

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

**GENERAL OPTICAL COUNCIL**

**F(21)01**

**AND**

**RENUKA VERMA (01-21146)**

**DETERMINATION OF A SUBSTANTIVE HEARING  
THURSDAY 24- FRIDAY 25 JUNE 2021**

<b>Committee Members:</b>	Ms Hermione McEwen (Chair/Lay) Mr Ubaidul Hoque (Lay) Dr Jackie Alexander (Lay) Mr Christian Dutton (Optometrist) Dr Catherine Collin (Optometrist)
<b>Clinical adviser:</b>	Dr Brenda Manoharan
<b>Legal adviser:</b>	Dr Hala Helmi
<b>GOC Presenting Officer:</b>	Mr Dean Taylor
<b>Registrant present/represented:</b>	Yes and represented
<b>Registrant representative:</b>	Mr Andrew McGee, Counsel Ms Shamma Masud, Association of Optometrists
<b>Hearings Officer:</b>	Ms Arjeta Shabani
<b>Facts found proved:</b>	Particular 1
<b>Facts not found proved:</b>	None
<b>Misconduct:</b>	N/A
<b>Impairment:</b>	Not Impaired
<b>Sanction:</b>	Warning – 12 months

## ALLEGATION

1. *The Council alleges that you, Miss Renuka Verma (01-21146), a registered Optometrist:*

*On or around 1 October 2019, at Chelmsford Magistrates Court, you were convicted for an offence in that, on or around 29 August 2019 at Chelmsford in the county of Essex drove a motor vehicle, namely VW Golf [REDACTED registration number] on a public place, namely Waterhouse Lane, after consuming so much alcohol that the proportion in your breath, namely 126 micrograms of alcohol in 100 millilitres of breath, exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988;*

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

### Application to hold parts of the Hearing in private

1. Mr McGee, on behalf of the Registrant, applied for those parts of the hearing dealing with matters of the Registrant's [redacted], to be heard in private. Mr Taylor, on behalf of the GOC, did not object.
2. The Committee accepted the advice of the Legal Adviser, and decided that while the hearing in general would take place in public, the following matters would be heard in private, [redacted].

## DETERMINATION

### Admissions in relation to the particulars of the allegation

3. The Registrant admitted Particular 1 of the Allegation, as well as the circumstances of the conviction as set out in the police reports which were before the Committee in the GOC's final hearing bundle.
4. The Committee also took into account Rule 40 (3) of the Fitness to Practice Rules 2013, whereby production of a certificate of conviction shall be conclusive evidence of the conviction, and the Committee took into account the Memorandum of an Entry in the Register of Chelmsford Magistrates Court in this regard.
5. The Committee found Particular 1 proved by way of the Registrant's admission.

## Background to the allegation

6. In September 2019, the GOC received a letter from Essex police, dated 12 September 2019, informing it that the Registrant had been arrested and charged on 29 August 2019 for an offence of driving with excess alcohol. The GOC obtained further details from Essex police, including a copy of the police reports which set out that on 29 August 2019 at around 9.40am, police were called to reports of a drunk female, who was later identified to be the Registrant, who was in a car at a Tesco car park in [redacted]. The Registrant was reported to have bumped into a parked car and a parked lorry. Members of the public stopped the Registrant and attempted to take the Registrant's keys from the Registrant. When the police arrived the Registrant was arrested on suspicion of driving while unfit due to the influence of alcohol, and was subject to breath test procedures, and was found to be more than three times over the limit. The Registrant was interviewed by police.
7. The Registrant pleaded Guilty at Chelmsford Magistrates Court on 1 October 2019 and was sentenced to a Community Order, with a requirement of 140 hours of unpaid work; the Registrant was disqualified from driving for 30 months (to be reduced by 30 weeks if they completed a drink driving course); a victim surcharge of £90 and costs of £85.
8. The Registrant has completed their Community Order, and the drink driving course, with the result that their disqualification from driving ceases on 3 September 2021.

## Findings regarding impairment

9. The Committee was required to consider whether the Registrant's fitness to practise is impaired by virtue of the criminal conviction.
10. Mr Taylor submitted that the Registrant's fitness to practise is currently impaired on the basis of the need to uphold the public interest, and made clear that this was not a case which gave rise to the need to protect patients.
11. Mr McGee submitted that the Registrant's fitness to practise is not currently impaired on account of the degree of their insight and level of remediation. Mr McGee also made clear that this was not a case which gave rise to the need to protect patients, and Mr McGee submitted that a finding of impairment in the public interest was not required.
12. The Committee heard and accepted the advice of the Clinical Adviser who referred to the Registrant's GP letters, which are dated 30 October 2019 and 4 March 2020. The Clinical Adviser highlighted that on 24 February 2020, the GP reviewed the Registrant and found that [redacted], and the GP described the Registrant as [redacted]. The Clinical Adviser also advised the Committee that no [redacted] had been made in the material before the Committee.
13. The Committee accepted the advice of the Legal Adviser who referred to the case of *CHRE v NMC and Grant* [2011] EWHC 927.

14. The Committee read the GOC's final hearing bundle, the GOC's skeleton argument, and the Registrant's bundle which included a number of testimonials as well as the Registrant's reflective statement. At the Registrant's request, the Committee also had before it the Registrant's application to the Case Examiners dated 22 July 2020 to review the referral under Rule 16 of the GOC Fitness to Practice Rules 2013, as well as the GOC's response to the application dated 13 August 2020. The GOC submitted the Case Examiners' decision on the Registrant's Rule 16 application dated 10 November 2020.
15. The Committee noted that the GOC had originally supported the Registrant's application to the Case Examiners for the referral to be terminated, although the GOC's position was now that the Registrant's fitness to practise is impaired on the basis of the public interest. The Committee did not draw any adverse inference from the GOC's change in position, to which it was entitled.
16. The Committee also noted the Case Examiners' decision to refuse the Registrant's application, however, it did not take this into account in making its decision, as the Case Examiners carry out a different task, with different considerations, to this Committee.
17. [redacted]
18. The Registrant gave evidence on oath and relied on their reflective statement. The Committee considered the Registrant to be straightforward and credible.
19. The Registrant told the Committee that they had not had "a drop" of alcohol since the conviction. [redacted]. The Registrant's evidence was that they had never had any problems with alcohol prior to a short time of some two weeks in 2018.
20. The Registrant referred, orally and in their reflective statement, to the exceptional personal circumstances and work pressures which they was under which led the Registrant to behave in the uncharacteristic manner which led to their conviction in August 2019, including the Registrant's [redacted]. [redacted]. The Registrant also stated that they had a difficult [redacted]. The Registrant also stated that since the conviction, the Registrant has put coping measures in place. The Registrant's caring duties towards [redacted], and there is a [redacted]. The Registrant spoke of the challenges faced in their clinical practice during the time of the Covid-19 pandemic as proof that the Registrant has been able to work well through a difficult period and to take responsibility in managing different ways of working. The Registrant spoke of their good support network, their hobbies, their devotion to their religion, prayer and meditation and a routine which have helped the Registrant.
21. The Committee took into account the following of the GOC's Standards, which the Committee considers were breached:
  - "17. Do not damage the reputation of your profession through your conduct.

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

17.3 Be aware of and comply with the law and regulations that affect your practice, and all the requirements of the General Optical Council.”

22. In considering the question of impairment, the Committee considered the case of Grant, and agreed with the parties that there is no suggestion that the Registrant put patients at unwarranted risk of harm in respect of the conviction. However, the Committee was of the view that the Registrant, by way of the conviction, breached fundamental tenets of the profession and brought the profession into disrepute.
23. The Committee then considered whether the Registrant is liable to act in these ways in the future.
24. The Committee took into account the Registrant’s reflective statement together with their oral evidence, which the Committee considered carefully. On balance the Committee considered that this was a document which demonstrated genuine remorse and understanding of why the conviction occurred and the effects of it upon others, including members of the public, and the profession, as well as an understanding of what is required to prevent recurrence of such an incident.
25. The Committee also took into account the steps which the Registrant has taken to address the concerns which gave rise to the conviction, for example, engaging a [redacted], consulting her GP and establishing coping mechanisms to deal with [redacted]. The Committee took into account the Registrant’s completion of the drink drive course, and viewed their work book which was completed as part of the course and demonstrated insight.
26. The Committee also took into account that this is not a [redacted] case. There is no [redacted] nor any evidence that [redacted]. The Registrant’s evidence to the Committee was that the GP and [redacted] services did not consider that this was the case.
27. The Registrant was discharged from the services of [redacted] on 21 January 2020, as seen from their email dated 11 May 2020. The reason for the discharge is stated to be:
- “[redacted].”
28. The Registrant has continued working as a locum Optometrist since the incident without any known concerns and has not been the subject of any interim order on their practice. The Committee considered the extremely positive testimonials from colleagues and others who are aware of the GOC allegation and the hearing.
29. The Committee also took into account their completion of the Community Service Order (140 hours of unpaid work), as confirmed in a letter by their “Responsible Officer” dated 3 February 2020. The Registrant’s reflection has

included an indication of an understanding of the value of the voluntary work the Registrant has carried out, which the Registrant describes as a “blessing”.

30. In light of all the above factors, taken together, the Committee came to the conclusion that on balance there is evidence before it of good and sufficient insight and remediation. On that basis, the Committee concluded that the Registrant was not liable to put patients at an unwarranted risk of harm, breach fundamental tenets, or bring the profession into disrepute in the future. In the Committee’s view, the risk of repetition of the conviction or similar alcohol-related offending is low.
31. The Committee then considered the requirements of the wider public interest, namely the need to uphold public confidence in the profession and the need to uphold proper standards of conduct and behaviour.
32. The Committee took into account all the factors set out above, including that prior to the conviction, the Registrant was a person of good character in that they had no previous convictions or cautions. This was an isolated incident leading to a conviction, at a time in which the Registrant was experiencing severe strain as a result of work-related and very significant [redacted] issues, as set out in her reflective statement. The majority of those challenges no longer exist and the Registrant has now developed robust coping mechanisms.
33. However, the Committee carefully considered the nature of the offence in question. It is clearly a serious offence, and while there was no harm or injury caused to a member of the public, and any damage appears on the face of the police information to have been minor, the Committee took into account that driving while over the prescribed alcohol limit has the potential to cause very serious harm.
34. The Committee was aware that in considering the demands of the public interest in this case, a number of factors need to be taken into account. The Committee considered the particular circumstances of this case. Further, the Committee carefully considered the effect of its conclusions about the Registrant’s insight and remediation, the particular circumstances in the Registrant’s life at the time, the fact that it was a one-off incident, the time which has elapsed since, and the Registrant’s good record of practice since the incident. The Committee carefully weighed up all these considerations, and on balance decided that a reasonable member of the public, aware of all the information of this case, would not be concerned if no finding of impairment were made on the basis of the need to uphold the public interest.
35. In all of the particular circumstances of this case, the Committee was satisfied that the need to maintain public confidence in the profession and the need to uphold proper standards would not be undermined if a finding of impairment were not made.
36. The Committee therefore found that the fitness of Renuka Verma to practise as an Optometrist is not impaired.

## Declaration

37. The Committee makes a formal declaration that the Registrant's fitness to practise is not impaired.

## Warning

38. The Committee heard submissions from Mr Taylor who requested that the Committee impose a warning in this case for a minimum period of 6 months. Mr McGee submitted that a warning was not required in this case.
39. The Committee accepted the advice of the Legal Adviser.
40. The Committee had regard to the Indicative Sanctions Guidance (p.34) when deciding whether a warning would be appropriate in this case.
41. The Committee was satisfied that the Registrant has expressed genuine regret, had a previous good history, there had been no repetition since the conviction, appropriate insight and remediation had been demonstrated and relevant and appropriate testimonials had been provided.
42. However, as already set out in its determination on Impairment, the Committee was of the view that the Registrant's conviction was for a serious offence, with the potential to cause serious harm, and would bring the profession into disrepute if there was a repetition. The Registrant breached fundamental Standards as set out in that determination.
43. While the Committee has already decided that the risk of repetition is low, it was of the view that the conviction was sufficiently serious that, if there were a repetition, it would likely result in a finding of impaired fitness to practise. On this basis, while the threshold of current impairment has not been reached, the Committee was satisfied that there was a need to formally record its concerns.
44. The Committee was of the view that it is appropriate to warn the Registrant as set out below. The Committee decided that the Warning should continue for a period of one year, which, while taking into account the mitigating circumstances, is proportionate to reflect the seriousness of the conviction.
45. The Committee is of the view that it is appropriate to warn the Registrant as follows:

Driving with excess alcohol is a serious issue. You are warned not to repeat the behaviour which led to your conviction. Any future repetition would have an adverse effect on the public's confidence in the profession and may lead to a future finding of impairment by a Fitness to Practise Committee. You are specifically reminded to adhere to the Standards of your profession, and in particular to:

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

46. This Warning shall expire on 24 June 2022.

**Chair of the Committee: Hermione McEwen**

<b>FURTHER INFORMATION</b>
<b>Transcript</b>
A full transcript of the hearing will be made available for purchase in due course.
<b>Appeal</b>
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).
<b>Professional Standards Authority</b>
<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 <a href="http://www.professionalstandards.org.uk">www.professionalstandards.org.uk</a> or by telephone on 020 7389 8030.</p>

**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.