



F(09)13

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

GENERAL OPTICAL COUNCIL

AND

PARAMJIT SINGH (01-24265)

Monday, 19 April 2010

Substantive Hearing

CONTENTS

Allegation	3
Opening submissions	
Mr Hepworth	4
Ms Sanderson	7
Findings in relation to the facts	10
Findings in relation to the conviction	10
Findings in relation to misconduct	10
Submissions on impairment – Mr Hepworth	11
Mr Paramjit Singh, called and affirmed	
Examination in chief by Ms Sanderson	12
Cross-examination by Mr Hepworth	22
Re-examination by Ms Sanderson	25
Questioned by the Committee	27
Mrs Jaswinder Kaur, called and affirmed	
Examination in chief by Ms Sanderson (through interpreter)	30
Questioned by the Committee	33
Submissions on impairment and references – Ms Sanderson	34
Advice from the Legal Advisor	40
Findings on impairment	42

**SUBSTANTIVE HEARING: PARAMJIT SINGH (01-24265)
Monday, 19 April 2010**

Committee: Ms Fran Jones (Lay) (Chair)
Mrs Geraldine Huka (Lay)
Mrs Margaret Hallendorff MBE (Lay)
Mr Mark Lomas (Optometrist)
Professor Nizar Hirji (Optometrist)

Legal Adviser: Mr David Swinstead

Hearings Manager: Mr David Henley BEM

For the GOC: Mr John Hepworth

For the Registrant: Ms Eleanor Sanderson

[Hearing commenced at 09.30]

Ms Jones: Good morning, I am Fran Jones, a lay member of the Hearings Panel, and I have been elected by the Committee to chair today's hearing. The Committee today is made up of two optometrists and three lay members, and I shall ask the members of the Committee to introduce themselves and the capacity in which they sit, commencing from my left. *[Introductions]* To my right is Mr David Swinstead, the Committee's Legal Adviser, who will provide legal advice and assistance to the Committee and ensure that the proceedings are conducted in accordance with the Rules of Procedure so as to arrive at a result which is fair and just. The Legal Adviser may accompany the Committee should it sit in private to deliberate. In the event that any matter arises during the course of the Committee's deliberations upon which the Committee seeks advice, the parties will be invited to return to hear the matter which the Committee has raised and the advice to the Committee. Where advice on any issue is not accepted by the Committee, this will be indicated in the course of its decision on that issue.

To your right is David Henley, the Hearings Manager, who will provide administrative support to the Committee. Next to Mr Henley is the transcriber, Mr Nisbet, who will be keeping an official record of all that is said today during the sessions of the hearing at which the parties are present. The remaining persons sitting in the room, rather than in the public and press areas, are members of the respective legal teams.

You should be aware that it is the Council's policy for the determination of the Committee and a transcript of proceedings to be displayed on the Council's website for public viewing.

I need to check two things now. Are there any applications to be made at this stage?

Mr Hepworth: Not by the Council.

Ms Sanderson: No.

Ms Jones: And are there any health matters to be discussed as part of this case?

Ms Sanderson: Not on our part.

Mr Hepworth: Nor from the Council.

Ms Jones: Thank you. Can I please ask the registrant to stand and I shall ask the Hearings Manager to read out the allegation?

Mr Henley: [*reads*]

The Council alleges that in relation to you, Paramjit Singh, a registered optometrist:

1. On 18 January 2006, at Wolverhampton Crown Court, you were convicted of conspiracy to defraud.
2. You failed to declare that you were the subject of a criminal investigation in your application to join the student register made to the General Optical Council by application form dated 10 August 2005.
3. You failed to declare that you were made the subject of a conviction on the following applications made to the Registration Department of the General Optical Council:
 - (i) Application for retention 2006-7 (student) dated 28 June 2006;
 - (ii) Application for retention 2007-8 (student) dated 8 April 2007;
 - (iii) Application for retention 2008-9 (student) dated 15 June 2008;
 - (iv) Application for registration for 2008-9 dated 1 October 2008.
4. On your application for inclusion in the Wolverhampton City Primary Care Trust supplementary ophthalmic list dated 15 June 2008, you failed to declare
 - (i) That you were made the subject of a conviction; and
 - (ii) The nature of that conviction.
5. On or around 16 July 2007, when you completed the section "Has the employee ever been convicted of any offence before a court of law" in the form entitled Boots Opticians Engagement Particulars Form you failed to declare:
 - (i) That you were made the subject of a conviction; and
 - (ii) The nature of the conviction.
6. Your actions at paragraphs 2, 3, 4 and 5 above are:

- (i) Dishonest;
- (ii) Not of the standard expected of a registered optometrist.

And by virtue of the matters set out above your fitness to practise is impaired by reason of your:

- (a) Conviction;
- (b) Misconduct.

Ms Jones: Thank you. Please sit. Can I just check with your representative whether the facts set out in the allegation are admitted?

Ms Sanderson: Yes, Madam, the facts of the allegation are admitted. So the admissions are (1) on 18 January 2006 at Wolverhampton Crown Court, you were convicted of conspiracy to defraud, that is admitted. No.2 there was a failure to declare that he was the subject of criminal investigation in the application to join the student register on 10 August 2005. No.3 (i) to (iv) are also admitted. No.4 (i) and (ii) are admitted. No.5 (i) and (ii) are also admitted and, in addition, 6(i) and (ii) are admitted.

Ms Jones: Thank you very much. Mr Hepworth, may I invite you to proceed?

Mr Hepworth: Madam, thank you but before I do, may I just check that you and your colleagues have received the hearing bundle in advance for pre-reading and that today you have been provided with a hard copy of the bundle?

Ms Jones: Yes, we had the material in advance by email and a hard copy today.

Mr Hepworth: Madam, I am grateful, thank you for that indication. May I start with the chronology and I should say that the evidence before you is all in the bundle, and you can see that there are all witness statements. The evidence of those witnesses has been agreed, so there is no live evidence that you will hear today.

The chronology is as follows. You can see from the Certificate of Conviction at page 61 of the bundle before you that the registrant was convicted of conspiracy to defraud. He was convicted on 18 January 2006 and then sentenced on 10 February 2006 to the community sentence which is described on that page. The particulars of that conviction can be found in other places but particularly at page 63, which is the transcript of the first Crown Court hearing where the conviction was entered on 18 January. You can see at G on page 63 that the particulars of the offence were that between 20 March 2005 and 10 June 2005, the registrant and his mother conspired together to defraud Lloyds TSB, the West Bromwich Building Society and the Norwich Union by dishonestly, and there are a series of allegations. One was:

“making a false complaint of burglary to the West Midlands Police and alleging that Lloyds TSB and West Bromwich Building Society passbooks and other property had been stolen. Two, falsely reporting

to Lloyds TSB and the West Bromwich Building Society that passbooks had been stolen. Three, making cash withdrawals from the Lloyds TSB and the West Bromwich Building Society by means of the passbooks referred to. Four, making a false claim against the Norwich Union under the terms of an insurance policy for goods allegedly stolen.”

So, Madam, the offence took place between March and June 2005. At the time that the registrant submitted his application for registration as a student optometrist on 1 September 2005, by that time he was under investigation for the offence which led to the conviction. He should have disclosed that on the application form and did not. The reference is at page 8 of your bundle which is found within exhibit LH1 attached to the statement of Ms Hytti. On page 8, the question asks: “Are you the subject of a criminal investigation or proceedings or have you been the subject of a criminal conviction, caution or other criminal matter?”, and Mr Singh, the registrant, ticked no, which was, of course wrong, and he accepts that was dishonest. As I said, the conviction was on 18 January 2006, sentence on 10 February 2006, and on three subsequent applications for retention on the student register, the registrant should have declared that conviction. He did not, he should have done and he accepts that he was dishonest in not doing so. When he applied for substantive registration on 1 October 2008, again he should have declared the conviction, he did not and accepts that was dishonest.

Madam, it is right that on the application for retention that the registrant submitted for the year 2009/10 he did disclose the conviction. However, in the Council's submission that was not a proactive disclosure, because by that time the issue about his conviction had already come to light. To use the vernacular, the cat was already out of the bag. His previous failure had been discovered. The means by which the registrant was discovered comes in his contact with the PCT. He applied in June 2008 to be included on the ophthalmic performers list with the PCT but the rules changed on 1 August 2008 and, at that point, the registrant was told that he would need to provide the PCT with enhanced CRB disclosure.

It is clear that, at some point following that, the registrant applied for and received his CRB disclosure, because when he went to see Ms Munger, whose statement is in the bundle, on 18 November 2008, he took that disclosure with him. It is at that meeting that he makes the disclosure about his conviction. The Council would ask you to accept that is the reason why this disclosure was made, because the registrant had to get an enhanced CRB disclosure which revealed the conviction rather than anything he did himself, as I said before, proactively.

I understand that the PCT have deferred his application until the outcome of these proceedings. Importantly, so far as the allegation is concerned, when the registrant initially applied to the PCT in June 2008, he failed to declare the conviction and he failed to declare the nature of the conviction.

The third aspect of the allegation relates to the registrant's employer Boots. He began his preregistration year at Boots on 16 July 2007 and, as part of the

first aid procedures it appears, he was required to at least partly complete a Boots engagement particulars form. It is the statement of Ms Franklin that covers this and she says that some parts she filled in and some parts the registrant filled in. However, importantly, he was the one who indicated on the form that he did not have a conviction, which, of course, was wrong and he accepts that was dishonest in that he did not indicate the conviction or the nature of conviction.

You can see in the bundle of documents that, as a result of this non-disclosure, the registrant was given a warning, and you can see from a letter that he sent to the Council that he was offered a job within Boots which would have been on the shop floor, he did not want to accept that so he resigned from Boots, so that is how his employment at that particular organisation ended.

Those are the facts and what I do not want to do, Madam, is insult you or your colleagues by going in detail through statements if you have read the statements, you understand them and are content that your knowledge of the case is sufficient. However, if you would find it of assistance, I am content to go through the statements and point out to you the relevant sections, go through the exhibits again and point out the relevant sections and the relevant false disclosures. Rather than proceed on that basis without first checking, perhaps I should receive an indication from you as to whether you would find that of any assistance?

Ms Jones: Let me just check. [*Confers with Committee members*] We are content not to go through them in detail, thank you, Mr Hepworth.

Mr Hepworth: Madam, thank you. One thing I should do is specifically draw to your attention the basis of the conviction as far as the registrant is concerned. The basis of the conviction is set out at page 69 of the bundle; this is within the transcript of the second Crown Court hearing, the sentencing hearing. Importantly, this is the basis upon which the registrant pleaded guilty. It was accepted by the prosecution and, importantly, accepted by the court and it is on that basis that the Council puts forward the facts of the conviction on no other basis. Madam, there is a gap that needs completing because, as you can see, on the bottom line of page 2 there is a section which is inaudible. I have been given a handwritten copy of the basis of plea and I can fill in that gap for you. That section should read:

“I do accept that once the agreement to try and defraud had been made, I became aware of it and played a role in committing this offence in the sense I have explained in paragraphs two and three.”

Ms Jones: Mr Hepworth, could you repeat that please?

Mr Hepworth: Madam, I can. It says:

“I do accept that once the agreement to try and defraud had been made, I became aware of it and played a role in committing this offence in the sense I have explained in paragraphs two and three.”

Ms Jones: Thank you.

Mr Hepworth: So those are the facts. I do have submissions to make in relation to impairment, which I shall make whenever you wish me to make them.

Ms Jones: Thank you. Can I just check whether there are any questions? [*No questions*] Thank you very much.

Ms Sanderson: Madam, I don't know if it would assist you to have a copy of the basis of plea, the full handwritten document that was referred to by my learned friend, simply because that includes the previous paragraphs that were referred to as being paragraphs 2 and 3. I know my learned friend has a copy but I am in your hands as to whether or not you would wish to see it at this stage?

Ms Jones: If we could perhaps get it copied during one of the recesses, or do you have copies?

Ms Sanderson: We have copies.

Ms Jones: We can refer to this as R1. [*R1 distributed*] I should have announced earlier that the main bundle was pre-received and received on the day at C1, my apologies for not doing so. Ms Sanderson, so that we are clear, would you take us through the differences between this document and the typewritten one?

Ms Sanderson: Yes. I believe there is only one small difference in relation to that last paragraph but if I can go through what the document says and perhaps turn to the transcript. As you will see, it says:

- “1. I admit the offence of conspiracy to defraud.
2. My role in this offence was limited to the extent that I was asked by my mother to report the offence of burglary to the police and accompany her friend to make withdrawals from her (mother's) accounts.
3. I agreed to do this and admit that I did so knowing that the burglary (committed while I was away from the home) had been committed by someone known to her.
4. I was aware that my mother was under immense pressure and I felt obliged to help her.
5. I did not report the passbooks as stolen in my statement to the police.
6. I did not report the theft of the passbooks to the bank and the building society.
7. I did not make the false claim to the Norwich Union.
”

8. I do accept that once the agreement to try and defraud had been made, I became aware of it and played a role in committing this offence to the extent I have explained in paragraphs 2 and 3.”

Paragraphs 2 and 3 refer to those earlier in the basis. The only part that is left from the transcript is within that last paragraph 8 where it says “inaudible”. As my learned friend has helpfully said, that was the basis of the conviction, and that was accepted by the judge. That, for your reference, is at page 83 of the transcript. I do not deal with this in detail now but simply to say that the learned judge made the comment that he was “quite satisfied that, had it not been for her (that is the mother) pressurising you in the way that she did, you would not have behaved in the way that you did”.

As regards the factual allegations, you will have heard that they are admitted and that the failure to declare the conviction on a number of forms is admitted, also that dishonesty is admitted in this case. I simply want to draw your attention, Madam, to one document you find within the bundle, and that has been referred to by my learned friend, which is the letter sent by the registrant to the GOC. The second page of the letter is at page 88. There is a further letter at page 90. I would simply wish to highlight this issue at this stage in relation to dishonesty. It is admitted and on page 88 you will see what the registrant said about this. In the third bullet point down he states:

“I was under impression that conviction would not stay on my record after one year. In addition I obtained Subject Access Forms twice from the police station and it revealed that there were no convictions on file against my name.”

If you turn within the bundle, it is possible to see those two Subject Access Forms at 95 and 96. In saying that, it is important to note that the registrant does not seek to go behind the dishonesty that he still knew was inherent in his failing to make that disclosure. That can be seen from two bullet points down back on page 88, Madam, where he says:

“Having said all this, I do realise I have made a grave mistake and I should have been honest about things right from the beginning.”

Notwithstanding those Subject Access Forms to which he refers, he does accept that his failure to disclose the conviction throughout was dishonest.

Madam, I do not know whether you are minded also to deal with the admission of the conviction and the misconduct at this stage, because, as you are aware, the conviction and misconduct are also admitted on the part of the registrant?

Ms Jones: Can I invite our Legal Adviser to advise us.

Mr Swinstead: Madam, this is a slightly difficult position. You might wish to hear what Mr Hepworth says about it. My preliminary view is that you are required at this stage under your own procedures to consider the finding that there has

been a conviction and whether or not the conduct alleged amounts to misconduct. Clearly, there has been admission as far as the conviction is concerned and, in a sense, that is something that cannot be got behind, which is a slightly odd way of putting it. It stands as a conviction and it is admitted. The issue of misconduct is always a matter for you and it is a matter for your judgment. While Ms Sanderson helpfully indicates that misconduct is admitted, that remains a matter for your judgment and it seems, as I understand the position, that you should formally make that finding either way. Bearing in mind what has been said, that might not give you a great deal of difficulty but, nevertheless, it remains for you to decide whether or not what has been admitted amounts to misconduct.

Mr Hepworth, first, do you think what I have said is right, or is there anything with which you take issue?

Mr Hepworth: Madam, I agree entirely with your Legal Adviser. As I understand the current position, so far as this Committee is concerned, the Committee is prepared to accept there are four stages in effect, the facts misconduct/conviction in this case, impairment and then sanction. I believe it would be sensible in this case to deal with them separately and I agree entirely with the approach taken by your Legal Adviser. I would hope that you require no submissions from me in relation to whether or not the facts amount to misconduct but, if I can help you in that regard, I would endeavour so to do.

Mr Swinstead: Madam, I have put forward what I believe to be the position. Do you have any submissions to make?

Ms Sanderson: None at all, I entirely agree.

Mr Swinstead: Madam, that is, therefore, the position. The conviction is admitted and it stands but you must decide on misconduct because, as I have said, it is a matter for you exercising your judgment in light of what has been said. I think formally you must decide that issue *in camera*.

Ms Jones: Thank you. In that case, Mr Henley, could I invite you to clear the room?

[Hearing adjourned at 09.58]

[Hearing resumed at 10.12]

Ms Jones: The Committee while it was *in camera* sought the advice of the Legal Adviser on what amounted to misconduct, and we wish to hear that advice in the presence of the parties so that you can comment before we return to an *in camera* session to make our decisions.

Mr Swinstead: I have already advised the Committee but I now do so again in public, because I referred to the two cases of *Roylance* and *Doughty*. First, in the case of *Roylance v GMC* (No.2) [2001] AC 311, Lord Clyde defined misconduct as

“a word of general effect involving some act or omission which falls short of what would be proper in the circumstances. The standards of propriety may often be found by reference to the rules and standards ordinarily required to be followed by [an optometrist] in the particular circumstances.”

In *Doughty v General Dental Council* [1988] AC164, the Privy Council defined misconduct as being:

“conduct connected with his profession in which the [registrant] concerned has fallen short, by omission or commission, of the standards of conduct expected among [registrants] and that such falling short as is established should be serious”.

I add those words although I did not initially say those words to the Committee, but that is how it is defined in *Doughty*. I do not know whether either party wishes to comment on that but those are the two fairly standard definitions of misconduct.

Mr Hepworth: Nothing from the Council, Madam.

Ms Sanderson: Nothing to add, Madam.

Ms Jones: Thank you very much. We shall return *in camera*.

[Hearing adjourned at 10.14]

[Hearing resumed at 10.26]

Ms Jones:

Findings in relation to the facts

The registrant admitted the facts and the Committee found the facts proved.

Findings in relation to the conviction

The conviction has been admitted by the registrant. The Committee has before it a memorandum of conviction. On this evidence the conviction alleged is found proved.

Findings in relation to misconduct

The Committee received advice on the definition of misconduct which was agreed by both parties. Having considered this the Committee concluded that the registrant’s behaviour fell short of the standards expected of an optometrist and this amounted to misconduct.

Mr Hepworth, would you like to go forward to impairment?

Mr Hepworth: Madam, thank you, and I shall be brief in my submissions. At this stage, you are not dealing with matters such as burdens and standards of proof. You and your colleagues, Madam, will exercise your professional judgment when deciding whether or not the registrant's fitness to practise is impaired. That is, of course, a question that needs to be judged in the present tense: is the registrant's fitness to practise today impaired? Of course, in order to assess that question, you will need to look back at what happened in the past as detailed in the allegation.

In the Council's submission, the dishonesty in this case is not a one-off. There are several instances of dishonesty. First of all, in relation to the offence, the registrant reported a burglary in circumstances that he knew to be false and dishonest. That involved an attempt to manipulate the criminal justice system, which is a serious offence on any reading.

In addition to that episode of dishonesty, you then have several dishonest failures to disclose that conviction and the investigation that preceded it to the Council, bearing in mind, importantly, that the Council was and is the registrant's professional body.

There is then a further failure to disclose a conviction to the PCT, and a further failure to disclose to his employer, all of which the registrant accepts was dishonest. My maths may be poor, but I make that eight separate incidents of dishonesty over, you may think, a relatively long period of time. You may find it significant that the dishonesty only stopped when the registrant had to submit the enhanced CRB check to the PCT and there was no way, you may think, for him to keep that dishonesty going, because he was about to be found out. Of course, it is a matter for you how seriously you take the conviction and the misconduct.

Madam, I do not want my submissions to get too legalistic and there is a principle that I believe all parties agree. I can quote you chapter and verse from the relevant case but, hopefully, that will be unnecessary. The principle is that, if the misconduct breaches a fundamental rule of practice, someone's fitness to practise may be impaired if, otherwise, the public may think that the unacceptability of the conduct has not been addressed. Secondly, in those circumstances, any steps that the registrant may have taken to address the previous behaviour may not be so significant as with matters such as poor professional performance. It is a matter for you as to whether or not you consider that the matters before you today do breach a fundamental rule of practice to that extent.

The last thing I intend to say in relation to impairment is probably the most obvious thing. When you are considering the case, you will have three matters at the forefront of your mind. The first is the need to protect the public, the second is to maintain public confidence in the profession, which you may feel is particularly important in this case, and the third is to declare and uphold proper standards of conduct. Again, you may think that is an important factor in this case. That is all I wish to say unless I can help you any further.

Ms Jones: Thank you, Mr Hepworth. Ms Sanderson?

Ms Sanderson: Madam, I would like to call a witness please, and that is the registrant Paramjit Singh.

**PARAMJIT SINGH called & affirmed
Examined by MS SANDERSON**

Q. Mr Singh, the first thing I would like to ask you to do is to keep your voice up as you are quite softly spoken.

A. Okay, I will try.

Q. Could you tell the panel your full name?

A. Paramjit Singh.

Q. And how old are you?

A. Twenty-eight.

Q. Whereabouts do you live now?

A. West Bromwich, which is close to Birmingham.

Q. Were you born in the United Kingdom?

A. No, I was born in India.

Q. When did you leave India to come to the United Kingdom?

A. In November 2000.

Q. What had you been doing in India at the time?

A. I had finished my college and I was studying for alternative medicine, which would obviously take four years but I came over here, so I did not manage to finish it.

Q. When you came to the United Kingdom, what did you start doing then?

A. I wanted to continue with my studies, so that is what I did. I couldn't do it straight away, I had to wait for a few months but then I enrolled to do A-levels and then started my education here.

Q. What A-levels did you do?

A. I did science which was Biology, Physics and Chemistry.

Q. And did you then apply to university?

A. Yes.

Q. What did you study at university?

A. Bachelor of Science Optometry.

Q. Which university was that?

A. Aston University.

- Q.** When you came to live in this country, whom were you living with?
A. The reason I came into the country was because my mum was here and my younger sister, so it was on the basis of family reunion.
- Q.** What is your mother's name please?
A. Jaswinder Kaur.
- Q.** You say you came to live with your mother and your sister. Whereabouts was your father at this time?
A. I assume he is in a different country, the Philippines, but I don't really know.
- Q.** When was the last time you saw your father?
A. Probably when I was about seven or eight years old
- Q.** When you came to live with your mother, did she have any relationship at the time such as a partner or a husband?
A. Yes, when I came over, her partner was in India.
- Q.** What was his name?
A. Joga Singh Nagra.
- Q.** What was your opinion of this relationship?
A. I felt uncomfortable with the relationship, because I was grown up. He was a kind of father figure but I did not feel very comfortable with it, and we never really got on very well.
- Q.** And in 2005, how did you understand the relationship between Joga Singh Nagra and your mother to be?
A. It wasn't very good, it was a bit strained.
- Q.** Sorry, did you say strange or strained?
A. Strained.
- Q.** Why was that?
A. There were some circumstances which led to problems in the relationship if you like, so it wasn't very good.
- Q.** What did you understand those problems to stem from?
A. It goes back to when I came over here; something to do with immigration reasons, my mum had to go so that I could come over here. She was looking after Joga Singh Nagra's finances, because he had some bank accounts and some savings in this country. Then one of their mutual friends managed to withdraw fraudulently, so he was holding her responsible for the loss of money, and I understand that is where the problems started to happen in the relationship.
- Q.** Just to make that clear, some monies were withdrawn fraudulently, and this man held your mother responsible for that, is that correct?
A. Yes.

- Q.** What were you told about these circumstances if anything?
A. I was aware of these circumstances. It was sort of clear to me what happened, because when she came back –
- Q.** Sorry, came back from where?
A. From India. I came over and after a couple of weeks she came back, so obviously she stopped receiving those statements, her partner's bank statements, and she became worried about what was going on.
- Q.** I am sorry, I did not hear that last remark.
A. She got a bit worried about what was going on. What I am trying to say is I became aware of the circumstances, because I saw what was going on. She went to the banks, she went to the police, I think she also tried to approach the MP as well to seek some help. What happened was the banks would not take into consideration her complaints, because although they had a joint account, the partner had some single current account.
- Q.** Okay, so these were the financial difficulties of your mother and her partner, is that correct?
A. Yes.
- Q.** Just to be clear, this is not the same fraudulent transaction that later became the subject of your conviction?
A. No, those were totally separate.
- Q.** This man held your mother responsible. What do you know he asked your mother to do?
A. He just wanted his money back; that was all he was concerned about. He wanted it back by any means, because he held my mum responsible.
- Q.** How were you aware of this pressure on your mother?
A. It was an ongoing thing, there was a bit of domestic violence, if you like, going on, so all the shouting and abusing between them.
- Q.** Who was shouting at and abusing whom?
A. It was mainly my mum's partner.
- Q.** Shouting at and abusing whom?
A. My mum and it was all about the money he wanted back.
- Q.** Was that in your presence?
A. Sometimes in my presence, sometimes in my absence.
- Q.** Did there come a time when your mother asked you to do something to get this money back?
A. Yes, that was in relation to the offence I was convicted for.
- Q.** Could you describe to the panel exactly what you were asked to do?
A. She asked me to report a burglary a few weeks before, when I reported it I didn't want to do it but I knew she was pressurised by her partner to give the

money back. The way she put it forward to me was, 'you know what is going on, I need to do something and if you can do this, that would help me out'.

Q. You say you didn't want to do it. Why not?

A. Clearly, it was not the right thing to do and I felt very reluctant to do it.

Q. Did you initially agree or not?

A. No, I did not agree but, at the same time, I found it hard to say no as well, so I was very reluctant, I did not want to do it.

Q. In terms of your relationship with your mother, would you normally do what she asked you to do?

A. At that stage, yes. It goes back to social and cultural settings, if you like.

Q. Can you explain that some more please?

A. Having an Indian background, you always do what you are told to by your parents. For example, when I was in India, I was living with my mum's sister and they were sort of parents to me, my mum's sister and her husband, and I have always done what they told me to do in terms of education, showing you where you want to go in life.

Q. Did you finally agree to do what she asked you to do?

A. I did but I felt that I had no choice.

Q. How old were you?

A. Twenty-three.

Q. Did you report a burglary that you knew had been committed by someone known to the family?

A. Yes, I did.

Q. And when you reported that, did you fail to tell the police that you knew it was someone related to the family?

A. Yes, I did not inform them it was somebody from the family involved.

Q. Do you think that was dishonest?

A. That was dishonest, yes.

Q. When you appeared in front of the Crown Court after being arrested for that offence, what did you plead – guilty or not guilty?

A. I pleaded guilty.

Q. We have seen and heard the basis of plea that was entered at the time today, Mr Singh. Can you confirm that was the basis on which you pleaded guilty?

A. That was, yes.

Q. And were you sentenced at that hearing to a community order?

A. I was.

Q. Of one year?

- A.** Yes.
- Q.** And 200 hours community service?
- A.** That is right.
- Q.** Did you complete that community service?
- A.** Yes, I did. I did it as soon as I could.
- Q.** I want to turn to your academic circumstances at the time. At this point, were you studying at university?
- A.** Yes, I was in first year of my university course.
- Q.** Do you recall that you made an application to the student register?
- A.** Yes, I do.
- Q.** Could you have a look at the bundle please, Mr Singh, and turn to page 8. Do you see at the top where it says: "Are you the subject of a criminal investigation or proceedings or have you been the subject of a criminal conviction, caution or other criminal matter?" and is that where you have ticked No?
- A.** Yes, I did.
- Q.** Was that correct?
- A.** To tick it as a No?
- Q.** Yes.
- A.** No, it was not.
- Q.** Why did you tick No on that form?
- A.** The main reason was that I felt really ashamed and embarrassed about what was going on, and subsequently having the conviction. Clearly, what I did was not right, so I just did not want to discuss it with anyone.
- Q.** And do you say that was honest or dishonest?
- A.** That was clearly dishonest.
- Q.** Mr Singh, I am not going to take you to every one but, having heard what was said earlier by my learned friend about the number of different applications that were made, you accept, don't you, that you failed to declare it on those applications, is that right?
- A.** Yes. The course of conduct that I took was dishonest, I admit to that.
- Q.** Can I ask you briefly about what have been referred to as Subject Access Forms? If you turn in your bundle please to pages 95 and 96. Did there come a time when you wanted to check whether or not your conviction was recorded anywhere?
- A.** Yes. That was the reason why I did these checks to make sure if there was anything held - a criminal record if you like, against my name.
- Q.** Did you receive back page 95 on 16 February 2007?

- A.** Yes, I did.
- Q.** And the following page 96 on 21 May 2008?
- A.** Yes, I did.
- Q.** What did you tell yourself that these meant at the time?
- A.** What I thought was they came clear if you like.
- Q.** I am sorry, they came -?
- A.** They revealed no criminal record if you like. What I felt was, even though it was an erroneous belief, I do not need to declare my conviction.
- Q.** On the basis of these pieces of paper you received?
- A.** Yes.
- Q.** Did you still have any doubts at that point?
- A.** Yes, I had some doubts because obviously I knew what I had gone through, and for these to reveal no information, I was a bit surprised. I did try to ring the number that is on the form and I probably tried that on two or three different occasions, but there was no answer and there wasn't an opportunity to leave a message.
- Q.** Turning to the letter that you sent later at page 88 please, if you see that last bullet point there, is it correct to say that although you received those access forms, you realised you should have been honest about things from the beginning?
- A.** Yes, I sincerely agree with that. Right now I fully understand the seriousness of the nature of the allegations against me. If I was open and honest about things at that stage, obviously the nature of the allegations I am facing today would not be so serious. Having said that, yes, I do realise and from the whole episode what I have learned is that I should have been open and honest but, given my lack of understanding about things at that stage, I made mistakes and I continue to do so.
- Q.** I want to turn now to when you finished university and where you started working. You applied for a job with Boots, is that correct?
- A.** Yes.
- Q.** And, again, you failed to disclose your conviction at that stage, is that right?
- A.** I failed to do so, yes.
- Q.** However, there came a time when you applied to the PCT, could you explain what happened in relation to your conviction and disclosure of that?
- A.** Again, because I had not declared it so far, I didn't really know what else to do, so perhaps I was scared.
- Q.** You say you were scared, what were you scared of?
- A.** I knew I had something in my past which I had hidden from people; I knew there was some sort of check involved with the NHS application. Again, for

me not to declare was not the right thing to do, but I didn't really know what else to do.

Q. And this was in 2008, is that right?

A. That was in 2008, yes.

Q. Do you recall that you went for a meeting with Boots after this all came to light, is that correct?

A. Yes, I did.

Q. Were you initially suspended?

A. Once I informed them what was going on, they suspended me for some days.

Q. To be clear, that was not in relation to your competence, that was in relation to these matters?

A. That was in relation to when I informed them about my CRB disclosure.

Q. Did you also attend the Primary Care Trust in order to speak to them about your conviction?

A. Yes. It just happened to be that I received the disclosure before they did, so I went to see them.

Q. If you turn to page 39 of the bundle, Mr Singh, one thing that is referred to here is that you attended in a very anxious state and you said you had made a terrible mistake. Does that reflect your feelings at the time?

A. Yes, I was obviously very concerned about what was going to happen at that stage.

Q. As it says at the bottom, your employers suspended you, correct?

A. That is correct.

Q. Following that suspension, you did in due course receive a final written warning, is that correct?

A. Yes. After suspension, I had to go through one investigatory meeting with the area manager from Boots.

Q. With the area manager?

A. With the area manager of Boots and then another disciplinary meeting with the regional manager, who was Deborah Thompson.

Q. If we turn to page 93, Mr Singh, perhaps we can see a letter from Deborah Thompson. At that meeting with Deborah Thompson, did you talk about the circumstances of your conviction?

A. That was one of the reasons why she wanted to have that meeting. She told me that she wanted to know everything that went on.

Q. Did you tell her everything that went on?

A. Yes, I explained to her what went on. I admitted that I had not declared my conviction.

- Q.** As a result, they decided to give you a written warning?
A. Yes, I was given a final written warning.
- Q.** Did that mean that, if you wanted to, you could have gone back to work?
A. Yes, that is what it meant.
- Q.** Can you explain why you didn't?
A. My main concern was and still is that I wanted to keep my professional skills alive as an optometrist and, if you are out of practice for a while, it takes some time to get back into your practice. I enjoy doing my job and liked it very much but the job they offered me was not the role of an optometrist, it was the role of customer services adviser.
- Q.** Why was that?
A. Because with the NHS they deferred my application.
- Q.** Because of this issue?
A. Because they deferred the application, I would not be able to see NHS patients, which is something you do as an optometrist. That is why they could not offer me the role of optometrist.
- Q.** Is that pending the outcome of this hearing?
A. With the NHS?
- Q.** With the Primary Care Trust?
A. Yes. Their decision will be based on what the outcome will be today.
- Q.** As you understood it, had you been allowed to practise, were Boots willing for you to be employed with NHS patients?
A. Could you repeat that?
- Q.** Had you been allowed to carry on practising, would Boots have been happy for you to carry on in your former role?
A. Yes. What they suggested is if I could ask the PCT to give me some kind of temporary ophthalmic number, they would be happy for me to continue as an optometrist. I tried that but, unfortunately, they said there is no arrangement for them to give me a temporary ophthalmic number, and I will just have to wait for this hearing.
- Q.** Of course, you have not practised as an optometrist for some time now?
A. No, I have not.
- Q.** What have you been doing instead?
A. The reason I resigned from Boots was because I wanted to find a job as an optometrist, and I thought I would be able to find a job somewhere. I was even prepared to travel or live somewhere else but not having the NHS number made it impossible for me to find a job. I did not really know what else to do.
- Q.** What did you do?

A. Because of everything going on and the way things carried on, I went into depression and did nothing, which was the reason why I went into depression as well. Then I just thought about it and thought I have to do something. I had an interest in teaching, so that is what I applied for last year and that is what I have been doing since September 2009.

Q. Where did you apply please?

A. I applied to three different universities and I was accepted at Wolverhampton University.

Q. I would like to show you a document, Mr Singh, of which we have some copies.

Ms Jones: For the record, can we refer to this document as R2? [*Copies of R2 distributed*]

Ms Sanderson: Mr Singh, it may seem obvious but what is this?

A. It is an application form to do a PGCE. If you want to teach, it is a professional teaching qualification.

Q. To whom did you make this application?

A. I made it to the University of Wolverhampton.

Q. Would you turn to the fifth page where you see a section entitled Rehabilitation of Offenders Act 1974?

A. Yes.

Q. Question 2 says: Have you ever been convicted of a criminal offence or are the subject of criminal charges? What have you answered there?

A. I have answered yes.

Q. It says below: If your answer is YES, please give details (offence, judgment, date etc below). Have you listed below that the offence, the date and the judgment?

A. Yes.

Q. We have seen on previous forms that you failed to declare that. On this form, you have declared it. Why have you now declared it?

A. Before I was holding onto the erroneous belief that I did not have to declare my conviction. Obviously, I was in the wrong and by this time I was aware that I had to declare, and I did declare it.

Q. Did you then speak to somebody in the university about it or not?

A. Following my application, following my interview, I had to go and see the Dean and Assistant Dean of the university in relation to my declaration, so they wanted to interview me.

Q. Did you go for an interview with them?

A. I went for the interview.

- Q.** As a result of that interview, did you then become a student there or not?
- A.** Yes. Following the application and other interview, I was accepted onto the course. Their interview was primarily because they wanted to talk about what happened in relation to the conviction, and the meeting lasted for about an hour. Following that interview, I was given a place on the course.
- Q.** Have you had to tell anybody else about your conviction since?
- A.** The way it works is that you have to go through the CRB process again, so they receive one copy and I receive another copy. However, as part of your training as a teacher, you have to work in a college of further education, so I started my placement and the normal thing would be that they would ask for a CRB disclosure. After one or two weeks, no-one really asked for it and I was expecting somebody to ask for it.
- Q.** So what did you do?
- A.** I set up a meeting with my mentor. Again, I felt a little uncomfortable talking about it but I explained to him that I do have something in my past which I think you should know. I briefly explained to him what it is, how it happened.
- Q.** What was his name please?
- A.** Malcolm Bell.
- Q.** And was that decision to tell him about it yours or his?
- A.** It was entirely my decision. I did not want to continue the way I had continued before, and that was important for me.
- Q.** How do you feel about it now being in the open with your tutors at university?
- A.** I think it has been like a snowball effect. At first, I was not open and honest about things and I was reluctant to talk about what happened and why it happened, because I did not really want to present a picture of a broken family to the world.
- Q.** A picture of -?
- A.** A broken family.
- Q.** But now how do you feel?
- A.** Now, to be honest, I have learned a lot especially since I started my teacher training. Now I know that not only do I need to declare these things, but I also understand why I need to declare these things. If I look back at my behaviour or course of conduct, clearly it was wrong and I failed to demonstrate the standards of a professional. Now, having reflected upon my behaviour, I understand why we need to declare these things.
- Q.** In terms of any recent forms that you have sent to the GOC, have you declared your conviction on those?
- A.** I have declared it on two previous occasions now.
- Q.** I have no further questions for the moment but, obviously, there will be some more questions, Mr Singh.
- A.** Thank you.

Cross-examined by MR HEPWORTH

- Q.** Can I just check one thing before I go any further? Can you look at pages 93 and 94 of the bundle which you have? This is the final written warning letter from Deborah Thompson. That is dated 3 December 2008. When did you stop working for Boots?
- A.** I think I resigned from Boots perhaps in December or January but I carried on working as a locum optometrist for a few weeks in the practice I was based in. My answer to your question is that I probably resigned in December 2008 or January 2009.
- Q.** Right and what was your role at Boots up to the point when you left?
- A.** Pre-registration optometrist.
- Q.** Can I ask you a question or two about names please? When you were charged by the police with the offence of which you were convicted, under what name were you charged?
- A.** Paramjit Singh Chouhan.
- Q.** How do you spell the last of those three names?
- A.** Chouhan.
- Q.** If you go to page 61 of the bundle, looking at your Certificate of Conviction, you can see that is there the name Paramjit Chouhan, please forgive my pronunciation. That is right?
- A.** Yes.
- Q.** Then if you move to page 63, which is the transcript of your first hearing in the Crown Court, you can see that at paragraph E, you are asked, "Are you Paramjit Singh Chouhan?" and you say, yes. Then going to page 69, which is the second Crown Court hearing, you can see right at the top that there is reference to Paramjit Chouhan and then it asks, "Are you Paramjit Singh Chouhan?", you can see that. There does not appear to be an answer but, presumably, you did not disagree with that because there is no conversation in relation to your correct name. Then if we go to pages 95 and 96 to the Subject Access Forms, you can see that on the top of both forms there are two names, so on page 95 Paramjit Singh and then Chavhan, and then Paramjit Singh on page 96. Presumably, those letters and those names were based on the information that you had given when you made your application for subject access information?
- A.** Yes.
- Q.** So you knew when those came back that they could not have included your conviction because they were for different names?
- A.** In relation to the first subject access, I don't know why they spelt it the way it is spelt on the paper but, obviously, while filling in the application I put in what my name is. The second time, I just put what my name is really, because I don't use my third surname anywhere. The reason it has appeared in the police proceedings or in the court proceedings is because they ask for it, and I

don't really know why. If you look at my passport, it just says Paramjit Singh, so I don't know why they particularly asked for it, and that is where all the confusion about the name is coming from. As far as information on this subject access, in the first one there was a misspelt surname but, if you look at the second one, it does not only have my name but also my address. It doesn't show date of birth but that is something you have to fill out as well when you apply for the subject access. Again, it is still a mystery to me why it came out revealing no information.

Q. It is obvious, isn't it, that the reason why they came back saying no conviction with those details, because they are giving you different details to the ones under which you were convicted.

A. I do not have the application form for CRB disclosure, and the information I filled in on CRB disclosure is exactly the same as you see on the second Subject Access Form. That has revealed the information so that is why I say it is a mystery to me why this came back clear whereas the CRB disclosure did not, and I filled out exactly the same information

Q. When you received the first Subject Access check back in February 2007 and the second one in May 2008, why did you not send another check in the correct details under which you were convicted?

A. That is my name, those details for me are correct. That is my name everywhere, at university and with all my employers. As I said, that is the information that I filled out when I applied for CRB disclosure as well. If I used my third surname, if you like, I do not have anything that shows my third surname. For example, you have to send an identity document like your passport, a bill or something and that does not include my third surname as well.

Q. Do you accept that you ought not to place reliance on those two forms because the details were wrong?

A. I believe that the details are correct, I am sorry I disagree with you, because those are the details I filled out in the CRB disclosure as well.

Q. But they are not the details under which you were convicted, I think you accept that?

A. They are not the details under which I was convicted. Those are not the details I normally go by anyway.

Q. Could I ask you to go to page 57 of the bundle, the statement of Nigel Harris, who is Regional Manager? He gives evidence about the conversation you had with the manager of the Kidderminster store, a Ms Sarbjit Klair, do you remember that conversation?

A. Yes, I do.

Q. It looks like there was a delay in your CRB coming through according to Boots, and you told your manager Ms Klair that the PCT had told you that they were waiting for the CRB to come through?

A. That is correct.

- Q.** When you had that conversation, had you by that time received your copy of the CRB check?
- A.** No, I received it some time after I had that conversation.
- Q.** Do you not accept that you at least thought that your conviction would be on that CRB check?
- A.** Yes, that was something about which I was worried sick, if you like, so it was on my mind.
- Q.** Why did you not tell your manager that at that point?
- A.** I did not really know what to do unless I had the CRB disclosure first, and I suppose I ended up in a situation where I didn't really know which way to turn and what to do. As far as a declaration goes, the right time would have been right at the beginning rather than when I applied for the CRB disclosure. I have admitted to being dishonest. For me, to carry on the way I did was clearly wrong and I should have declared it at the very first opportunity, and I regret that is something I failed to do.
- Q.** Do you accept that you had another opportunity to come clean during that conversation with Ms Klair?
- A.** No, I don't believe that was an opportunity, because my expectations were that because I had done a subject access, nothing would be revealed in CRB disclosure as well, so that was my understanding at that stage. I don't believe that was an opportunity for me.
- Q.** I may have misheard you and I apologise if I did. Did you say that because of the Subject Access Forms, you thought that the CRB would come back with no disclosure?
- A.** That is what I thought because for me they mean the same information really. Again, I don't know why they come out different and why they are different, that is something I still don't know.
- Q.** And if the CRB had come back with no disclosure, what would you have done?
- A.** To be perfectly honest, I would have carried on the way I carried on. In a way, I know it probably doesn't sound very plausible but I am glad the way events carried on after my CRB disclosure. It has been quite difficult but in a way I am glad everything is out in the open and I am glad it sort of happened at this stage of my professional life, if you like, rather than after 10 or 20 years. What I am trying to say is I believe that the way things are moving at the moment, that is the right way to move ahead. So, yes, I would have carried on, given my lack of understanding at that stage, yes, I would have carried on, but I would not carry on that way ever in my future life, because I appreciate the significance of making these declarations and being open and honest about them.
- Q.** So is it fair to say that you would have carried on with the dishonesty for as long as you got away with it?
- A.** I wouldn't say got away with it. Yes, I have been dishonest and the reason why I was dishonest was not because I wanted to deceive anyone, I didn't

want to discuss it with anyone, I didn't want to tell anyone what went on. Even to this date, I feel uncomfortable and embarrassed, if you like, for the way things happened and especially as it involves my mum. That makes it very hard for me to talk about it because your parents are supposed to guide you in the right direction and in my case it sort of went the other way, and that does not really project a good picture of your parents.

Q. When you made your application for registration as an optometrist, this is 1 October 2008, did you think that if you declared your conviction, that might affect whether or not you were admitted onto the substantive register?

A. Sorry, if I admitted –

Q. When you made your application for admission to the optometrists register on 1 October 2008, did you think that if you declared your conviction at that point, that might have adversely affected your chances of getting on the substantive register?

A. To be honest, I don't really know. The main reason why I did not declare was because I did not want to talk about it and I never really thought what would happen if I declared it. Obviously, there would be some kind of process involved after that but I never really gave it due consideration if you like. Having said that right now, yes, perhaps. As this hearing will decide whether or not I can continue as an optometrist, one of the allegations is having the conviction itself, if I had declared it not only at that stage but at any stage, it would have decided my fate as an optometrist or a student optometrist.

Q. And you were aware of that at the time, weren't you?

A. Not at the time. As I said, I never really thought about it but right now, having gone through the process, I am aware of it now. The main reason I did not declare it was not to say it cannot happen that the Committee would not take some kind of action. The main reason I did not declare it was because I found it extremely difficult and was embarrassed to talk to anyone about it. So that was the main reason really.

Q. I have no more questions.

Re-examined by MS SANDERSON

Q. A few questions in re-examination, Mr Singh. I just want to take you back to pages 94 and 95. When you applied for these, were you trying to find out what your criminal record was?

A. Yes, that is what I was trying to do, if there was any information held against my name.

Q. I am sorry, I said the wrong numbers, it is 95 and 96, my apologies for that. Sorry, you wanted to find out what information was held on you?

A. About my conviction, that is it really.

Q. And you applied in which name?

A. First, I applied with the name I was convicted with. I did not misspell it but it somehow got misspelt, while they read it they made some error, I don't know.

The second time, I just applied with my usual name that I normally use and have on my documents.

- Q.** In any event, were you trying to use these for anything at the time?
- A.** I just wanted to make sure, because I believed the conviction would not stay on my record for more than a year. The court order was that I have to complete 200 hours of community punishment within a year. That was my belief and that is the reason why I did it a second time, just to make sure. With the first one, yes, there are some issues with my name but with the second one there are no issues at all.
- Q.** But you didn't present these to anyone at the time?
- A.** For example?
- Q.** On 16 February 2007, when you received this piece of paper you did not give it to anyone?
- A.** No, I just kept it safe.
- Q.** I don't know what is suggested but, if you wanted to find out what your own criminal record was, would there have been any point in you giving the wrong name?
- A.** Would I have given the wrong name?
- Q.** If you were trying to find out your own record?
- A.** If I were to give the wrong name, I would not get the right information so I wouldn't do that.
- Q.** You have also been asked questions in relation to Sarbjit Klair and whether you were able to tell your manager at that point about your conviction. One of the things you said is that you ended up not knowing where to turn. From what you have learned, if you had questions about your conviction, where would you turn now?
- A.** If I look back, these events happened when I was at university, and I think my first point of contact would have been some lecturer, my personal tutor. After having gone through the process, I would get in touch with the Association of Optometrists to seek further advice. It was clearly something I was not aware of at that stage.
- Q.** But now you would turn to them?
- A.** Yes, and it was Miss Munger who guided me towards the AOP when I went to see her.
- Q.** And that is Miss Munger from Wolverhampton City Primary Care Trust?
- A.** Yes.
- Q.** I have no more questions in re-examination, Madam, I don't know whether you have any questions?

Questions from the Committee

Ms Hallendorff: When you enrol as a student, are you given a copy of the Opticians Handbook and is it discussed at any stage in your book early student training?

A. To be honest, I never received that when I started at my university. It might have been discussed in some of the extra sessions at university but possibly I might have missed those, because I was selective in what lectures or what sessions I would attend.

Q. So you do not recall ever discussing the code of conduct expected of a student optometrist or an optometrist? Were there no lectures on the conduct expected of students or optometrists?

A. I don't recall it at the moment, I could be wrong but I certainly don't recall it at the moment.

Q. Thank you.

Professor Hirji: Can I take you to the application you made for PGCE? If I could ask you to turn to page 3 of it. Please correct me if I misunderstand this in any way, I just want some clarification. I note that you worked with Boots Opticians in customer service.

A. Sorry, which one is this?

Q. On the bottom, you have put down Boots Opticians customer service from July 2006 to September 2006, is that correct?

A. Yes.

Q. Did you have to fill out an application form to do that job?

A. Yes.

Q. Okay, we don't have that in the bundle at the moment.

A. Sorry, you don't have that application? I am not sure.

Ms Sanderson: I don't believe we do.

Professor Hirji: So you would have been asked the same question at that point, that is what I am trying to say?

A. Yes.

Q. Thank you for that. Can I also take you to page 111 of the bundle? This is the application form that you filled out for Wolverhampton City PCT. One of the things you said earlier on is you believed that spent convictions, fixed penalty convictions and so on, do not need to be declared and you felt this conviction of yours was spent. If you look at the note on the bottom, it states clearly it is only if you get a fixed penalty notice that you do not need to declare it – did you read that part?

A. I did. I know in my letter I have said that talking about spent/unspent terminology if you like, but I only really truly became aware of it after my CRB disclosure came. Before I really thought that it was a bit like having points on your licence. I know it sounds naïve.

- Q.** I understand that and that is what I thought you meant when you said that if it is spent or unspent, it is a points on the licence sort of approach?
- A.** Yes. I think the words I should have used, and I have probably used it in one of the letters as well, would be valid or invalid, rather than spent or unspent, because obviously it is legal terminology.
- Q.** Going back to the question, there is clearly a note that says that “offences considered “spent” under the Act must be declared”, and then it says, “matters dealt with by a fixed penalty ticket need not be declared”.
- A.** What I am trying to say is that I only became aware of spent/unspent terminology after the CRB disclosure came, and after having discussions with the AOP I started to look into these things. Before that, I really thought it was either you have something on your record or you don't. Having said so, at the same time, the way I had carried on myself, being dishonest and making mistakes, I was a bit scared and I felt I had no choice not to declare on this one as well.
- Q.** Thank you. Can I also ask you to turn to page 39. It is just a question about your family friend who advised you to declare your conviction, who was that?

Mr Hepworth: Sir, I think it is the other way round.

Professor Hirji: Sorry, not to declare the conviction. Who was that?

- A.** It was a friend. What I am trying to say is, yes, he gave me the advice but I think ultimately it was my responsibility to act on the advice and I want to take the responsibility for that.
- Q.** Okay, I understand. Finally, you have not been working as an optometrist, you have not been employed since have you?
- A.** No.
- Q.** Just as an aside, how are you funding your process through university or teacher training that you are going through at the moment?
- A.** It is a totally different profession to optometry. Initially, it was very difficult, after having depression to get back on your feet. It has been quite difficult and it really knocked the confidence out of me, all these events. It was quite difficult to begin with, and the qualification I am working towards is probably the hardest thing I have ever done academically, so it has been quite challenging.
- Q.** I understand that but the question is how do you fund yourself?
- A.** Oh, the teacher training? Initially, I thought if I could do something in relation to optometry, some further studies, then, yes, the question of funding came but with the teacher training, you do get some help. You get your fees paid as a loan and you get some financial help to get you through the training.
- Q.** Thank you. I have no other questions.

Mrs Huka: Mr Singh, on the application you sent to the CRB, can you spell your name the way you spelt it for the CRB?

A. Paramjit and the surname is Singh, that's it.

Q. And you didn't use the last name?

A. On my CRB?

Q. Yes.

A. No.

Q. Thank you. If I can ask you to turn to page 95, forgive me if I ask you something that you have already answered, did you notice the discrepancy in the surname?

A. I did not notice that. I thought at that stage it would not really matter because my first name and my second surname are correct. Also I provided my date of birth as well as sending some identity documents. Again, it is something that I cannot explain but it certainly was not my intention to spell my name wrong.

Q. Thank you.

Mr Lomas: I have no questions.

Ms Jones: Thank you very much, Mr Singh. Can I suggest we take a 10-minute break and let us say we shall reconvene at 12? Just before we do that, I should check whether you have any questions of clarification?

Mr Swinstead: No.

Ms Jones: In that case, we shall reconvene at 12. Can the witness step down?

Mr Hepworth: You are still under oath.

Ms Sanderson: He can.

Ms Jones: You can step down. [*Witness steps down*]

[*Hearing adjourned at 11.45*]

[*Hearing resumed at 11.58*]

Ms Jones: Ms Sanderson, would you like to continue?

Ms Sanderson: Yes. The next witness I would like to call is Jaswinder Kaur, Mr Singh's mother.

Ms Jones: I understand that we may have an interpreter?

Ms Sanderson: We do, yes.

Ms Jones: Do we need to call the interpreter first and swear her in?

Ms Sanderson: Yes, I shall ask for the interpreter to be sworn first please.

Mr Swinstead: Can we just pause for a moment, because properly the witness should be in as well and then we start by first taking the oath of the interpreter. Therefore, I believe the witness should be called as well so that the witness is present when the interpreter is sworn and the language that is going to be interpreted is confirmed, and then we proceed. [*Ms Baljeet Ahluwalia is called and affirmed as interpreter into/from Punjabi*]

**MRS JASWINDER KAUR called & affirmed
Examined by MS SANDERSON**

Q. Could you give us your full name please?

A. Jaswinder Kaur.

Q. Mrs Kaur, when did you first come to the United Kingdom?

A. 1989.

Q. Do you have a son called Paramjit Singh?

A. Yes.

Q. Where was he living at the time?

A. India.

Q. When you moved to the United Kingdom, who were you living with?

A. With my relatives.

Mr Swinstead: May we pause a moment. With respect, the whole point of the interpreter, Mrs Kaur, is that you reply in Punjabi and she translates. I know that you have some English and you can answer the questions but the formality when there is an interpreter is that you answer in Punjabi and the interpreter translates, so there is no misunderstanding, although I understand that you speak some English.

Ms Sanderson: Mrs Kaur who were you living with in England when you first moved here?

A. With my relatives.

Q. Were you living with Paramjit's father at the time?

A. Yes, he was with us as well.

Q. Did there come a time when you stopped living with Paramjit's father?

A. Yes, he had left.

Q. And in about 1995, did you form a relationship with another man, Joga Singh Nagra?

A. Yes.

- Q.** After that relationship started, where did the two of you live?
A. At a rented place.
- Q.** Were you living in the United Kingdom or in India?
A. United Kingdom.
- Q.** Did there come a time when you and he experienced some financial problem?
A. Yes, when he had to go for his entry clearance, the rest of the other things happened afterwards.
- Q.** When you say “the other things”, what are you referring to please?
A. Like I went to India and somebody took out money from the accounts.
- Q.** Whose accounts were those?
A. Joga’s.
- Q.** Is that your partner?
A. Yes.
- Q.** Do you know how the money was taken?
A. Yes.
- Q.** How was it taken?
A. The person I left to look after the house posed as Joga and went to the banks, because he was familiar with a little bit of the background.
- Q.** What did you do to try to get the money back?
A. I reported the matter to the police station.
- Q.** Did you do anything else?
A. I tried to locate him but it was very difficult to get hold of him, and I sent the police to his known address as well.
- Q.** When you say “him”, whom are you referring to?
A. The person who took the money out, I reported him to the police.
- Q.** What was Joga’s view of what happened?
A. Because of his immigration status, Joga was helpless to come over, so he sent me an authority letter to deal with his matters at the bank, but the banks did not do anything. So I paid a solicitor £500 to deal with this matter and he struggled as well, and like this one year went by. Neither did I get the money from the banks, nor could we get hold of that person.
- Q.** How did this affect the relationship between you and Joga?
A. Initially, it wasn’t too bad, he thought that somebody had done it so let it be, but gradually the relationship between ourselves started to deteriorate.
- Q.** Did you see him very often?

- A.** Until 1999 when Paramjit came over everything was fine but before his arrival, money was taken out from the banks anyway, and I stayed over there for two months.
- Q.** When you say the relationship deteriorated, can you describe that please?
- A.** What can I say, I am under so much stress and I am so upset that during this time with the hardships I went through, I have lost my memory now.
- Q.** How did Paramjit get on with Joga?
- A.** They did not get on well. He did not like him.
- Q.** Who did not like whom?
- A.** Joga Singh did not like Paramjit. In fact, Joga used to tell me, 'you choose between the two of us, either you stay with Paramjit or with me'.
- Q.** What did Joga ask you to do to get the money back?
- A.** Until our relationship was going fine, he did not say anything but once he noticed that I am staying away from him and showing my indifference, then he started demanding his money from me.
- Q.** Did you give him the money at that point?
- A.** No, because I did not have any money on me so I could not give him anything. Then he came over here.
- Q.** What did he do when he arrived here?
- A.** Initially, he started to patch up the relationship between us but because of Paramjit it was not possible, it was not happening.
- Q.** Did he say what he would do if the money was not returned?
- A.** For nearly one year this went on. He went to the banks and I must admit that I fully cooperated with him, because he wanted to get his money back, so he went to the banks himself. I even approached an MP and told him everything as well, and he sent a letter to the police that I should get my money back which has been taken out by fraud, but even then nothing happened.
- Q.** After everything failed with the banks, what did Joga do then?
- A.** So then Joga suggested that if that person can take out the money like this, you can do the same and give me my money back.
- Q.** Did he ask you to take part in that?
- A.** No, he brought his relative in the house and he said this woman will do everything for you.
- Q.** What did you think Joga would do if you did not cooperate?
- A.** He was doing it already. He was harassing my family back in India, and he was keeping our son's passport to himself.
- Q.** Not your son Paramjit but a different son?
- A.** Yes, Joga's and my son.

- Q.** What did he say he would do with that passport?
A. He kept threatening me and said, 'I will take him back to India and never show you his face'.
- Q.** How old was this son?
A. He is eight now.
- Q.** Did there come a time when you asked Paramjit to become involved with this scheme?
A. No, initially Paramjit said, 'I don't know exactly what you guys are up to, I don't want to get involved in this'. He said, 'I don't want to know it, I don't know what sort of money is involved in this, I don't want to get involved at all'.
- Q.** Did you try to persuade Paramjit to become involved?
A. What happened is that Joga asked me to go to India and he said this woman will do everything for you, so I went to India. When it all happened, when the money was withdrawn, I was in India at that time.
- Q.** Did you put pressure on Paramjit to take part?
A. We kept asking Paramjit to participate in this but he never agreed to it. In fact, he stopped coming to the house as well. Then I went to India and when I went to India Joga said, 'I will pick up the goods from the house and this woman will withdraw the money, and then you report the matter to the police'. Paramjit only knew that they are going to claim from the insurance company.
- Q.** Did Paramjit eventually agree to do it?
A. No, but we became helpless, that woman could not go, Joga could not go either, so I started persuading him by calling him every day and I asked him to report the matter to the police, this is all I am asking you to do.
- Q.** Eventually, did he do that?
A. Yes, but he wasn't happy with it and really told me off.
- Q.** I have no more questions for this witness but, if Mrs Kaur remains there, there will be some more questions.

Mr Hepworth: Madam, there is nothing I wish to raise in cross-examination.

Questions from the Committee

- Professor Nirji:** Mrs Kaur, I have just a straightforward query about the amount of money that was involved. We have heard you talk about sums of money but what amount of money was involved?
A. The money which belonged to Joga was nearly £16,000.
- Q.** Thank you.
- Mrs Huka:** There is just something that I would like to ask. Could you ask Mrs Kaur whether she had a daughter older than the eight-year old son?
A. Yes, she is younger than Paramjit.

Q. Is she Joga's daughter?

A. No.

Q. How old is she?

A. She is a grown-up woman now and she is married to an Englishman, she is 23 years of age now and has two kids as well.

Q. Were any attempts made to persuade her in the way that Paramjit was persuaded?

A. She did not live with me, a long time ago she had left.

Q. Thank you.

Ms Sanderson: Madam, may this witness be stood down? [*Agreed – witness & interpreter released*]

Madam, before I turn to submissions on impairment, there are some parts of the references you have in the bundle which I would invite you to read, and there are some short passages I would like to read out to you please. I believe it is agreed between myself and my learned friend that these are references that you may properly take into account at the impairment stage in these proceedings.

First, may I take you to page 109, which is a reference from Samantha Hague dated 19 March 2009 – sorry, page 119. It says:

“Dear Sirs,

I have known Paramjit Singh for about 12 months, initially during my employment with Boots Opticians when I was an Area Manager and Parm was a pre-reg optometrist at the Hereford and Wolverhampton practices. More recently, he has worked with me at Hague Optical Ltd t/a Boots Opticians Wolverhampton as a pre-registration optometrist (not under my direct supervision) and, post qualification, as a locum optometrist occasionally providing non-GOS ophthalmic services for the practice.

I have always found Parm to be conscientious and hard-working. In my experience he has addressed his clinical roles with diligence and care and to my knowledge has received positive feedback from his patients. I have found him to be trustworthy and reliable and he has done nothing in the time that I have known him to make me doubt his integrity or honesty. In my opinion, he is proving to be a dedicated optometrist who puts the care of his patients at the heart of his work and I have always found him to be well-liked and respected by both his patients and colleagues.”

May I take you, Madam, to the previous page which is 118, dated 9 March of this year, 2010, whereby Miss Hague confirms that she stands by those comments and is happy for those to be heard at the hearing today.

The next reference I turn to is at page 125, and this is from Professor Field who is the Dean at the School of Education at the University of Wolverhampton. This is dated 17 March 2010 and he writes as follows: "1. I am the Dean of the school of Education at the University of Wolverhampton. I have been in post since July 1st 2007." He then details his previous roles and I do not take you to those in detail. He continues:

"2. As the Dean of School, I do not have regular contact with Mr Singh. Indeed, I have met him on one occasion when we interviewed him as part of our Criminal Records Bureau processes. I, and an Associate Dean, interviewed Mr Singh, and reported the outcomes to a panel, which makes a decision on whether Mr Singh was suitable for a Teacher Training course. He has been following the PGCE (Teachers of Adult Numeracy) since September 2009.

3. Mr Singh was accepted to the PGCE (Post Compulsory Course). I have consulted with his tutors, given my lack of direct contact. Mr Singh is highly regarded and has passed all elements of the course so far. He is, therefore, able to demonstrate competency through the meeting of professional standards and academic criteria. He did declare his criminal record upon application to the University, and also to those responsible in the colleges where he is undertaking practice placements. In this way, we have been assured of his honesty and integrity.

4. I have seen a copy of the allegations Mr Singh faces, and am aware that this reference may be used at his hearing before the Fitness to Practise Committee. We have had no reason to question Mr Singh's honesty and integrity in terms of his engagement with the School of Education.

I hope that the information above meets your needs."

That is signed by Professor Field.

At page 127 I shall also read you this reference which is dated 8 March 2010 from Malcolm Bell, who is at Birmingham Metropolitan College. He says:

"Dear Sir/Madam.

I am writing this letter as a personal reference for Mr Paramjit Singh.

I have known Paramjit Singh for around six months in his capacity as a student teacher at Birmingham Metropolitan College where I have been acting as his placement mentor. He has been responsible for the planning, delivery and assessment of several of my courses. He has

always struck me as reliable, diligent, hard-working and, above all, honest, and have no reason to consider him otherwise.

I am fully aware of the allegations Mr Singh faces and am happy that this reference will be used at his hearing.”

The final paragraphs I would read to you, although I shall ask you to take all of these into account when coming to a decision today, is the reference which starts at page 128 and goes on to 129 from Roy Stanton who is the Deputy Head of Chaselea School. He states on the first page:

“My involvement in his affairs” – that is Mr Singh’s affairs – “began about ten years ago, when he enrolled as an A level student at Sandwell College, where I was then a senior lecturer with particular responsibility for the Biology course. I think that I can speak for all of my colleagues in the science faculty in saying that he impressed us with his earnest approach from the start and, although at times hesitant with the interpretation of written material in particular, he persevered and was eventually successful in obtaining grades that were a credit to him.

At this time, due in part to his methodical nature and his attention to detail, he spent considerably longer in the laboratories completing practical investigations than his peers, and because of his open, friendly demeanour, he was trusted by the staff and was granted unsupervised time in the laboratories in order to complete observations. This was not common practice as the potential hazards precluded the admission of some of the students but he responded to the responsibility in a mature and trustworthy way that once more impressed us, and in no way caused us to regret the decision to allow this.

During conversations, he often sought advice about the direction that his career should take, although I think that his priority was always to please his family as he regarded their views very highly. He was particularly pleased to finally be accepted on the optics course and seemed determined to make a success of it.”

He then goes on to talk about contact during the undergraduate course and he is shocked when hearing about the circumstances of Mr Singh’s conviction. I shall simply read you this passage from the penultimate paragraph:

“I can also see that the facts of the allegation regarding his disclosure of the incident are also clear. Although I cannot offer any defence for his actions, it seems that whilst the case was pending, Mr Singh did not properly interpret the regulations on disclosure and was then subsequently in a position that was, in his mind, impossible to rectify. I cannot condone his decision but I would say that after thirty years teaching experience, currently as a Deputy Head teacher at a school

specialising in the education of the most unruly and troublesome students, I can honestly say that Mr Singh has always struck me as an individual who has no innate tendency to dishonesty and who seems to have a genuine regret for what he has done. He is undoubtedly concerned that his reputation is allowed to be restored so that he can contribute to society in a positive way, and to continue to make use of the training that he has received.”

Madam, I do not read you any more passages from the references but I would, of course, invite you to take all of those into account when reaching a decision on this matter.

In terms of submissions on impairment, as my learned friend remarked, you will, of course, be considering the position as regards Mr Singh’s fitness to practise today, and whether it is impaired today. In doing so, I would invite you to look forward and not back to the extent which you must consider whether or not he may go forward, and whether his fitness to practise in the future is impaired. However, that necessarily involves an assessment of what has happened to date and the matters which bring him before the Committee.

I would invite you to consider whether he has shown insight into his actions, what he has done in order to try to remedy that misconduct that he has admitted, whether or not anything he has done in the past is likely to happen again. Mr Singh recognises the seriousness of his actions and recognises the Council’s view as to dishonesty and the likely implications that has for his future – the future he might have had as an optometrist.

However, in my submission this is a truly exceptional case for two reasons: one in relation to the conviction, and one in relation to the subsequent misconduct. It is my submission that both the conviction and the misconduct have, within the facts, a feature that is rarely found which would allow you today in considering impairment to make a finding that Mr Singh is not impaired, and that his fitness to practise today is not impaired.

May I turn first to the conviction? You will, of course, have consideration to the facts and circumstances underlying that conviction and, in my submission, they are truly extraordinary circumstances which led to the commission of that offence. As regards the offence itself and its place on the spectrum of criminal offences, matters of importance will be the fact that he pleaded guilty and recognised his wrongdoing. The basis of plea that attributed much of the blame to his mother was accepted by the court, accepted by the sentencing judge and I would invite you, Madam, having heard evidence from his mother today to accept it yourself, that the reason for the commission of the offence was due to the pressure he was placed under by his mother.

You may also consider the sentence that he was given, which was one of a community order. Perhaps it is known to the panel that in the range of sentences that could be received for conspiracy to defraud, which goes to a maximum of 10 years imprisonment, to find a disposal which does not result

in imprisonment, in my submission, is rare, and is a mark of the fact that the criminal conduct fell at the bottom of the spectrum of offending.

The reason I submit that the circumstances of the conviction are truly exceptional in relation to the consideration of impairment is that, because they are so unusual, they are perhaps what one might call bizarre, the circumstances that led to the offence, they are similarly unlikely ever to be repeated. The actions you have heard of were the actions of a 23-year old young man who was subject to his mother's plight and the traditions of familial obedience of which he spoke. You will consider his mother's demeanour in giving evidence, when she spoke of him resisting and her asking him to report the crime and he not wanting to. You have heard from Mr Singh about how he did not want to report the crime but, in the end, he was won over by the pressure he was under. Under that pressure, he carried out the actions you have heard of today, where he acted in a way that could potentially jeopardise everything he worked for at the same time. So while attending university and conducting his studies, he committed that crime, he undertook that action under pressure from his mother in a way that would jeopardise everything he worked for. He was asked to choose between his family and his profession. Those unique circumstances, in my submission, are not only unlikely to be repeated but are as close as one could ever come to saying impossible.

In relation to the misconduct since that, it is my submission that it is similarly exceptional. That is the failure to disclose his conviction on those forms you have seen from a number of years. What we have in this case that perhaps is unusual is the fact that since the discovery of this conviction, you have been able to see the way that he has acted. You have been able to see his application to Wolverhampton University, a different place, a different profession, a different set of people, which, in my submission, had he a tendency to dishonesty, he would not have declared it there. He was given a whole new opportunity in which he could have carried on his dishonest conduct.

My learned friend spoke earlier of his only disclosing matters to the Council on the basis that he was going to be caught anyway. That may be the case but what you see since then is what my learned friend referred to as "proactive behaviour, proactive disclosure". His school knows about it now, the tutors know about it, everyone he works with knows about it. You have heard him give evidence about how it has been like a snowball. In fact, although he was perhaps disarmingly honest that he might have continued to hide it before, he is glad that it is out in the open and now he sees why it is important.

It is my submission that those two exceptional circumstances, first, the fact that the crime was so unusual and so unlikely to be repeated and, secondly, the fact that we know about his conduct since the disclosure of this conviction, allow you to make a finding today that his fitness to practise is not impaired. What you will need to consider when looking at his conduct today and in the future is whether it is likely that this will happen again and, for the reasons I have set out, the circumstances were so extraordinary that it is not likely.

Secondly, you will need to consider his insight and the remedial steps that could be taken.

In many cases of dishonesty, it may not be easy to see how a registrant could make amends, what remedial steps could be taken, and my learned friend has referred to the law and the fact that, in some cases where misconduct breaches a fundamental rule, it may be difficult for that to be addressed in the future. However, due to the fact that you have in this case document R2 and the references from those with whom he works now, in my submission you can properly take the view that remedial steps have been taken and you can be sure that they have been taken. When it comes to the issue of failure to disclose and how you will know he will not do it again, you have the very proof here, unusually, that allows you to be satisfied this is something that will never be repeated.

As regards showing insight into what he has done wrong and remedying his behaviour, you may consider what more could he have done. In my submission, he has made steps which show a resilience and a maturity which were not present at the time when he committed that offence, and not present at the time of that misconduct.

You have also heard how those who work with him, including Boots with whom he was employed, were willing for him to carry on working there. Those are people who have standards to uphold and who would consider very carefully his conviction in this case and the failure to disclose because that was known to Boots as well. Yet, in the light of that, they found that whatever reasons they came to, due to Mr Singh's circumstances and the reasons behind his conviction and failure to disclose, they properly could allow him to continue working for them.

As regards what my learned friend said earlier about maintaining confidence in the profession, it is my submission that Mr Singh has done all that he could possibly do, and that he has done enough for you to be satisfied that his fitness to practise is not impaired today, no doubt it was before, no doubt he is guilty of dishonesty and guilty of the crime you have heard about. Now some time later, since October 2008, and given those extraordinary circumstances that existed at the time, you can be satisfied that the candid account he has given you and the insight he has shown into his behaviour before are not such as you may find that his fitness to practise today is impaired. Although it is a truly exceptional course given the length of the dishonest behaviour, you may consider, for the reasons I have set out, it is one that you may properly take in the circumstances.

Ms Jones: Thank you. Mr Hepworth?

Mr Hepworth: Madam, I just want to raise one point which relates to page 129 of the bundle. I only raise it because this particular section of the reference was read out to you. It is the second sentence of the reference from Mr Stanton where it talks about Mr Singh not properly interpreting the regulations on disclosure. Madam, I do need to make the point that Mr Stanton must be

wrong about that if he is suggesting in any way that it was an innocent failure to disclose, as Mr Singh accepted that his actions were dishonest and, therefore, not innocent. However, other than that clarification, there is nothing else that I wish to say.

Ms Jones: Thank you. [*Confers with Legal Adviser*] Do you wish to add anything, Ms Sanderson?

Ms Sanderson: Not really. There is very little I would add. You have seen those Subject Access Forms and you have heard some evidence about what he believed the position to be at the time. It is not suggested for a moment that it was entirely innocent in his failure to disclose, and you have heard from Mr Singh that he accepts what he did then was dishonest, and he has been very candid about that.

Mr Swinstead: Madam, you have now reached the stage when you are required to consider whether or not Mr Singh's fitness to practise as an optometrist is impaired under Rule 50 of the Rules. The allegation is that his fitness to practise is impaired by reason of both his conviction and by reason of his misconduct. With regard to the issue of impairment, you should have regard to a number of matters, which may or may not be specifically relevant in this case, but you should consider them. First, you should consider the way in which he has acted in the past both before and after the misconduct, although bearing in mind that the misconduct began very early in his career as a student optometrist. That is a matter to which you may not be able to give a great deal of consideration but he is entitled that you should consider, in general terms, his career as it has been as an optometrist.

You must consider the context of his behaviour and his current level of insight and, if appropriate although it may not be so appropriate in this case, his current level of skill. Again, if you consider it relevant, you must consider whether the misconduct that is found is remediable and what steps he has taken to remedy the shortcomings which led to the findings that you have made.

Finally, you must consider what the risk is of any of the conduct that you are considering at the moment, whether it be terms of misconduct or the fact of the conviction, being likely to be repeated. Your task is to consider whether, by reason of the facts of the conviction and the misconduct, his fitness to practise is impaired today and looking forward from today. In other words, and this is a particular matter to which Mr Hepworth drew your attention, has it been so serious that, looking forward, are you persuaded that he is simply unfit to practise without restrictions or at all on the basis of the nature of the misconduct that you are considering.

Alternatively, has the misconduct been such that, seen within the context of an otherwise unblemished record, and bearing in mind, if relevant, any steps towards remediation that he has taken, you conclude that looking forward his fitness to practise is not impaired, the facts of the conduct that you are considering notwithstanding.

Madam, that is the advice I give you unless either party would wish me to say anything further, or to add to what I have said.

Mr Hepworth: The only matter I would raise are the two principles that I indicated before, which come from the case of *GMC v Yeong* [2009] EWHC 1923 (Admin). I do not know whether or not your Legal Adviser considers that those were dealt with adequately by the parties and that the principles are properly before the panel, or whether or not I erred in not being more explicit. If your Legal Adviser is content that the principles from that case are properly before you, Madam, I would say nothing more. It is a matter that I have been considering as the submissions have come and I would not want anyone to be under any illusion about the principles from that case.

Mr Swinstead: Mr Hepworth, just so that there is no confusion, and you may correct me if I am wrong, the principles there are that there are certain cases where the impairment may be less susceptible to remediation, and be the sort that in themselves may lead a committee or panel to consider that the fitness to practise is impaired. Is that essentially the principle, simply by their nature in broad terms?

Mr Hepworth: That is right and the effect on public confidence if the behaviour were not seen to be properly challenged and addressed.

Mr Swinstead: Forgive me and I should perhaps have formally reminded you of the public interest in the decision that you are making that the public must be protected, maintenance of public confidence in the profession should be maintained and the declaring and upholding of proper standards of conduct in the profession. As Mr Hepworth rightly says, those are matters that you may specifically wish to consider when balancing the nature of the conduct that you are considering and the effect that has upon the issue of Mr Singh's impairment. I should properly counter that by saying Ms Sanderson's argument is that, in the unusual circumstances of this case, you are entitled to approach it on the basis that, because of those unusual circumstances, she invites you to the conclusion that his fitness to practise is not impaired. Does that fairly balance the two issues between the parties on that issue?

Mr Hepworth: It does for the Council.

Mr Swinstead: Does that balance it fairly as far as you are concerned, Ms Sanderson?

Ms Sanderson: Yes, it does. In terms of the case of *Yeong*, some cases may not be so serious, and *Yeong* is a case where the person in question had a sexual relationship with a patient. It says that some misconduct may be very difficult to remedy, for example, in that case. Of course, *Yeong* cannot remove your discretion and it remains a matter for your judgment, taking into account everything that you have heard. In terms of marking what has happened as far as what the registrant has done, it is open to you were you not to find impairment that you may give a warning. That is something that no

doubt the Legal Adviser could enlighten you further upon. I have before me Section 13F(5) page 28 of the *Opticians' Handbook*. While it is a matter for your judgment whether or not you find impairment, there are circumstances in which the registrant may be found not to be impaired but where it may be appropriate to give a warning in order to mark that which has gone before.

Ms Jones: Thank you very much. Mr Hepworth, anything finally?

Mr Swinstead: Madam, I would just say that the parties have helped, I hope, to illuminate the more opaque parts of my advice, and I commend their submissions to you, because they hopefully will assist you.

Ms Jones: Thank you very much. I propose that we reconvene at two o'clock when we shall consider impairment and take a lunch break.

[Hearing adjourned at 12.53]

[Hearing resumed at 15.38]

Ms Jones: *[reads]* Mr Singh, would you please stand.

Findings regarding impairment

The Committee found that the fitness of Mr Singh to practise as an optometrist is not impaired.

The Committee has taken particular note of the unusual circumstances which brought him before the Crown Court. It has had regard to the basis of plea that was placed before the Court on his behalf. It further noted the limited role that the prosecution and the judge accepted that he played in this offence. It has also had regard to the sentence passed upon him by the judge. In view of these matters, the Committee has taken a less serious view of this conviction than it otherwise would have done.

The Committee considered that what made this case unusual were the particular family circumstances and pressures which persuaded him to take part in the offence. The registrant was at the start of his career and subsequently failed to disclose to the General Optical Council, his employer and the Primary Care Trust the fact of his conviction. Mr Singh has stated that it was because he was deeply ashamed and embarrassed. He recognises that he has made a grave mistake in not disclosing his conviction when he was required to do so, and that he should have been honest from the beginning. Having set out on this course of conduct, he felt that he had to continue with the deception. The Committee felt that he has now demonstrated insight into his dishonest behaviour and is satisfied that he will have learned a salient lesson from this experience unfolding, as it has, over a period of five years.

The Committee determined, in its judgment, for these reasons, that his fitness to practise is not impaired currently or looking to the future.

In reaching its decision on impairment, the Committee took into account the public interest and, in particular, the maintenance of public confidence in the profession but decided that, in these unusual circumstances, the public interest can be properly served by the issue of a warning.

Warning

Mr Singh, you are an optometrist at the start of your career but you should be in no doubt that, although the Committee has not found that your fitness to practise is impaired, your criminal conviction and a persistent failure to disclose this conviction on forms required by your regulatory body, your Primary Care Trust and your employer, are serious matters. Both you and the profession at large should clearly understand and be in no doubt that the code of practise and the standard expected of all optometrists is that all such matters must be declared. Further, the gross error of judgment in allowing yourself to become involved in a serious criminal offence should not be repeated. If similar actions cause you to appear before a Fitness to Practise Committee again, it would take a grave view.

This warning will remain on your record at the General Optical Council for a period of five years from today's date.

[Hearing concluded at 15.40]