

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

F(24)31

AND

ZEESHAN SULTAN (01-36207)

**DETERMINATION OF A SUBSTANTIVE HEARING
06 - 08 January 2025**

Committee Members:	Jayne Wheat (Chair/Lay) Ben Summerskill (Lay) Ann McKechin (Lay) Kamlesh Gohil (Optometrist) Philippa Shaw (Optometrist)
Clinical adviser:	N/A
Legal adviser:	Aaminah Khan
GOC Presenting Officer:	Vida Simpeh
Registrant present/represented:	Yes and represented
Registrant representative:	Trevor Archer [Counsel] Scott Shadbolt [AOP]
Hearings Officer:	Arjeta Shabani
Facts found proved:	Proved in their entirety following the Registrant's admissions
Facts not found proved:	None
Misconduct:	N/A
Impairment:	Impaired
Sanction:	Suspension for 6 months – With Review
Immediate order:	No

ALLEGATION

The Council alleges that in relation to you, Zeeshan Sultan (01-36207), a registered Optometrist:

1. *On 17 October 2023 at Manchester Crown Court you were convicted of:*
 - a. *Possess an offensive weapon in a public place; and*
 - b. *Assault a person and thereby occasioning them actual bodily harm;*

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

DETERMINATION

Admissions in relation to the particulars of the allegation

1. The Registrant admitted the facts in the Allegation in their entirety, and the facts were announced by the Chair as having been found proved by virtue of those admissions, pursuant to Rule 40(6) of the General Optical Council (Fitness to Practise) Rules Order of Council 2013 (“the Rules”).

Background to the allegations

2. The Registrant was registered as an Optometrist on 22 April 2022. He currently works as a locum Optometrist.
3. The Allegation against the Registrant relates to his criminal convictions for two offences, arising from an incident that occurred on 11 June 2023. The background facts of the incident are that the Registrant was driving his motor vehicle through residential roads in [redacted] Manchester, in the early evening.
4. A vehicle was being driven behind the Registrant’s vehicle by a male (‘the victim’), who described the Registrant’s vehicle as repeatedly breaking and stopping suddenly, which he believed was deliberate. The Registrant’s explanation for this was that he was slowing when going over speedbumps. The victim pulled his vehicle alongside the Registrant’s and sought to engage with him about his driving and described the Registrant as shouting aggressively at him. The victim then pulled his vehicle over in front of the Registrant’s vehicle and both drivers exited their vehicles at approximately the same time and approached each other in the middle of the road.
5. When the Registrant exited his vehicle he took with him a metal object, which he described as a litter picker, that he had in his car. As the Registrant

approached the victim he broke into a run, and when close to the victim, the Registrant immediately struck the victim to the head/neck area with the litter picker. This caused the victim to fall to the ground and lose consciousness.

6. The Registrant immediately returned to his vehicle and left the scene, leaving the victim unconscious and unresponsive on the ground. The incident was witnessed by an independent witness in one of the nearby houses and this witness attended upon the victim and called emergency services. The victim attended hospital for assessment. His injuries consisted of cuts and bruises to the shoulder and neck area, as well as psychological distress.
7. The incident was also captured by CCTV, the footage of which was available to the Committee. The Committee also had the benefit of a certificate of conviction, the transcript from the Registrant's sentencing hearing and the Judge's sentencing remarks.
8. The Registrant was arrested shortly after midnight on the following day and charged. He was convicted by his guilty pleas on 17 October 2023 to possessing an offensive weapon and assault occasioning actual bodily harm. The Registrant was sentenced on 19 December 2023 to sentences of 32 weeks imprisonment and 20 weeks imprisonment (for each charge respectively to run concurrently) suspended for a period of 12 months. The sentence included a rehabilitation activity requirement of 5 days and 200 hours of unpaid work, costs of £500 and a victim surcharge of £187.

Findings in relation to proof of conviction

9. Ms Simpeh outlined the background to the convictions and took the Committee through the documents in the Council's hearing bundle. The Committee had before it copies of a Certificate of Conviction for the Registrant's convictions, as well as the transcript from the sentencing hearing. Pursuant to rule 40(3) of the Fitness to Practice Rules 2013, production of a certificate of conviction shall be conclusive evidence of the offence committed. Furthermore, the Registrant admitted the fact of the convictions, as a result of which those facts were found proved by the Committee.

Impairment

10. The Committee went on to consider whether the Registrant's fitness to practice is currently impaired by virtue of the criminal convictions.
11. The Registrant gave evidence, under affirmation, regarding the issue of current impairment, which is summarised below. He was questioned by his representative Mr Archer, Ms Simpeh on behalf of the Council and the Committee. The Committee also had before it two bundles submitted on behalf of the Registrant containing testimonials and a reflective statement.

12. The Registrant gave his account of the incident and the criminal proceedings that followed. He explained that his career was very important to him and he was aware that he had brought the profession into disrepute by his actions. The Registrant expressed his deep regret and remorse about his conduct.
13. Mr Archer took the Registrant through the CCTV footage and the Registrant explained his recollection of events, which was as follows. He became aware of the victim's car 1-2 minutes before the incident when it was driving close behind him. The Registrant stated that he had been driving normally in a 20-mph speed zone and was slowing his vehicle when going over speed bumps to avoid scratching the underside of his vehicle.
14. The Registrant stated that he pulled over initially to allow the victim's car to pass, as he assumed that the victim may be in a rush. When the victim's car pulled alongside his own, the Registrant stated that the victim began to shout at him about his driving, making threats. The Registrant could not recall exactly what the victim said but it included the word 'fight'. The Registrant described the victim as stuttering and appeared angry, which made the Registrant panic and be fearful.
15. The Registrant accepted that when he exited his vehicle to approach the victim he took a litter picker, which was made of aluminium, with a plastic handle. He explained that he did so as a deterrent. He stated that when he struck the victim he acted impulsively and did not take sufficient time to analyse the situation. Since the incident the Registrant stated that he thinks about his actions most days, especially when driving. He described that he had spent countless hours reflecting upon it and had suffered from sleepless nights, thinking about why he had engaged physically. The Registrant stated that he found the CCTV difficult to watch and could not believe it was him. He acknowledged in his evidence that he should not have left the scene and was acting on impulse, rather than logically.
16. The Registrant gave evidence regarding the criminal proceedings and his involvement with the probation service as part of his sentence. Mr Archer took the Registrant through his numerous testimonials from peers and colleagues, whom the Registrant stated he felt he had let down. The Registrant stated that he never lost his temper when at work and could handle a stressful day extremely well, as he never let what he was thinking or feeling affect his clinical ability.
17. The Registrant expanded upon his reflective statement during his evidence and the techniques that he had found worked well for him to control his emotions and make better decisions. He stated that he now understands how to de-escalate situations and in hindsight he should not have got out of his vehicle but should have carried on driving to his partner's house, or locked his vehicle and used his phone to call for support.
18. Ms Simpeh questioned the Registrant, including on why he left the scene and whether he thought to report the matter to the police before he was arrested. The Registrant stated that he needed to travel home to [redacted], which was approximately a four hour journey, as he was working the next day and had his [redacted] travelling with him. He stated that he was intending to report it himself to the police once in [redacted], when he had returned home. When asked by Ms Simpeh whether he had taken any steps to

address the impact of the incident upon the victim, the Registrant stated that he did not want to make direct contact as he was aware that the victim did not want that and he wanted to respect his wishes. He had however looked into the impact of assaults upon on victims, which is why he had developed so much remorse and empathy.

19. In response to questions from the Committee, the Registrant explained how he had conducted his research and reading, and explained the activities that he had undertaken with the Probation Service. When asked about [redacted], the Registrant stated that he had spoken to probation, peers and colleagues but had not undertaken any private [redacted] sessions. When asked about whether he had considered having a mentor, the Registrant stated that he considered that his peers were good mentors to him, as they had gone through similar experiences to him in the profession.
20. The Registrant explained how he would handle a difficult situation with a patient, which was to keep calm and try to sympathise, understand their position and help them. He stated that he had not undertaken any educational courses on anger management or impulsivity, but had completed countless hours of his own reading and learning.
21. The Committee heard submissions from Ms Simpeh on behalf of the Council, who submitted on behalf of the Council that the Registrant was currently impaired. She referred the Committee to the Council's '*Hearings and Indicative Sanctions Guidance*' ('HISG'), and the relevant factors to consider, including whether the conduct was remediable, had been remedied and was likely to be repeated.
22. Ms Simpeh reminded the Committee that it had to have regard to the public interest and the need to uphold standards of behaviour and maintain public confidence in the profession. She referred the Committee to the guidance in the case of *CHRE v (1) NMC and (2) Grant* [2011] EWHC 927 (admin) and the test that was formulated by Dame Janet Smith in the report to the Fifth Shipman Inquiry, which she invited the Committee to have regard to when determining current impairment.
23. Ms Simpeh submitted that the convictions related to a serious incident in which the Registrant had armed himself with a weapon, which he had used and the victim had fallen to the ground and lost consciousness. She submitted that the Registrant had sought to minimise his actions by stating that he was in fear; the reality was that he had ample opportunity to drive away or lock his car and not put himself in that position. Further, he left the scene of the incident not knowing the victim's condition. He did not present himself to the police but drove home. Ms Simpeh highlighted the victim's comments made in his victim impact statement of being scared to leave home and describing the incident as terrifying.
24. Ms Simpeh submitted that the victim had been significantly affected by the incident and by striking the victim with a weapon the Registrant could have caused significantly more severe physical injuries to the victim. The sentencing Judge considered that this was an act of road rage, which was

serious enough to impose periods of imprisonment, albeit suspended, of 32 and 20 weeks respectively.

25. Ms Simpeh submitted that it was a matter for the Committee whether the Registrant has shown that he has addressed the concerns arising from his convictions. She submitted that the Council's position is that self-learning, including using ChatGPT, was not sufficient and that the Registrant should have attended some independent courses in order to reassure the Committee that the concerns had been addressed.
26. In relation to insight, Ms Simpeh submitted that the Registrant had not demonstrated that he has full insight into his actions. She acknowledged that the Registrant has stated that he is remorseful, but that his remediation had not been full enough, in that he could have undertaken CPD courses to understand the impact upon the victim. Ms Simpeh submitted that when taking into account that the Registrant had not fully remediated, the inadequate insight, the seriousness of the incident, and the impact upon the reputation of the profession, the Registrant is currently impaired.
27. The Chair of the Committee clarified with Ms Simpeh whether the Council considered that the Registrant posed a risk to patients, to which Ms Simpeh confirmed that the Council did not consider so, as the incident occurred outside of a clinical setting.
28. Mr Archer, on behalf of the Registrant, submitted that in a conviction case, some types of offences often result in a finding of impairment and a sanction, such as dishonesty or sexual assault. However, he had struggled to find reported examples of violent convictions doing so, as these offences were more likely to be reactive and spontaneous. In this case, the Registrant had no intention to get involved in an incident and was simply traveling to his partner's home. Mr Archer referred to the many positive comments in the testimonials regarding the Registrant's nature, including that he was 'calm, kind, courteous, professional, and never loses his temper'.
29. Mr Archer submitted that the Registrant had tried to de-escalate the situation by pulling his vehicle over initially to let the other car pass, which was not an unreasonable expectation, as most drivers would have passed by. However, the other driver in this case stopped to confront the Registrant, which must have caused the Registrant's adrenaline to sky rocket. Mr Archer submitted that it was easy for us to watch the CCTV footage from the comfort of a desk. However, in the moment, the Registrant was experiencing a fight or flight response and not thinking rationally but in a heightened emotional state.
30. Mr Archer highlighted that the Registrant did not seek to conceal the litter picker, as he intended it to be a deterrent. It did not deter the victim, who marched towards the Registrant. Mr Archer submitted that the Registrant was not thinking clearly and acted on impulse. The assault was completely out of character for the Registrant, as can be seen by the numerous positive testimonials.

31. Mr Archer submitted that this incident had been a catalyst for personal growth for the Registrant. He referred to comments made in the sentencing hearing that the Registrant always thinks about it and cannot believe that it was him in the CCTV. Mr Archer submitted that the Registrant has learnt from the incident, as he has explained in his evidence. He has reflected and developed insight. This was a momentary lapse which has dominated the Registrant's thoughts for the past eighteen months. During this process of reflection, the Registrant has spoken to peers and colleagues, sought help and support, completed what was required of him by probation. The Registrant has completed online learning, finding strategies that work for him, which he practises on a daily basis.
32. Mr Archer cited the case of *Zygmunt v GMC* [2008] EWHC 2643 (Admin), where Mr Justice Mitting stated that,
- "It may well be, especially in circumstances in which the practitioner does acknowledge his deficiencies and take prompt and sufficient steps to remedy them, that there will be cases in which a practitioner is no longer any less fit to practise than colleagues with an unblemished record."*
33. Mr Archer submitted that remediation ought not to be assessed by the number of courses attended but rather by whether the Registrant had learnt from the conduct and posed a risk to patients. Mr Archer submitted that the Council was correct to accept that the Registrant was not a risk to patients as this incident was not in a clinical setting and does not in any way reflect the Registrant's professional conduct.
34. Mr Archer reminded the Committee that it has to consider whether a finding of impairment is necessary to uphold the public interest. Whilst there may be cases where a Registrant's conduct may undermine the reputation of the profession or the need to maintain standards, here the conduct had already been marked by the sentence imposed in the Crown Court and the Registrant had already been punished. The Registrant had taken responsibility for his conduct and, in the circumstances, Mr Archer submitted that a member of the public would consider that was enough. It was not the purpose of these proceedings to punish the Registrant a second time. Mr Archer invited the Committee to conclude that no finding of impairment was necessary in this case.
35. The Committee accepted the advice of the Legal Adviser who advised the Committee that the question of impairment was a matter for its independent judgement taking into account all of the evidence it has seen and heard so far. She reminded the Committee of the relevant principles set out in the cases of *CHRE v (1) NMC and (2) Grant* [2011] EWHC 927 (admin) and *Cohen v GMC* [2008] EWHC 581 (Admin). In relation to the submission that it was difficult to find examples of assault convictions leading to a finding of impairment and sanction, the Committee was advised that whilst less frequent than dishonesty or sexual assault, such examples did exist. Each case had to be considered on its own merits and it was for the Committee to assess the seriousness of the conduct and its impact on the public interest.
36. The Legal Adviser referred the Committee to the relevant sections of HISG which set out principles to have regard to in conviction cases. These

included that in a conviction case, the purpose is not to punish the Registrant a second time for the offences committed, but to consider if their fitness to practise is impaired. Further, regulatory and criminal hearings serve different functions and a sentence imposed by a court does not always accurately reflect the seriousness of an offence. The Committee is entitled to form its own view of the gravity of the case.

The Committee's findings on impairment

37. In its deliberations on impairment, the Committee considered the nature and gravity of the Registrant's convictions. The Committee considered that the offences for which the Registrant was convicted were particularly serious, as reflected by the custodial (albeit suspended) sentences of 32 and 20 weeks that the Registrant received. These were significant sentences for a first offence, to which the Registrant had pleaded guilty.
38. The Committee had watched the incident on the CCTV footage and considered that it was a shocking incident, made more serious by the use of a weapon. Whilst the victim had also approached the Registrant, the violence was instigated solely and immediately by the Registrant and there were ample opportunities for the Registrant to avoid getting involved.
39. The Committee considered that members of the public and of the profession would also be shocked by the Registrant's conduct in this incident. The Committee agreed with the description of the incident given by the sentencing Judge of 'road rage.' It was a distressing incident for the victim, who had fallen to the ground and lost consciousness. The Committee noted the impact of the assault upon the victim, who had stated in the criminal proceedings that he was suffering from anxiety following the assault and was scared to leave his home.
40. The Committee considered the public interest and the guidance in the case of *CHRE v (1) NMC and (2) Grant* [2011] EWHC 927 (admin). In particular, the Committee had regard to the test that was formulated by Dame Janet Smith in the report to the Fifth Shipman Inquiry, as approved in the case of *Grant*, which is as follows:

"Do our findings of fact ... show that his fitness to practise is impaired in the sense that he:

 - (a) Has in the past acted and/or is liable in the future to so act so as to put a patient or patients at unwarranted risk of harm and/or;*
 - (b) Has in the past brought and/or is liable in future to bring the..... profession into disrepute and/or;*
 - (c) Has in the past breached and/or is liable in the future to breach one of the fundamental tenants of the..... profession and/or;*
 - (d) Has in the past acted dishonestly and/or is liable to act dishonestly in future."*
41. The Committee was mindful that the Council had accepted that the Registrant did not pose a risk to patients, as the incident had occurred outside of a clinical setting and that its position on impairment was primarily

based on public interest grounds. The Committee agreed that no patient safety concerns arose in this case. However, given the serious nature of the incident, notwithstanding that it was an isolated incident out of character, the Registrant's conduct brought the profession into disrepute and breached a fundamental tenet of the profession. The Committee was therefore satisfied that limbs (b) and (c) from the *Grant* test, set out above, were met in this case.

42. The Committee considered whether the Registrant's conduct was capable of being remediated, whether it had been remediated and whether there is a risk of repetition of the conduct in future.
43. The Committee considered that the conduct in this case was somewhat attitudinal. Whilst capable of being remediated, in this case remediation was not as easy as with other types of conduct, such as clinical concerns.
44. The Committee considered the steps that the Registrant had taken in respect of remediation and his reflections, as set out in his reflective statement and expanded upon in his evidence. The Committee had regard to the Registrant's apology and accepted that he had expressed genuine remorse and regret. The Committee was of the view that the Registrant had developed some insight into his conduct and taken steps to remediate. However, the Committee was concerned that the Registrant, apart from the work undertaken with probation as part of the sentence, did this largely himself, without independent support and lacked a structured approach. The Committee considered that by the Registrant undertaking his own learning, this was more difficult to measure objectively, than being supported by independent professionals, for example by completing relevant and targeted courses or counselling.
45. The Committee noted that the Registrant did not consider that he needed to seek further independent support, such as attending courses, as he had completed his own online research and reading and has spoken with friends and colleagues. However, the Committee had not been reassured that this was sufficient to fully address the reasons for an extreme loss of emotional control, as occurred in this incident. The Committee considered that further work could be done by the Registrant to reflect further upon his conduct in this case, understanding the impact upon the victim, and particularly his anger and how to manage it.
46. The Committee had regard to the numerous positive testimonials produced by the Registrant, which were all to his credit. Whilst these did not specifically deal with the Registrant's convictions, the referees all spoke very highly of the Registrant, his practice and his professionalism. The Committee was satisfied that there were no concerns regarding the Registrant in a clinical setting.
47. In relation to the risk of repetition, the Committee accepted that this was an isolated incident, out of character, and there has been no repetition of such matters since June 2023. The Committee accepted that these proceedings, and the criminal proceedings, have had a profound effect upon the Registrant and it considered it unlikely that the Registrant would repeat the conduct. Therefore, the Committee found that the risk of repetition was low. However, without developing full insight and specifically addressing the issues of anger

management and emotional control, the Committee was concerned that, outside of a clinical setting, it could not be fully reassured that the Registrant would never react impulsively and bring the profession into disrepute again, if in a similar stressful situation in his personal life.

48. Having regard to the public interest and the case of *CHRE v (1) NMC and (2) Grant* [2011] EWHC 927 (admin), the Committee was of the view that the convictions damage the reputation of the profession given the nature and seriousness of them. Furthermore, the Committee concluded that given the nature of the offences, notwithstanding the Registrant's insight and remediation developed so far, that a finding of impairment was necessary in the public interest to maintain confidence in the profession and in order to uphold proper professional standards.
49. The Committee therefore found that the fitness of the Registrant to practise as an optometrist is impaired by virtue of his convictions.

Sanction

50. The Committee went on to consider what would be the appropriate and proportionate sanction, if any, to impose in this case. It heard submissions on sanction from Ms Simpeh, on behalf of the Council, and from Mr Archer, on behalf of the Registrant. The Committee received no further evidence or material at this stage of the hearing.
51. In her submissions on sanction, Ms Simpeh reminded the Committee that the appropriate and proportionate sanction was a matter for the Committee's judgment. She submitted that the primary purpose of sanctions was to protect the public and uphold the wider public interest, of maintaining public confidence in the profession and maintaining proper standards in the profession. Ms Simpeh referred the Committee to the HISG and the range of sanctions available.
52. Ms Simpeh submitted that the Council's position was that the appropriate sanction in this case was a short period of suspension. Ms Simpeh highlighted that almost all of the factors set out at paragraph 21.29 of the HISG, which indicate when a suspension order might be appropriate, were met. Ms Simpeh reminded the Committee of its findings at the impairment stage and submitted that any lesser sanction than suspension would not be sufficient to meet the public interest.
53. Ms Simpeh stated that as the Committee found there was further work that could be done by the Registrant to reflect and remediate, this could be undertaken by the Registrant whilst suspended. A review hearing could be directed by the Committee and the Registrant given guidance as to what would assist a future reviewing Committee.
54. Ms Simpeh went on to invite the Committee, if it was minded to agree with the Council's submissions on sanction, to make an order of suspension an

immediate one under section 131 of the Opticians Act 1989. Ms Simpeh submitted that the statutory ground for imposing such an order in this case was that it was necessary in the public interest. She reminded the Committee that if such an order was not made and an appeal was lodged by the Registrant, any order would not take effect for some months whilst the appeal was pending. Ms Simpeh submitted that given the seriousness of the conduct, such an outcome would concern a well-informed member of the public and it would diminish confidence in the profession if the Registrant was able to remain on the register in the meantime.

55. The Committee asked Ms Simpeh if the Council had any submission to make on the appropriate length of any order and Ms Simpeh submitted that the Council was inviting the Committee to impose a short suspension order, but the period was a matter for the Committee to decide.

56. Mr Archer, on behalf of the Registrant, reminded the Committee that it must take a proportionate approach to sanction and only move up the hierarchy of sanctions if a lower sanction was found to be not appropriate and proportionate. He reminded the Committee to take into account that the public benefits from the services of the Registrant and that the purpose of imposing a sanction is not to punish the Registrant but, in this case, to meet the public interest.

57. Mr Archer highlighted the positive findings that the Committee had made at the impairment stage, which included that the Registrant was not a risk to patients, this was an isolated incident that was out of character, genuine remorse and regret had been shown, the Registrant had demonstrated some insight and remediation, the incident had had a profound effect on him and the risk of repetition was low.

58. Mr Archer acknowledged that taking no action and a financial penalty would not be appropriate and submitted that the concerns in this case could be adequately addressed by conditions. Mr Archer stated that the Registrant has shown that he can undertake reflection and remediation on his own having made commendable progress, albeit that it was not yet complete. He had been practising without restriction since self-reporting this matter to the Council.

59. Mr Archer submitted that there was a cost implication to more structured remediation and practically, if suspended, the Registrant would need to reapply to the NHS performers list. This often takes three months and that time would in effect be added to the suspension. Mr Archer stated that if the Committee was satisfied that the Registrant would be able to undertake the required remedial work whilst practising, the most appropriate and proportionate outcome, which would not deprive the public of the Registrant's services, would be conditions.

60. Mr Archer outlined the details of an anger management course that the Registrant had already found that he would complete and indicated that the Registrant was also prepared to undertake formal [redacted]. Furthermore, a condition could include the Registrant having a workplace supervisor if considered appropriate. Whilst that would not be straightforward as the Registrant is a locum, this could be a professional colleague. However, Mr Archer submitted that if the Registrant undertook [redacted], a workplace supervisor may not be necessary.
61. Mr Archer invited the Committee to impose conditions, which he submitted would be appropriate and proportionate and allow the Registrant to continue to remediate whilst in practice. In relation to an immediate order, Mr Archer indicated that this would not be objected to if conditions were to be imposed but that he needed to take instructions on the matter if the sanction was to be a suspension.
62. The Committee accepted the advice of the Legal Adviser, which was for the Committee to take into account the factors on sanction as set out in the HISG; to consider and balance any aggravating and mitigating factors; and to consider the range of available sanctions in ascending order of seriousness. Further, the Committee is required to act proportionately by weighing the interests of the registrant against the public interest. In relation to an immediate order, the Committee was advised that it had to find that a statutory ground is met and that the test was whether an order was 'necessary', which means more than desirable.

The Committee's findings on sanction

63. When considering the most appropriate sanction, if any, to impose in this case, the Committee had regard to all of the evidence and submissions it had heard. The Committee also had regard to its previous findings at the impairment stage.
64. The Committee considered the aggravating and mitigating factors. In the Committee's view, the aggravating factors in this case are as follows:
- a) The seriousness and violent nature of the offence, which included the use of a weapon and incurred a custodial sentence (albeit suspended);
 - b) There was harm caused and impact upon the victim (both psychological and physical).
65. The Committee considered that the following were mitigating factors:
- a) The Registrant has shown some insight (albeit not sufficient), genuine remorse and regret, has reflected and started to remediate;
 - b) Committee acknowledged that this was an isolated incident that was out of character;

- c) The many positive testimonials from peers and colleagues relating to his professional work and character;
- d) The Registrant has co-operated fully with the Council and this hearing, giving candid evidence.

66. The Committee next considered the sanctions available to it from the least restrictive to the most severe, starting with no further action.

67. The Committee considered taking no further action as set out in paragraphs 21.3 to 21.8 of the HISG. The Committee noted that to do so exceptional circumstances would be required and HISG states at paragraph 21.3 that,

'Where a registrant's fitness to practise is impaired, the FtPC would usually take action to protect patients, maintain public confidence in the profession and uphold proper standards of conduct and behaviour.'

68. The Committee determined that there were no exceptional circumstances present that could justify taking no action in this case. It further considered that taking no further action would not be a proportionate, nor a sufficient outcome, given the seriousness of the case and the public interest concerns.

69. The Committee considered the issue of a financial penalty order, however it was of the view that such an order was not appropriate, given that the Registrant's conduct was not financially motivated and had not resulted in financial gain.

70. The Committee next considered the HISG in relation to the imposition of conditions. At paragraph 21.17 of the guidance it states,

"Conditions might be most appropriate in cases involving a registrant's health, performance, or where there is evidence of shortcomings in a specific area or areas of the registrant's practice."

71. The Committee considered that for conditions to be appropriate and workable they would need to address any risks identified in the case. Further, at paragraph 21.19 of the Guidance, it states that,

"The objectives of any conditions placed on the registrant must be relevant to the conduct in question and any risk it presents."

72. The Committee was mindful that in this case there were no clinical concerns, nor shortcomings in areas of the Registrant's practice and the risks to be addressed in this case related to the Registrant's impulsive behaviour and emotional control. The Committee considered that these concerns would be difficult to address with conditions. The standard conditions in the conditions

bank did not assist, as they were not relevant to the conduct in this case and the appointment of a workplace supervisor was not relevant or practical. In addition, the Committee considered that if the Registrant were to continue practicing under conditions, it may be difficult for him to have time to complete the further reflection required. The Committee concluded that it would not be possible to formulate appropriate and workable conditions in this case that would be relevant to the concerns identified.

73. Furthermore, the Committee determined that a conditional registration order would not sufficiently mark the serious nature of the conduct, nor address the public interest concerns identified when making a finding of impairment. The Committee considered that an informed member of the public would not consider conditions to be a sufficient outcome in this case and this sanction would undermine confidence in the profession.
74. The Committee next considered suspension and had regard to paragraphs 21.29 to 21.31 of the HISG. In particular, the Committee considered the list of factors contained within paragraph 21.29, which indicate that a suspension may be appropriate, as follows:

Suspension (maximum 12 months)

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

- a. A serious instance of misconduct where a lesser sanction is not sufficient.*
- b. No evidence of harmful deep-seated personality or attitudinal problems.*
- b. No evidence of repetition of behaviour since incident.*
- c. The Committee is satisfied the registrant has insight and does not pose a significant risk of repeating behaviour.*
- d. In cases where the only issue relates to the registrant's health, there is a risk to patient safety if the registrant continued to practise, even under conditions.*

75. The Committee was of the view that all of the factors listed in paragraph 21.29 were applicable, apart from factor e) which was not relevant in this case. In relation to factor a), this was a conviction for serious offences, where a lesser sanction was not sufficient, as set out above.

76. In relation to b), the Committee was of the view that this factor applied. The Committee considered that the commission of violent offences is likely to be attitudinal but was not satisfied that in this case it could be described as deep-seated. In relation to c), there was no evidence of repetition of the behaviour since the incidents. In relation to d), the Committee was of the view that the Registrant is developing insight and did not pose a significant risk of repeating the behaviour. The Committee was therefore satisfied that

factors indicating that suspension may be appropriate were established in this case.

77. The Committee considered erasure. The Committee was of the view that some of the factors listed in the HISG at paragraph 21.35 (a)-(h), which lead towards the sanction of erasure being appropriate, applied in this case. Paragraph 21.35 states as follows:

Erasure

21.35 Erasure is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered professional and involves any of the following (this list is not exhaustive):

- a. Serious departure from the relevant professional standards as set out in the Standards of Practice for registrants and the Code of Conduct for business registrants;*
- b. Creating or contributing to a risk of harm to individuals (patients or otherwise) either deliberately, recklessly or through incompetence, and particularly where there is a continuing risk of harm to patients;*
- c. Abuse of position/trust (particularly involving vulnerable patients) or violation of the rights of patients;*
- d. Offences of a sexual nature, including involvement in child pornography;*
- e. Offences involving violence;*
- f. Dishonesty (especially where persistent and covered up);*
- g. Repeated breach of the professional duty of candour, including preventing others from being candid, that present a serious risk to patient safety; or*
- h. Persistent lack of insight into seriousness of actions or consequences.*

The Committee identified that a) is relevant in that the Registrant's conduct had breached fundamental tenets of the profession. In addition, b) in that the offending behaviour caused harm to an individual. Further, e) is relevant as these were violent offences.

78. However, the Committee balanced the mitigating and aggravating factors in the case and considered the principle of proportionality. Whilst some of the factors indicating that erasure was the appropriate sanction were present in this case, on balance the Committee did not conclude that the conduct was fundamentally incompatible with continued registration. Further, the public should not be deprived of the Registrant's service as a valued and competent Optometrist indefinitely. The Committee did not consider that erasure was the only order that would satisfy public interest concerns and was of the view that erasure would be disproportionate and unnecessarily punitive in this case.

79. The Committee therefore concluded that a suspension order was the appropriate and proportionate sanction to address the public interest concerns that it had identified. A period of suspension would send a clear signal to the public and profession that such conduct was not acceptable. The Committee concluded

that a suspension order would adequately mark the seriousness of the Registrant's conduct, promote and maintain public confidence in the profession and promote and maintain proper professional standards and conduct. Furthermore, a period of suspension would enable the Registrant to have sufficient time to reflect further and undertake further remedial action.

80. However, the Committee was mindful of the impact of a suspension upon the Registrant, as it would restrict the Registrant's ability to earn an income as an Optometrist. The Committee was satisfied that having regard to the seriousness of the convictions, suspension as a sanction struck the balance correctly between the public interest and the Registrant's interests.

81. In relation to the length of suspension, the Committee gave consideration to the appropriate length of the order of suspension. It determined that, having balanced the mitigating and aggravating factors against the public interest, it would be proportionate to suspend the Registrant for a period of six months. When considering the appropriate length of order, the Committee had regard to the mitigation, the testimonials, and the impact upon the Registrant. However it also had regard to the aggravating factors, including the seriousness of the conduct and that this was an unprovoked attack using a weapon on an unknown victim, resulting in a custodial sentence.

82. In the circumstances, the Committee was of the view that six months was an appropriate and proportionate period of suspension to sufficiently mark the seriousness of the Registrant's conduct, to send a message to the public and the profession that such conduct was not acceptable and to address the public interest concerns it had identified.

83. The Committee considered whether to direct that a review hearing should take place before the end of the period of suspension. The Committee noted that at paragraph 21.32 of the HISG, it states that a review should normally be directed before an order of suspension is lifted, because the Committee will need to be reassured that the registrant is fit to resume unrestricted practice. The Committee bore in mind that it had found that the Registrant had not yet developed full insight or adequately remediated and a review hearing could consider what further progress had been made in this regard. In the circumstances, the Committee was satisfied that it was appropriate to direct a review hearing before the order of suspension expired.

84. The Committee therefore imposed a suspension order for a period of six months, with a review hearing to be held between four and six weeks prior to the expiration of this order. The Review Committee will need to be satisfied that the Registrant:

- has fully appreciated the gravity of the offence;- has not re-offended;
- has maintained his skills and knowledge and kept up to date with his CPD requirements;
- that the Registrant's patients will not be placed at risk by resumption of

practice.

85. In addition, the Committee considers that it may assist the Review Committee if the Registrant was able to provide the following:

- (i) Objective or independent evidence of any further development of insight or other remediation undertaken, into the issues of anger management and emotional control and the impact of the incident upon the victim;
- (ii) An updated reflective statement, including reflections on the learnings from any further remediation undertaken.

Immediate Order

86. The Committee went on to consider whether to impose an immediate order of suspension and invited representations from the parties on this issue.

87. Ms Simpeh, on behalf of the Council, reiterated her earlier submissions and invited the Committee to impose an immediate order of suspension under Section 13I of the Opticians Act 1989. She submitted that it was 'otherwise in the public interest' to make an immediate order given the seriousness of the offence and the need to uphold professional standards.

88. Mr Archer opposed the imposition of an immediate order and submitted that the criteria for making an immediate order were not made out. He reminded the Committee that it had to be satisfied that one of the statutory grounds were met and that the test was 'necessary', which was a much higher threshold than desirable.

89. Mr Archer submitted that an immediate order was not necessary to protect the public as there were no public protection concerns in this case and the Registrant has been practising for the past 18 months since the conduct. Mr Archer submitted that an immediate order was not in the best interests of the Registrant and was also not in the public interest. Mr Archer submitted that the six month period of suspension in and of itself sufficiently marked the public interest. He referred the Committee to its comments when imposing the sanction of a six month suspension, that it sent a clear signal to the public and the profession and that it adequately marked the public interest. In the circumstances, he submitted that there was no additional need to make the order immediate.

90. Mr Archer stated that currently there was some uncertainty about the operation of immediate orders when a period of suspension is ordered, following the appeal case of *Aga v GDC* [2023] EWHC 3208 (Admin), which is being appealed from the High Court to the Court of Appeal.
91. Mr Archer highlighted the possible impact of an immediate order upon the Registrant, who was planning on terminating his tenancy and moving from [redacted] to live with family in [redacted]. Not making an immediate order would allow him to work and support himself for the next four weeks before that move.
92. The Committee accepted the advice of the Legal Adviser, which was that to make an immediate order, the Committee must be satisfied that the statutory test in section 13I of the Opticians Act 1989 is met, i.e., that the making of an order is necessary for the protection of members of the public, otherwise in the public interest or in the best interests of the Registrant. The Legal Adviser advised that necessity had been described in caselaw as being more than desirable. The Committee was referred to the relevant section in the HISG on making an immediate order.
93. In relation to the case of *Aga*, the Committee was advised that there currently were conflicting High Court authorities on this issue, as the decision in *Aga* was not followed in the more recent case of *PSA v GDC and Danial; Danial v GDC* [2024] EWHC 2610 (Admin), in which the Judge disagreed with the approach in *Aga*. The Committee allowed time for this issue to be considered further and for the Council's current position to be confirmed. The Council subsequently confirmed that its position remained the same as it had set out in a bulletin in May 2024 following the *Aga* case (but before the case of *Danial*), which was that an immediate order will count towards a substantive order. Mr Archer requested that if an immediate order was to be made that the Committee direct that the time suspended under the immediate order should come off the substantive order. The Legal Adviser advised that should an immediate order be made, it ought to be made clear in the determination whether the approach in *Aga* is being followed.

The Committee's decision on an immediate order

94. The Committee considered the statutory test and the parties' submissions. The Committee was mindful that the test for making an immediate order was 'necessity', which was a higher threshold than being desirable.
95. The Committee was not satisfied that there was any necessity for an immediate order to protect the public as there were no public safety or clinical concerns regarding the Registrant. He has also been working with patients, with no interim order in place, for the past 19 months since the incident in question.

96. In relation to whether an immediate order was otherwise in the public interest, whilst the Committee had found that this was a serious conviction, which required a significant period of suspension as a sanction, on balance, the Committee considered that the public interest had been adequately marked by the six month suspension order itself. The Committee did not consider that it was in the interests of the Registrant to make an immediate order.

97. Therefore, the Committee was not satisfied that the statutory test had been met and decided in the circumstances not to impose an immediate suspension order.

Revocation of interim order

98. There is no interim order to revoke.

Chair of the Committee: Jayne Wheat

A handwritten signature in black ink, appearing to read 'Jayne Wheat', written in a cursive style.

Signature ...

Date: 8 January 2025

Registrant: Zeeshan Sultan

Signature ...present via videoconference..... Date: 8 January 2025

FURTHER INFORMATION

Transcript

A full transcript of the hearing will be made available for purchase in due course.

Appeal

Any appeal against an order of the Committee must be lodged with the relevant court within 28 days of the service of this notification. If no appeal is lodged, the order will take effect at the end of that period. The relevant court is shown at section 23G(4)(a)- (c) of the Opticians Act 1989 (as amended).

Professional Standards Authority

This decision will be reported to the Professional Standards Authority (PSA) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. PSA may refer this case to the High Court of Justice in England and Wales, the Court of Session in Scotland or the High Court of Justice in Northern Ireland as appropriate if they decide that a decision has been insufficient to protect the public and/or should not have been made, and if they consider that referral is desirable for the protection of the public.

Where a registrant can appeal against a decision, the Authority has 40 days beginning with the day which is the last day in which you can appeal. Where a registrant cannot appeal against the outcome of a hearing, the Authority's appeal period is 56 days beginning with the day in which notification of the decision was served on you. PSA will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless PSA has been notified by the GOC of a change of address).

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

Effect of orders for suspension or erasure

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

Contact

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