

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

**R(22)03**

**APPLICATION FOR RESTORATION**

**JIGNESH PATEL**

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**DETERMINATION OF THE REGISTRATION APPEALS COMMITTEE  
18 OCTOBER 2022**

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<b>Committee Members:</b>	Eileen Carr (Chair) Alice Robertson-Rickard (Lay) Audrey McFarlane (Lay) Alex Howard (Optometrist) Sanna Nasrullah (Optometrist)
<b>Legal adviser:</b>	Emma Boothroyd
<b>GOC Presenting Officer:</b>	Abimbola Johnson (Counsel)
<b>Applicant present/represented:</b>	Yes and represented
<b>Applicant representative:</b>	Chris Saad (Counsel) Nan Mousley (AOP)
<b>Hearings Officer:</b>	Terence Yates
<b>Outcome:</b>	Restored to the Register of Optometrists.

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1. On 18 October 2022, the Registration Appeals Committee of the General Optical Council (GOC) met to consider an application by Jignesh Patel for restoration to the register of optometrists.

## Background

2. On 27 September 2019, the Applicant was erased from the GOC register following a hearing by the Fitness to Practise Committee. That Committee found the Applicant's fitness to practise to have been impaired by reason of his conviction for the offence of causing death by dangerous driving.
3. The Applicant was the driver of a car involved in a collision on 23 April 2016 in which his rear seat passenger, and [redacted], was killed. Following police investigations, including a voluntary interview at a police station in May 2016, the Applicant [redacted].
4. [redacted]
5. [redacted]
6. [redacted]
7. [redacted]
8. A few days after the Applicant's release from custody on the 27 September 2019, the Fitness to Practise Committee dealt with the original allegations. That Committee considered that, although a single incident, this was a very serious incident resulting in the death of a young man, for which the Applicant was responsible. The Committee was of the view that the wider public would be very concerned that a professional optometrist had been convicted of such a serious offence, was still [redacted] and was proposing to return to unrestricted practice.
9. In the view of the Committee, despite having finished serving the immediate section of this [redacted], the Applicant at that time had not 'satisfactorily completed' his sentence. It further considered that the Applicant had not fully developed his insight in relation to what caused him to act in the manner he did on the day and the impact his actions had on the wider public interest and in particular public confidence in the profession.
10. Ultimately, that Committee concluded that the seriousness of the offence and the fact that the Applicant's sentence was continuing, albeit in the community, meant that it was not proportionate nor sufficient to order suspension of the Applicant's registration. They therefore ordered his erasure.

11. Following his erasure the Applicant took some time away from the profession to reflect. In October 2021 the Applicant returned to work as an optical assistant in Specsavers in [redacted]. The Applicant now seeks to have his registration restored to the Register, having been erased for a period in excess of two years.

### DETERMINATION

12. The Committee heard submissions from Ms Johnson on behalf of the Council, who set out the relevant regulatory framework and submitted that the GOC was neutral on the application. The Committee heard oral evidence from the Applicant and also from Mr A, the clinical director of Specsavers in [redacted]. The Committee heard submissions from Mr Saad on behalf of the Applicant.
13. The Committee has accepted the advice of the Legal Adviser that the Applicant was entitled to make an application for restoration as his erasure occurred more than two years before the date of the hearing and he had satisfied the relevant CET requirement. The Legal Adviser advised that the question before the Committee was whether the Applicant had discharged the burden of proving he was currently fit to practise and as such whether he should be restored to the Register pursuant to the Opticians Act 1989 s13 K(6).
14. The Committee followed the guidance as set out in paragraph 26.5 of the Hearings and Indicative Sanctions Guidance 2018 and considered the following factors:
  - a. The original allegations
  - b. The committee's reasons for the original sanction imposed
  - c. Whether the applicant has demonstrated insight
  - d. What steps the applicant has undertaken towards rehabilitation
  - e. Whether the applicant kept up to date with professional knowledge and skills.
15. The Committee found the allegation which led to the Applicant's erasure to be particularly serious. The Applicant was found to have been responsible for driving dangerously which resulted in an accident causing the death of [redacted].
16. The Applicant [redacted]. The Committee considered that it was of particular relevance to the original Committee that the Applicant [redacted] at the time of the hearing and therefore his sentence was not yet complete. Further, the original Committee considered that public confidence in the profession would be undermined if the Applicant were permitted to return to unrestricted practice. The

original Committee also considered that the Applicant's insight was not sufficiently developed as he did not appear to fully appreciate what caused him to act in the manner he did on the day nor the impact his actions had on the wider public interest.

17. This Committee therefore considered the question of insight very carefully. It noted the Applicant's written reflective piece which it considered to be thorough and demonstrated that the Applicant had undertaken considerable reflection. The Committee was impressed that the Applicant had undertaken significant research and reflection into the impact his conduct had on the reputation of the profession. It noted the following passage,

*“My actions represented a severe lack of sound judgement and discernment, and I would never want a member of the public to have any doubt about a practitioner's ability to make sound judgements when it comes to their health.*

*My erasure from the register was key to maintaining this trust between patient and practitioner, especially as I was still serving a sentence for my actions at the time.”*

18. The Committee considered that this demonstrated that the Applicant had reflected on the reasons for his erasure and had developed an understanding of why this sanction was imposed.
19. The Committee was also impressed by the level of insight the Applicant demonstrated within his oral evidence that it considered to be thoughtful and genuine. Throughout his evidence, the Committee considered that the Applicant demonstrated that he had thought very deeply about what cause him to act as he did and sought to use his knowledge to improve his insight. The Committee was impressed that the Applicant was able to articulate how he would deal with a patient who was aware of his conviction and may not be comfortable being treated by him. The Committee considered that the Applicant showed empathy and understanding and an awareness that this was something he might have to face.
20. The Committee considered that the Applicant had demonstrated that he was able to apply, in an optical setting, the learning he had developed even though the concerns that led to his erasure occurred outside the clinical setting. The Committee noted that the Applicant had developed mindfulness and coping mechanisms which he had learned as part of his reflection and was using in the workplace to ensure his return to practice was safe and controlled.
21. The Committee noted that the Applicant had not rushed to return to work after his erasure and had taken some time to reflect on events. The Committee considered that the fact that the Applicant had returned to work as an optical assistant in a store in which he had previously worked as an optometrist, demonstrated he was

committed to the profession and was prepared to make a contribution in a different role.

22. The Committee noted that although the Applicant had successfully passed his extended driving test he had not yet begun driving as he was awaiting attending a driver awareness course and was keen to ensure he was safe before returning to the road unaccompanied.
23. The Committee noted the extensive steps the Applicant had taken since the accident to make amends for his actions. The Committee accepted that the Applicant undertook many good works in [redacted] such as assisting others to read. The Committee was also impressed with the letters from [redacted] who detailed all the steps that the Applicant had taken to engage with restorative justice.
24. The Committee took into consideration the evidence given by Mr A about the work that the Applicant has undertaken to keep his skills and knowledge up to date. The Committee considered that Mr A was committed to supporting the Applicant and that this was a supportive relationship that was in place before the accident and had continued. The Committee considered that Mr A was well placed to give valuable evidence of the insight he had observed from Applicant together with the progress he had made since returning to work at Specsavers. The Committee noted that the Applicant had attended meetings and engaged in discussions to ensure his skills were up to date as well as undertaking self-directed learning in his own time by reading clinical referral guidelines and journals.
25. The Committee noted the action plan which was a framework for the Applicant's return to practice should his application be successful. The Committee considered that it was appropriate and flexible and designed to go at the pace of the Applicant. The Committee considered that the Applicant had considered very carefully where there may be gaps in his knowledge and had been open about what he would need to do. The Committee considered that the Applicant had demonstrated a significant degree of professional maturity and it was confident that he would not be a risk to patients if he were to be restored to the Register. Further, the Committee noted that there had never been any concerns raised in relation to the Applicant.
26. The Committee also took account of the testimonials received which all spoke highly of the Applicant and his professional skills. The Committee noted that many of these were from other professionals who were aware of the circumstances leading to the Applicant's erasure. In particular, Mr A spoke very highly of the Applicant and was supportive of his return to the Register. The Committee considered that this was very persuasive evidence that fellow optometrists considered that the Applicant should be restored to the Register.
27. The Committee considered that the public interest had been upheld by the original custodial sentence, which is now fully completed, and the Applicant's subsequent

erasure. The Committee considered that the Applicant had demonstrated genuine insight together with extensive rehabilitation and commitment to the profession. The Committee considered it was in the public interest to restore the Applicant to the Register so that he could use his skills to treat patients.

28. The Committee determined that Jignesh Patel should be restored to the register of Optometrists.

**Chairman of the Committee: Eileen Carr**

Signed \_\_\_\_\_

Date 18 October 2022

<b>FURTHER INFORMATION</b>
<p><b>Transcript</b></p> <p>A full transcript of the hearing will be made available for purchase in due course.</p>
<p><b>Appeal</b></p> <p>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).</p>
<p><b>Professional Standards Authority</b></p> <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>
<p><b>Contact</b></p> <p>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.</p>