

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

GENERAL OPTICAL COUNCIL

F(09)18

AND

AMANDEEP SANDHU (SO-1640)

DETERMINATION OF THE INQUIRY: 25-26 MAY 2010

On 25 and 26 May 2010, the Fitness to Practise Committee of the General Optical Council met to consider an allegation against Amandeep Sandhu.

APPLICATION

Mr Hepworth, for the Council, made two applications:

1. That allegation 2(a)(ii) be amended to read 'Criminal Justice Act 1988' in place of 'Offences Against a Person Act 1864'.
2. In relation to allegation 1(a)(i), due to the police witness withdrawing his attendance at very short notice, that Mr Hepworth be given the opportunity to clarify the situation regarding arrangements for the police witness to attend.

Both applications were not opposed by Mr McGee, for the registrant, and the Committee granted the applications.

FURTHER APPLICATION

Due to the Police Divisional Commander, who is required to make a decision regarding the attendance of the police officer witness, being unavailable Mr Hepworth made an application to adjourn the hearing until the police witness situation is resolved. The application was opposed by Mr McGee.

The Committee granted Mr Hepworth leave to resolve the situation. The Committee subsequently heard that the Police Divisional Commander had authorised the police officer to attend as witness on 26 May 2010.

ALLEGATION

The Council alleges that in relation to you, Amandeep Sandhu, a student optometrist:-

1. (a) (i) On 2 February 2007 you shouted and swore at members of the public (*subsequently amended to 'On 2 February 2007 you shouted and swore in public'*);
(ii) You refused to leave the area outside Mode nightclub, Goldsmith Street, Nottingham when requested to do so by an officer of Nottinghamshire Police force;
(iii) You were arrested on suspicion of breach of section 5 of the Public Order Act;
- (b) (i) On 2 February 2007 Nottinghamshire Police issued you with a fixed penalty notice for causing harassment, alarm or distress contrary to section 5 of the Public Order Act 1986;
(ii) You signed the fixed penalty notice;
2. (a) (i) On 8 June 2008 you received a police caution for possession of cannabis, a Class C controlled drug contrary to Section 5 of the Misuse Drugs Act 1971; and
(ii) Section 39 assault by beating (battery) contrary to Section 39 of the Criminal Justice Act 1988.
3. (a) (i) At an Interim Order hearing of the Fitness to Practise Committee of the General Optical Council on 19 August 2009 you were asked by Counsel representing you whether you had previously been in any trouble with the police, or words to that effect;
(ii) Your answer was "No", or words to that effect;
4. (a) Your actions referred to at paragraph 3(a)(ii) above were
(i) Dishonest;
(ii) Misleading.

And by virtue of the matters set out above your fitness to undertake training as a student optometrist is impaired by reason of your:

- (a) Misconduct
- (b) Caution

DETERMINATION

Findings in relation to the particulars of the allegation

The registrant admitted particulars 1(a)(ii), 1(a)(iii), 1(b)(i), 1(b)(ii), 2(1)(i), 2(a)(ii), 3(a)(i), 3(a)(ii) of the allegation and the Committee therefore found those particulars of the allegation proved.

The Committee found particular 4(a)(i) of the allegation not proved.

The Committee found particular 4(a)(ii) of the allegation proved.

Findings in relation to the non-admitted facts

The Committee was asked to take these allegations out of sequence due to the non-availability of a police witness on the first day of the hearing otherwise the matter may have had to be adjourned until the following day. Both parties agreed to this procedure.

Allegations 4(a)(i) and (ii). The Committee has considered all the evidence presented including that of the registrant and the transcript of the interim order hearing of 19 August 2009. It has also considered documents presented on behalf of the registrant by his counsel.

The Committee in applying the standard of proof appropriate to such matters is not satisfied that the Council has demonstrated that the registrant acted dishonestly in his dealings with the Fitness to Practise Committee in its interim suspension hearing of 19 August 2009.

The Committee finds that on a balance of probabilities that the information the registrant provided may have had the effect of misleading the Committee, but it accepts that such misleading was unintentional on the part of the registrant. The Committee had before it evidence that the registrant had disclosed to the Council that he had been in receipt of a fixed penalty notice dated 2 February 2007 and that he had voluntarily disclosed this information having been advised that he was not required to do so by the Association of Optometrists.

APPLICATION

Mr Hepworth, for the Council, following evidence given by DC Finch and the registrant, made an application to amend allegation 1(a)(i) to read 'On 2 February 2007 you shouted and swore in public'. Mr McGee, for the registrant, did not oppose this application and the Committee granted the amendment.

Following the amendment to allegation 1(a)(i), the registrant admitted the allegation and the Committee thus found the allegation proved.

Findings in relation to the caution

Allegation 2. The caution has been admitted by the registrant. A record of caution was provided to the Committee and the Committee thus found the caution proved.

Findings in relation to misconduct

The Committee has carefully considered the evidence presented before it.

The Committee has made findings of fact in relation to allegations 3 and 4. The Committee has considered allegation 1 relating to events on 2 February 2007 whether they amount to misconduct. In the light of the evidence of DC Finch the behaviour accepted by the registrant of swearing, abusive language and specifically telling the police constable to "Fuck off" the Committee is of the view that this does amount to misconduct. Although this was an isolated incident, the behaviour is serious and involved abuse of a public official carrying out his duty.

In respect of allegations 3 and 4 the Committee does not accept that the unintentional misleading of the Committee – which it finds to have been a simple error – amounts to misconduct.

The Committee therefore found Mr Sandhu guilty of misconduct in relation to allegation 1 and not guilty in relation to allegations 3 and 4.

Findings regarding impairment

The Committee, having considered all of the evidence before it, has concluded that although it regards both of the incidents as constituting misconduct, it does not conclude that the current fitness to undertake training as an optometrist of the registrant is impaired.

In reaching this conclusion, the Committee has had full regard to the need to protect public confidence in the profession and to uphold proper standards of conduct and behaviour.

Both of the incidents which constituted misconduct occurred at times when the registrant was an undergraduate student at Aston University. There are no earlier, or subsequent events of a similar nature. The Committee has considered whether the two incidents could be said to suggest a pattern of rowdy or loutish behaviour. The incident of February 2007 was unpleasant drunken behaviour outside of a night club; the incident of June 2008 was an instance of over reaction in response to provocation including racist abuse. The Committee does not find that these incidents could be said to constitute a longer term pattern of behaviour which places the public or patients at risk.

The Committee was greatly impressed by the registrant's own evidence, his candour and insight, and particularly his awareness of the distress he had caused to his close family. The Committee attached considerable weight to the evidence of his current employers who gave evidence as to his ability in dealing with very challenging clients in a depressed area of Dudley. The Committee also took into account the voluntary work he undertakes with a youth group.

The Committee is, nonetheless, acutely aware of the need to uphold confidence in the profession and to uphold the highest standards of behaviour amongst registrants, and it has therefore decided that it is appropriate in all the circumstances to issue a warning about his future conduct and that such a warning should be placed upon his professional record for a period of 3 years.

Chairman of the Committee: Sir Alistair Graham

Signed _____ Date 26 May 2010

Registrant: Amandeep Sandhu

Signed _____ Date 26 May 2010