or remediation.

20. The Committee heard evidence from the Registrant. He told the Committee that he was very embarrassed about the conviction and there had been no excuse for it. He said that at the time of the offence he had been under considerable [redacted] both in relation to his [redacted] situation and in work. He said that coming out of the Covid-19 Pandemic had added to his already busy workload and he had felt very anxious about it. He said that he had visited his [redacted] about the [redacted] that he had experienced and [redacted]. His [redacted] had suggested [redacted] to him which he had not pursued.
21. He told the Committee that on the 13 August 2022, he had been out socialising with friends that he had previously played cricket with and when they went to one of the friend's houses, he had been offered cocaine in the form of powder which he had accepted. He said that he took it throughout the night and in the morning got into his vehicle and drove away between 9 – 10am. He said that he had not been due in work that day. Whilst driving he was stopped by the police because they were concerned that he had been driving without vehicle insurance.
22. The Registrant said that details of the conviction had appeared in a newspaper which had culminated in him being asked to leave the family business. He had obtained work in manufacturing for an optical business and had not worked as a Dispensing Optician since 2022. He said that since the conviction he rarely goes out socialising, does not drink alcohol and there had been no repeat behaviour with drugs. He is happy in his domestic home life and felt much more stable in himself.
23. Mr Adamou asked questions of the Registrant. He took the Registrant to the [redacted] notes from the Registrant's [redacted] that were in the bundle. The Registrant in answer to the questions posed by Mr Adamou said that in 2019, when he had presented with [redacted] due to his [redacted] situation, his [redacted] had offered [redacted] to him which he had declined. He said that his [redacted] had explained to him during consultations, that [redacted] can accumulate to a point which, if not addressed, could cause significant damage. He said that he considered that his [redacted] had accumulated when he had decided to take the illicit drugs on 13 August 2022 and he regretted not taking advantage of the [redacted] that his [redacted] had offered to him.
24. The Registrant said that he could not guarantee that an accumulation of [redacted] would not occur again but maintained that he had given 'his word' to the Committee that he would not repeat similar conduct in response to it.
25. Dr Dunleavy asked questions of the Registrant. The Registrant in answer to the questions posed by Dr Dunleavy said that he was no longer in touch with the friends that had offered him Cocaine on the 13 August 2022. He said that he had not accessed the [redacted] offered to him by his [redacted] because he had

considered that he could navigate his way through the challenges himself. He said that he had demonstrated in the lead up to the substantive hearing, that he was able to manage stress because whilst he had felt some anxiety, it had not affected his mood or his sleep.

26. The Committee asked questions of the Registrant. In answer to the questions posed, the Registrant said that he had a [redacted] and having been through a lengthy [redacted], he was now in a stable and happy relationship. He said that he had let his family and friends down with the conviction and he did not want to put them or himself through anything similar again. He told the Committee that he was not in touch with his cricket friends that had offered the drugs to him and he had retired from cricket. He told the Committee that he had not been offered illicit drugs since the incident, he would no longer place himself in a situation where that would arise and if it did, he would refuse. He told the Committee that if he felt anxious in the future, he would visit his GP and take their advice.
27. The Registrant said that he wanted to return to the role of a Dispensing Optician because he missed the interaction with patients and he missed helping them. He told the Committee that his strengths had been problem solving for unhappy patients. He said that he had not worked as a Dispensing Optician since the Council's investigation because he had wanted to wait until the substantive hearing had taken place.
28. When he was asked why he had not attended court on 8 November 2022, the Registrant said that he had not read the letter from the court and had unintentionally failed to appear. When he was asked why he had not declared the conviction to the Council immediately, he said that it had not occurred to him that he had been required to. He said that he had not attempted to conceal it and had declared it in his renewal form for his GOC registration.
29. The Committee asked a question of Dr Dunleavy. He was asked whether routine blood tests requested by a GP would identify if an illicit drug had been recently taken by the patient. Dr Dunleavy said that it would not and that a specific type of blood test would be required.
30. Mr Adamou was invited by the Committee to make closing submissions on impairment. He invited the Committee to consider the evidence that it had been presented with it and assess the relevant impairment criteria as set out in the Council's Hearings and Indicative Sanctions Guidance ('the Guidance'). The Registrant was invited by the Committee to make closing submissions on impairment. He said that he wanted to apologise for his conduct and to highlight that it had been a 'one-off incident.'
31. The Committee accepted the advice of the Legal Adviser. She advised the Committee that Section 13D(2) of The Opticians Act 1989 provided that one of the statutory grounds available to the Council was the Registrant having a conviction against their name for a criminal offence. The Committee was advised that whether the Registrant was impaired will be a matter for the Committee's own judgement and the onus is on the Registrant to satisfy the Committee that his fitness to practise was not currently impaired.

32. The Legal Adviser referred the Committee to the Council's overarching objective and advised it to give equal consideration to each of its limbs. The Committee was invited to have regard to the Professional Standards for Optometrists and Dispensing Opticians and determine if any of the standards had been breached and if so, the seriousness of that breach. The Committee in terms of assessing impairment was referred to paragraphs 16.1 – 16.7 of the Guidance and the cases **CHRE v NMC and Grant EWHC 927 (Admin)** and **Cohen v GMC [2008] EWHC 581 (Admin)**. The Committee was advised to consider personal impairment first; specifically whether the Registrant had provided any evidence in terms of insight, reflection, remorse or remediation. The Legal Adviser advised the Committee to determine whether there was a risk of repeat conduct by the Registrant.

33. The Committee was further advised by the Legal Adviser to consider the public interest element of impairment and whether an ordinary well-informed person would expect a declaration of current impairment in order to promote and maintain public confidence in the profession. The Legal Adviser summarised for the Committee's benefit the approach formulated by Dame Janet Smith in her Fifth Report from the Shipman case, cited with approval in Grant, namely whether the Registrant:

- (a) *Has in the past acted and/or is liable in the future to act so as to put a patient(s) at unwarranted risk of harm: and/or,*
- (b) *Has in the past and/or is liable in the future to bring the profession into disrepute, and/or*
- (c) *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession; and/or*
- (d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

34. The Legal Adviser highlighted the case of **Ige v Nursing and Midwifery Council [2011] EWHC 3721 (Admin)** where there had been no question of any impairment of the Registrant's clinical abilities but it had been entirely proper to find impairment on a public interest basis. The Committee was advised that it may determine that there was personal or public impairment, both or neither.

35. The Committee upon considering impairment bore in mind the Council's overarching objective and gave equal consideration to each of its limbs as set out below,

To protect, promote and maintain the health, safety and well-being of the public, the protection of the public by promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct.

36. The Committee first considered whether the Registrant had acted in breach of the Professional Standards for Optometrists and Dispensing Opticians. It determined that an ordinary well-informed person would be shocked to learn of the Registrant's conviction and went on to find that the Registrant's conduct had been in breach of the following professional standard,

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

37. The Committee reminded itself of the circumstances of the conviction. The Registrant had taken cocaine throughout the night and had driven away from his friend's house between 9 – 10am the following morning. The Committee considered this to be a serious matter because the Registrant's actions could have had catastrophic consequences for other road users and/or pedestrians at what would have ordinarily been a busy time on the roads.
38. The Committee went on to consider the questions endorsed in **Grant** in relation to past behaviour. It concluded that at no time had the Registrant, by virtue of his conviction, placed patients at risk of harm. It determined that there had been no evidence or allegation brought in relation to dishonesty. It determined that the circumstances of the conviction had in the past brought the profession into disrepute and had breached a fundamental tenet of the profession namely to protect and maintain public confidence in the profession.
39. The Committee went on to consider whether the Registrant had demonstrated insight, reflection, remorse or remediation. It took into account that the Registrant had fully engaged with the process and considered that he had provided genuine evidence on oath. He had not demonstrated any specific remedial activity however he had been apologetic, he had taken full responsibility for his actions and there had been no attempt by him to minimise his conduct. He said that he had fully accepted the sanction which had been imposed by the Magistrates Court. The Committee accepted on the evidence before it, that it had been an isolated incident and there had been no repeat behaviour since almost two years had passed.
40. It was further noted by the Committee that the Registrant had experienced a humiliating time following the conviction because the details had been published in the media and he had been requested to leave the family business. He had told the Committee that he would not let his family down again nor allow himself to experience this type of embarrassment and shame a second time. The Committee had considered the timing of the disclosure of the conviction by the Registrant to the Council in that he had waited several months. However the Committee concluded that as it had not formed part of the allegation, it should place limited weight on this issue.
41. Having carefully considered the relevant evidence, the Committee decided that the Registrant had demonstrated some insight into why he had taken the drugs, and how he would address stressful situations differently in the future. In addition the Registrant acknowledged the effect which his conviction would have on public confidence in the profession. The Committee went on to assess whether this had been sufficient to address the risk of repeat behaviour. On balance, the Committee was satisfied that it was sufficient and the Committee determined that it was unlikely that he would commit a similar offence in the future.
42. For these reasons, the Committee decided that there was no impairment of the Registrant's fitness to practise on a personal level.

43. The Committee went on to consider the public interest element of the overarching objective, specifically maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct. It determined that the Registrant's conduct had been serious and could have had very serious consequences for other road users and/or pedestrians. The Committee concluded from this that public confidence would be undermined if a finding of impairment was not made.
44. The Committee accordingly decided that the Registrant's fitness to practise was currently impaired.

Sanction

45. Having determined that the Registrant's fitness to practise was currently impaired, the Committee went on to consider sanction.
46. Mr Adamou provided oral submissions on the Council's position. He said that the Council considered the appropriate and proportionate sanction to be conditions on the Registrant's registration. He said that a lesser sanction would not adequately reflect the seriousness of the conviction or address public confidence in the profession.
47. Mr Adamou suggested that measurable, workable and proportionate conditions could be imposed which would enable the Registrant to return to his Dispensing Optician role whilst at the same time, protect the public interest. He referred the Committee to the bank of standard conditions at page 45 of the Guidance and submitted that whilst this was not a case that concerned the Registrant's health, the Registrant's conviction had involved the taking of illicit drugs. He invited the Committee to restore public confidence in the profession by imposing a condition to test the Registrant for drugs every six months. He submitted that the conditions ought to be in place for eighteen months.
48. In response to questions from the Committee, Mr Adamou said that the Council considered conditions to be appropriate because they would 'address the Registrant's sobriety, and this is an area of his clinical practice.' He submitted that a suspension order would be inappropriate and disproportionate, having regard to paragraph 21 a - e of the Guidance.
49. The Committee invited submissions on sanction from the Registrant. He said that he accepted the findings on impairment and recognised that a sanction would need to be imposed. He said that he agreed with the sanction put forward by the Council and that he would comply with conditions. He asked the Committee to consider the least restrictive conditions possible, because having conditions on his practice would make it very difficult for him to obtain a Dispensing Optician role. He reminded the Committee that it had determined that he was 'not a danger to patients' and said that a very restrictive sanction or erasure would be 'too harsh.' He also said however that he would respect the decision of the Committee in terms of the sanction it decided to impose.
50. The Committee accepted the advice of the Legal Adviser. She referred the Committee to the Hearings and Indicative Sanctions Guidance ('the Guidance') and reminded the Committee that it must come to its own independent view in

terms of the most appropriate and proportionate sanction to impose. The Committee was advised that there was no burden or standard of proof at this stage of the hearing. The Legal Adviser advised the Committee that the purpose of imposing a sanction is not to punish, but that the appropriate sanction may have a punitive effect. The Committee was advised to have regard to the principle of proportionality, balancing the Registrant's interests with the public interest. In accordance with the Guidance, the Committee was advised to consider aggravating and mitigating factors.

51. The Committee was advised to consider the least restrictive sanction first and, if not appropriate or proportionate, to move to the next available sanction in ascending order. The Legal Adviser reminded the Committee to be mindful of the overarching objective, specifically the public interest element when considering each available sanction. She referenced ***Dad v General Dental Council [2000] 1WLR*** in terms of the public interest and ***Bolton v Law Society [1994] WLR 512*** which stated: *'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.'*
52. The Legal Adviser advised the Committee to have regard to the submissions from Mr Adamou and from the Registrant and advised that it should arrive at its own decision as to which sanction would be appropriate and proportionate. In relation to the Council's sanction submission, the Legal Adviser directed the Committee to paragraphs 21.15 – 21.25 of the Guidance and reminded the Committee that, ordinarily, conditions were imposed in circumstances where the Registrant's clinical competency had been in issue. The Legal Adviser highlighted paragraph 21.19 of the Guidance: *'The objectives of any conditions placed on the registrant must be relevant to the conduct in question and any risk it presents.'*
53. In reaching its decision on sanction, the Committee took into account the submissions on behalf of the Council by Mr Adamou; the Registrant's submissions; the facts found proved and its previous findings on impairment. Throughout its deliberations the Committee had regard to the overarching objective, giving equal consideration to the public interest limbs.
54. The Committee considered the following to be aggravating factors:
 - (a) The nature of the criminal conviction had been serious. The Registrant's actions could have had catastrophic consequences.
 - (b) The Registrant could have reduced his [redacted] and avoided the drug driving incident had he pursued the [redacted] that had been offered to him by his [redacted].
55. The Committee considered the following to be mitigating factors:
 - (a) The Council had not provided any evidence of previous fitness to practise history.
 - (b) There was no evidence of repetition since the incident on 14 August 2022 which had given rise to the criminal conviction.

- (c) The Registrant's actions on 14 August 2022 had been an isolated incident.
- (d) The Registrant had demonstrated some insight into his actions. He had fully engaged with the Council's investigation and the hearing, and he had been remorseful.

56. It was the Committee's assessment, having considered the aggravating and mitigating factors that the nature of the criminal conviction was serious. It took the view that an informed and reasonable member of the public would be deeply concerned by the Registrant's actions and that the impact on the reputation of the profession was significant. The Committee determined that this was particularly relevant having regard to the Committee's finding that there remained a risk to public confidence in the profession.

57. The Committee first considered taking no action. It determined, having regard to the Guidance, that there were no exceptional circumstances to justify it doing so. Taking no action would not protect or promote public confidence in the profession and would not reflect the seriousness of the misconduct. The Committee had regard to paragraph 21.7 of the Guidance:

'No action might be appropriate in cases where the registrant has demonstrated considerable insight into their behaviour and has already completed any remedial action the Committee would otherwise require them to undertake.'

58. The Committee reminded itself that it had determined that the Registrant had shown 'sufficient' insight and had not been satisfied of 'considerable insight.' For these reasons the Committee decided that it would be entirely inappropriate to take no further action.

59. The Committee decided that the imposition of a financial penalty was not appropriate or proportionate. This was not a case which involved a financial motive. The Committee's view was that in any event a financial penalty would not reflect the seriousness of the misconduct and would not protect the public interest element of the overarching objective.

60. The Committee next considered a period of conditional registration as suggested by Mr Adamou. The Committee had regard for paragraphs 21.15 – 21.25 of the Guidance and was puzzled by the submissions that conditions would be appropriate and/or proportionate. The Committee considered the nature of the criminal conviction and reminded itself that it had not related to the Registrant's clinical competency. Equally, the Registrant's drug taking had taken place outside of work and there had been no suggestion from the Council that it had impacted on his performance at work or placed patients at risk of harm. The Committee was mindful of the fact that the Council had relied upon the statutory ground of the conviction and not the Registrant's health, and was satisfied that in the circumstances it would be entirely inappropriate to introduce conditions on the Registrant's practice and/or drug testing.

61. The Committee, having decided that it would be inappropriate to impose conditions, went on to consider whether a conditional order would adequately reflect the seriousness of the criminal conviction. It determined that it would not. For these reasons the Committee concluded that it would be entirely

inappropriate and disproportionate to impose conditions on the Registrant's practice. The Committee also noted that the Registrant was not practising and did not intend to do so for some time.

62. The Committee next considered a suspension order and the relevant sections of the Guidance contained within paragraph 21.29 namely;

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

(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, here is a risk to patient safety if the registrant continued to practise, even under conditions.

63. The Committee considered that paragraph 21.29 parts (a) - (d) were engaged. It recognised in terms of part (a) that this was not a case involving misconduct, but it had already satisfied itself that the nature of the criminal conviction had been serious.

64. In considering the limbs at parts (b) and (d), the Committee had regard to the Registrant's engagement with the fitness to practise process and the evidence that he had provided to the Committee during the hearing. The Committee reminded itself that it had already determined that sufficient insight had been demonstrated by the Registrant and there was a low risk of repetition of the conduct. The Committee was satisfied that it could rule out deep-seated personality or attitudinal problems.

65. In accordance with paragraph 8.3 of the Guidance, the Committee considered whether a suspension order in the circumstances would sufficiently promote and maintain public confidence in the profession and promote and maintain proper professional standards in line with the overarching objective.

66. To assist with its assessment, the Committee went on to consider the sanction of erasure and had regard to paragraph 21.35 of the Guidance which states the following:

'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 Council's Standards of Practice for registrants and the Code of Conduct for business registrants;

b. Creating or contributing to a risk of harm to individuals (patients or otherwise) either deliberately, recklessly or through incompetence, and particularly where there is a continuing risk of harm to patients;

- c. *Abuse of position/trust (particularly involving vulnerable patients) or violation of the rights of patients;*
- d. *Offences of a sexual nature, including involvement in child pornography;*
- e. *Offences including violence;*
- f. *Dishonesty (especially where persistent and covered up);*
- g. *Repeated breach of the professional duty of candour, including preventing others from being candid, that present a serious risk to patient safety; or*
- h. *Persistent lack of insight into seriousness of actions or consequences.*

67. The Committee formed the view that paragraph 21.35 of the Guidance was not engaged. It had regard for the public interest element of the case and decided that a suspension was the appropriate and proportionate sanction. The Committee considered the length of the suspension and in the circumstances determined that a suspension of the Registrant's registration for a period of six months would be appropriate. It would sufficiently reflect the seriousness of the conviction, redress public confidence in the profession and send out a message to the Registrant, colleagues in the profession and to the wider public, that professional standards must be upheld.

68. The Committee considered whether it should direct that a review hearing take place before the expiry of the suspension order. It had regard for the public interest element of the case and the mitigating factors and determined that in the circumstances a review hearing would be unnecessary. The Committee was satisfied that the finding of impairment and a substantive order for suspension would be sufficient to reflect the seriousness of the conviction and to address the public interest element. It determined that having regard to the circumstances of this case specifically that there are no on-going public protection concerns, that a review hearing was unnecessary.

Immediate Order


69. The Committee heard submissions from Mr Adamou and from the Registrant on whether an immediate order for suspension ought to be imposed. Mr Adamou said that an immediate suspension interim order should be imposed because the Committee had decided to impose a suspension order and it would be inconsistent for the Committee to permit the Registrant to practise unrestricted in the 28 day intervening period. The Registrant informed the Committee that he had not been the subject of an interim order. He said that he understood the application and had no objection to it.

70. The Committee heard and accepted legal advice from the Legal Adviser. The Committee was advised to have regard to Section 13I of The Opticians Act 1989 which provided that an immediate suspension order should be imposed where the Committee is satisfied that it would be necessary for the protection of members of the public, otherwise in the public interest or in the best interests of the Registrant.

71. The Committee was satisfied that in the circumstances it was not necessary to impose an immediate order of suspension. It reminded itself that the Registrant

had not been the subject of an interim order restricting his practice, impairment had been found on the public interest alone and he was not intending to return to a Dispensing Optician role for some time.

Chair of the Committee: Ian Crookall

Signature 

Date: 02 July 2024

Registrant: Gareth Harris

Signature ...via videoconference Date: 02 July 2024

FURTHER INFORMATION	
Transcript	
A full transcript of the hearing will be made available for purchase in due course.	
Appeal	
Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period. The relevant court is shown at section 23G(4)(a)-(c) of the Opticians Act 1989 (as amended).	
Professional Standards Authority	
This decision will be reported to the Professional Standards Authority (PSA) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. PSA may refer this case to the High Court of Justice in England and Wales, the Court of Session in Scotland or the High Court of Justice in Northern Ireland as appropriate if they decide that a decision has been insufficient to protect the public and/or should not have been made, and if they consider that referral is desirable for the protection of the public.	
Where a registrant can appeal against a decision, the Authority has 40 days beginning with the day which is the last day in which you can appeal. Where a registrant cannot appeal against the outcome of a hearing, the Authority's appeal period is 56 days beginning with the day in which notification of the decision was served on you. PSA will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless PSA has been notified	

by the GOC of a change of address).

Further information about the PSA can be obtained from its website at www.professionalstandards.org.uk or by telephone on 020 7389 8030.

Effect of orders for suspension or erasure

To practise or carry on business as an optometrist or dispensing optician, to take or use a description which implies registration or entitlement to undertake any activity which the law restricts to a registered person, may amount to a criminal offence once an entry in the register has been suspended or erased.

Contact

If you require any further information, please contact the Council's Hearings Manager 10 Old Bailey, London, EC4M 7NG or, by telephone, on 020 7580 3898.

