

**BEFORE THE REGISTRATION APPEALS COMMITTEE
OF THE GENERAL OPTICAL COUNCIL**

MARK SAYNOR

A(22)01

AND

GENERAL OPTICAL COUNCIL

**DECISION OF THE REGISTRATION APPEALS COMMITTEE
9 MAY 2022**

Committee Members:	Sara Fenoughty (Chair/Lay) Ubaidul Hoque (Lay) Victoria Smith (Lay) Judith Stodel (Dispensing Optician) Simon Pinnington (Dispensing Optician)
Legal adviser:	Emma Boothroyd
GOC Presenting Officer:	Tope Adeyemi
Appellant present/represented:	Yes but not represented
Appellant representative:	N/A
Hearings Officer:	Terence Yates
Outcome:	Appeal allowed.

Determination

Background

1. The Appellant qualified as a Dispensing Optician in 1989. In February 2018 the Appellant sold his practice following a rent review which made the business no longer financially viable.
2. On 6 July 2018 the Appellant was charged with obstructing a police officer and failing to provide a specimen of breath without lawful excuse. The Appellant pleaded guilty to the offences at the East Sussex Magistrates Court on 25 July 2018 and was sentenced to 200 hours community service and disqualified from driving for 32 months.
3. In April 2019, the Appellant's name was removed from the Register on the basis that he was no longer working and he did not apply for renewal.
4. On 25 January 2022 the Appellant submitted an application for restoration to the Register. Within that application the Appellant disclosed the conviction. Further details were sought by the Registrar. On the 14 February 2022 the Appellant provided further details relating to his conviction and also provided evidence that he had completed the Aspire drink driver awareness course and his driving ban had been reduced to 24 months.
5. On the 17 February 2022 the Registrar refused the Appellant's application for restoration on the basis that "The Registrar is not satisfied that you are fit to practise as a dispensing optician following your criminal conviction."
6. On the 15 March 2022 the Appellant appealed against that decision.

Decision

7. As a preliminary matter, as the Appellant was unrepresented. The Committee invited an opening statement from Ms Adeyemi to assist The Committee. The Appellant agreed to this course and was content to allow Ms Adeyemi to outline the background to the Appeal.
8. The Committee then heard oral evidence from the Appellant. Within that evidence the Appellant confirmed that a statement he had submitted that morning together with attached documents was true and complete. The Appellant set out the circumstances leading to the conviction and provided further details in support of his appeal. The Appellant answered questions from Ms Adeyemi and from the Committee.
9. The Committee then heard a brief closing statement by Ms Adeyemi on behalf of the Council. The Committee heard and accepted the advice of the Legal Adviser.
10. Mr Pinnington, a professional member of the Committee, disclosed that he had a professional connection with [Redacted] on one occasion and no objections were raised by either party.

11. The Committee noted that its task was to decide whether the Appellant was “fit” to practise and the burden of proof was on the Appellant. The Committee noted that the reason given by the Registrar for refusal of the Appellant’s application was solely related to the conviction and there was no evidence of any other fitness to practise concerns. The Committee took into account all of the evidence before it and applied its own independent judgement.
12. The Committee noted the detail given by the Appellant about the circumstances leading to the conviction. He explained that he had been travelling to the ferry port in [Redacted] to go on holiday with [Redacted]. They had arrived late and had missed the ferry and so decided to stay in a hotel and catch an early ferry the following morning. The Appellant stated that he and [Redacted] had been out drinking that evening. As a result, [Redacted] had overslept and they had again been late to the ferry port and missed the ferry again. The Appellant stated that an argument had ensued and he had foolishly decided to drive the car across the car park to put some distance between them. The Appellant explained that he had not driven to the ferry port and had only driven across the car park. His driving was witnessed to be erratic and he was apprehended by a police officer and asked to give a sample. The Appellant refused to give a sample and was then detained in the police car. The Appellant stated that he became frustrated at the delay and got out of the police car whereupon he was put back into the police car and charged with obstruction of a constable.
13. The Appellant was remorseful about what had happened and explained that this had happened in the context of him selling his practice, which he was very upset about. He had fallen out with his business partner as a result, who was also a lifelong friend. The Appellant was newly married and had just bought a new house. The Appellant explained that he was in a dark place and this behaviour was completely out of character.
14. Following the conviction, the Appellant explained that he started work at [Redacted]. As he was unable to drive, he cycled to work. In addition, the Appellant completed his community service at the [Redacted] charity shop. The Appellant explained that he sought assistance from [Redacted] and although he does not have a drinking problem he was assisted by the learning. Further, the Appellant explained that he obtained a significant amount of knowledge from the drink driving awareness course which he was able to relay to the Committee about the effects of alcohol.
15. The Appellant explained that he was now in a much better place. He had enjoyed working at [Redacted] and now felt he was able to work as an employee. He stated that he wanted to move away from night working and hoped to reduce his hours and gradually begin working Saturdays as a locum Dispensing Optician. The Appellant stated that although it was his “dream” to possibly own his own practice again, he was realistic about what he could achieve and wanted to return part time.
16. The Appellant explained that he had a strong relationship with his [Redacted] and she had been very supportive throughout. The Appellant stated that he and his friend and business partner [Redacted] had now sorted out their differences and

he was very supportive. The Appellant set out that he had physical and mental strategies to assist him, and he hoped that he would never behave in this way again.

17. The Appellant recognised the damaging effect his conviction had on the reputation of the profession and recognised that it may have implications for patient safety. However, he sought to reassure the Committee that this was a “one-off” incident in unique circumstances that would never be repeated as he has learned extensively. The Committee considered that the Appellant has insight into the effect of his conviction and its impact on the profession.
18. The Committee was impressed by the Appellant’s evidence. It considered that he was genuine and open about what had happened. The Appellant did not try to hide or excuse his behaviour and did not attempt to blame others. The Appellant explained the context of the offence but fully accepted it was wrong. The Committee considered that the Appellant had taken full responsibility for his conviction, addressed why it had happened and taken effective steps to prevent a repetition.
19. The Committee was impressed with the Appellant’s considered approach to his return to practice. It noted his desire to return gradually and not to put himself in a position where he may be overwhelmed. The Committee considered his reasons for return to practise and the timing of his application for restoration suggested that he had learned lessons and was fit to return.
20. The Committee noted that the offence was nearly 4 years ago and there has been no repetition of any offending. The Appellant has successfully completed his community service and his drink driver awareness course. The Appellant has had his driving licence restored.
21. The Committee noted the positive reference from [Redacted] which confirmed that the Appellant was a valued member of staff in a trusted position. The Committee also noted the reference from [Redacted] dated 26 April 2022 who confirmed that, “*Mr Saynor is a dedicated professional and takes his responsibility as a GOC registered dispensing optician very seriously.*” The Committee gave considerable weight to these references.
22. In all the circumstances the Committee considered that the Appellant had discharged the burden that he was a fit person to return to practise as a Dispensing Optician and there was a very low risk of any repetition of this conduct.
23. The Committee therefore determined that the Appeal is allowed and the Registrar’s decision is overturned. The Committee determined to restore the Appellant’s name to the Register.

Chairman of the Committee: Sara Fenoughty

Signed 

Date 9 May 2022

Appellant: Mark Saynor

Signed signed in person

Date 9 May 2022

FURTHER INFORMATION
Transcript
A full transcript of the hearing will be made available for purchase in due course.
Appeal
Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period. The relevant court is shown at section 23G(4)(a)-(c) of the Opticians Act 1989 (as amended).
Professional Standards Authority
<p>This decision will be reported to the Professional Standards Authority (PSA) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. PSA may refer this case to the High Court of Justice in England and Wales, the Court of Session in Scotland or the High Court of Justice in Northern Ireland as appropriate if they decide that a decision has been insufficient to protect the public and/or should not have been made, and if they consider that referral is desirable for the protection of the public.</p> <p>Where a registrant can appeal against a decision, the Authority has 40 days beginning with the day which is the last day in which you can appeal. Where a registrant cannot appeal against the outcome of a hearing, the Authority's appeal period is 56 days beginning with the day in which notification of the decision was served on you. PSA will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless PSA has been notified by the GOC of a change of address).</p> <p>Further information about the PSA can be obtained from its website at www.professionalstandards.org.uk or by telephone on 020 7389 8030.</p>
Contact
If you require any further information, please contact the Council's Hearings Manager at 10 Old Bailey, London, EC4M 7NG or, by telephone, on 020 7580 3898.