

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

GENERAL OPTICAL COUNCIL

F(22)11

AND

MANJINDER SINGH (01-33870)

**DETERMINATION OF A SUBSTANTIVE HEARING
TUESDAY 20 – WEDNESDAY 21 SEPTEMBER 2022**

Committee Members:	Ian Crookall (Chair/Lay) Mark McLaren (Lay) Asmita Naik (Lay) Ann Barrett (Optometrist) Ewen MacMillan (Optometrist)
Clinical adviser:	None
Legal adviser:	Iain Ross
GOC Presenting Officer:	Rachel Birks
Registrant present:	Manjinder Singh
Registrant representative:	Natasha Tahta (QEB Hollis Whiteman) Cassandra Dighton (AOP)
Hearings Officer:	Miss Nazia Khanom
Facts found proved:	1 and 2
Facts not found proved:	NA
Misconduct:	Found
Impairment:	Not impaired

Sanction:	NA
Immediate order:	NA

ALLEGATION

1. *On one or more occasions, on the dates listed in Schedule A, you carried out sight test/s without adequate supervision and knowing that your supervisor was not on the premises;*

Schedule A:

*22 January 2021;
29 January 2021; and/or
8 February 2021*

2. *On 8 February 2021, you gave Patient A a copy of their prescription signing it with your name.*

AND that by reason of the matters alleged above your fitness to practise is impaired by reason of misconduct.

DETERMINATION

Admissions in relation to the particulars of the allegation

1. The Registrant admitted Particulars 1 and 2 of the allegation. In respect of the dates listed in Schedule A, the Registrant admitted that he had carried out sight tests on all 3 dates listed when his Supervisor was not on the premises.

Background to the allegations

2. The facts alleged which are before the Committee relate to the Registrant, whilst he was a pre-registration optometrist, performing eye tests without adequate supervision, by virtue of a supervisor not being present on the

premises, and on one of those three dates, also signing off a prescription in his name.

3. On 1 March 2021, the Council's Registration department received a self-declaration from the Registrant in relation to his dismissal from Boots, for having carried out eye tests in 2020 and 2021, without a supervisor being present on the premises, whilst he was a pre-registration optometrist.
4. The Council relies on the statement of the Practice Manager and Dispensing Optician who was assigned to investigate whistle-blower concerns about the Registrant's conduct, and produced the investigation documentation. Full admissions were made by the Registrant when he was interviewed. Further, the Registrant's then Supervisor also admitted leaving the store on several occasions and leaving the Registrant to work unsupervised.

Findings in relation to the facts

5. The Committee found Particulars 1 and 2 proved, given the admissions made by the Registrant.

Findings in relation to misconduct

6. The Committee has heard submissions on behalf of the Council and the Registrant. It has accepted the advice of the Legal Adviser. The Legal Adviser advised the Committee that it should consider whether the Registrant's conduct fell seriously below the required standards.
7. The Committee found that the admitted facts found proved amount to misconduct.
8. The Committee took into account that the Registrant had admitted that his actions amounted to misconduct and were serious breaches of the required standards for students. Nevertheless, the Committee exercised its own judgement in deciding whether misconduct had been made out.
9. The Committee first had regard to the admitted breaches of the relevant Standards for Optical Students which includes in its preamble, "**Making the care of your patients your first and overriding concern**". Whilst it accepted the evidence that the Registrant had faced extremely difficult circumstances at the times when he carried out unsupervised eye tests, the Committee was of

the view that the Registrant failed in his duty to make the care of his patients his first and overriding concern.

10. The Committee was also of the view that the Registrant had breached the following Standards for Optical Students:

5.1 *“Recognise the limits of your scope of training including your knowledge, skills and experience*

5.3: *“Understand and comply with the requirements of student registration with the General Optical Council and the legal obligations of undertaking any restricted functions”*.

6: *“Conduct appropriate assessments, examinations, treatments and referrals under supervision.”*

8.2: *“Ensure that your supervisor is on the premises, in a position to oversee the work you undertake and is ready to intervene if necessary in order to protect patients”*

11. Whilst the Committee was aware that breaches of required standards do not necessarily amount to professional misconduct, in this case the Committee’s main concern was that the Registrant had performed sight tests on patients whilst unqualified and unsupervised.
12. The Registrant’s actions in the Committee’s view gave rise to
- (a) a potential of risk to patients;
 - (b) an undermining of public confidence in the profession as the public would be appalled if they knew that eye tests were being carried out by unqualified and unsupervised optometrists and;
 - (c) fellow Optometrists, in particular optical students, would be alarmed and upset that they had qualified by complying with the rules and that the Registrant had not complied with the rules.
13. Taking all the above matters into account, the Committee was satisfied that the Registrant’s conduct was serious, fell far below the required standards and amounted to misconduct.

Findings regarding impairment

14. The Committee has heard submissions from Ms Birks on behalf of the Council and from Ms Tahta on behalf of the Registrant. The Committee accepted the advice of the Legal Adviser who advised the Committee to consider both the personal and public components of impairment.
15. In deciding whether the Registrant's fitness to practise is currently impaired the Committee considered both the personal and public components of impairment of fitness to practice.
16. In respect of the personal component, the Committee, whilst bearing in mind its findings of misconduct, had regard to the Council's and the Registrant's evidence, the material provided by him and to the evidence of his witness, Mr A.
17. The Committee did not hear any evidence from the Registrant's supervisor at the time of the events in question, given that he was not called as a witness. However, the Committee was provided with written statements which supported the Registrant's evidence that he had been subjected to inappropriate pressure and behaviour by his then supervisor, which may have been instrumental in causing the Registrant to behave as he did.
18. In particular, the Committee heard written evidence from another young employee at the same branch, which corroborated the Registrant's account of the then Supervisor's unacceptable behaviour towards younger members of staff and the toxic atmosphere which existed at the branch as a result. The investigating officer also provided written evidence that she was satisfied that the Registrant's supervisor had not provided adequate supervision and treated the Registrant as a fully qualified Optometrist, rather than as a student.
19. In considering the seriousness of the Registrant's failure to raise concerns about his lack of supervision or about being required to undertake eye examinations whilst unsupervised, the Committee also had regard to the context of the situation in which the Registrant found himself. The Committee considered that the Registrant was himself a victim, taking into account all of the other evidence that the then Supervisor, who was significantly older than the other staff members, abused his position and behaved in a threatening manner.
20. The Committee also considered that there are pressures in speaking up for people, particularly where there is no actual or perceived support for whistle

blowers. Whilst the standards may require that a student should whistle blow when necessary, no additional support has been put in place such as capacity building training. In any event, whilst he admitted that he failed in that regard, the Registrant was not charged with failing to whistle blow.

21. In the Committee's view, the Registrant came across as a very conscientious, thoughtful and committed young man with an obvious interest in developing his knowledge and career within Optometry. It was also notable that, even after he was dismissed by Boots, he was re-employed by a respected national chain, Specsavers, who were well aware of his fitness to practice history and where he completed his pre-registration training in August 2021. Indeed, the Committee found that the Registrant's current manager and previous supervisor, Mr A, who made himself available over two separate days, was a very credible, responsible and professional witness who held the Registrant in high regard and described the Registrant as an asset to the profession even at this early stage of the Registrant's career.
22. The Committee was satisfied that the Registrant knew that his conduct was wrong; however, he was also under duress at the time and did not act out of financial or other gain. The Committee also felt that the Registrant had a genuine desire to help people.
23. The Committee was also satisfied that the misconduct is remediable and has been remedied. The Registrant was a student at the time and has now become fully qualified. The key point for the Committee was that the Registrant has demonstrated a high level of insight through his evidence and his reflective piece which he prepared himself. His insight has consistently been demonstrated from his interview with the investigator to his evidence before the Committee.
24. The Committee considered that the Registrant's misconduct is highly unlikely to be repeated. The Committee was satisfied that the Registrant has demonstrated that he has learned from his mistakes and would not deliberately breach required standards again. The character defects displayed by his failure to speak up have been remedied through his additional training and maturity which was evident to the Committee. The Registrant also made efforts to find relevant courses and also provided clarity on how he would act and who he would report to should a situation which required him to speak up in the future.
25. Taking everything into consideration, the Committee came to the conclusion that the Registrant's fitness to practise is not currently impaired in respect of the personal component of impairment.

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>
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.

