

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

GENERAL OPTICAL COUNCIL

F(20)41

AND

**JANE LAI (01-15386)
PRIVATE HEARING**

**DETERMINATION SUMMARY OF A 1st SUBSTANTIVE REVIEW
9 NOVEMBER 2022**

Committee Members:	Ian Crookall (Chair/Lay) Nina Barnett (Lay) Susan Bradford (Lay) Danielle Ellis (Optometrist) Denise Connor (Optometrist)
Clinical Adviser:	Desmond Dunleavy
Legal adviser:	Aaminah Khan
GOC Presenting Officer:	Deborah Tompkinson (33 Bedford Row)
Registrant:	Not present
Registrant representative:	Not represented
Hearings Officer:	Nazia Khanom
Outcome:	Suspension extended by 12 months (With Review)

Preliminary issue regarding sitting in private

The Committee accepted the advice of the Legal Adviser and decided that the hearing should be held entirely in private. There was no objection by Ms Tompkinson on behalf of the Council, who invited the Committee to hear the entire review hearing in private.

Proof of service

The Registrant had not attended the hearing and was not represented. The Committee heard an application from Ms Tompkinson for the Council for the hearing to proceed in the Registrant's absence. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Act and Rule 61 of the Fitness to Practise Rules 2013. The Committee had regard to the documentation before it regarding service, provided in a service bundle by the Council. The Committee accepted the advice of the Legal Adviser, which was that various methods of service were permitted under the Rules, including by email, as per Rule 2A of the GOC (Committee Constitution, Registration and Fitness to Practise) (Coronavirus) (Amendment) Rules 2020.

The Committee noted that the Registrant had been served with the Notice of Hearing on 11 July 2022 via email, and that she had been made aware that she had the right to attend and be represented, the right to adduce evidence and that the hearing could proceed in her absence, if she failed to attend. The notice had been sent to both the Registrant [Redacted], who had attended the substantive hearing to observe and who had been corresponding with the Council on behalf of the Registrant. The Committee noted that the Registrant's [Redacted] had responded to the notice of hearing stating that the Registrant had received the documentation regarding the hearing and neither the Registrant [Redacted] would be attending.

The Committee was satisfied in the circumstances that all reasonable efforts had been made to notify the Registrant of the hearing in accordance with the statutory provisions.

Proceeding in the absence of the Registrant

The Committee then went on to consider whether it would be in the public interest to proceed in the Registrant's absence in accordance with Rule 22. Ms Tompkinson on behalf of the Council submitted that the Registrant had voluntarily waived her right to attend and it was probable that she would not attend a future hearing if the matter was adjourned. The Committee accepted the advice of the Legal Adviser, who made reference to the relevant section of the Indicative Sanctions Guidance on proceeding in absence.

The Committee was satisfied that the Registrant was aware of today's hearing and had voluntarily waived her right to attend. Further, there was no application to adjourn by the Registrant and the Committee was not satisfied that an adjournment would secure her attendance at a future hearing. The Committee was also mindful that this was substantive review hearing, for an order that is due to expire on 14 December

2022 and there was a public interest in the hearing proceeding, as well as it being in the interests of the Registrant for the Committee to proceed to review the order.

Accordingly, the Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence.

DETERMINATION

Background

The Registrant's registration was suspended for a period of twelve months. The order of suspension is due to expire on 14 December 2022.

Findings regarding impairment

The Committee found that the fitness of Ms Lai to practise as an optometrist remains impaired.

Sanction

The Committee decided to extend the Order of Suspension for a period of twelve months with a review to be held between four and six weeks prior to the expiry of the order. The Committee decided the sanction imposed was in the interest of the public and the Registrant.

Chairman of the Committee: Ian Crookall

Signature 

Date: 9 November 2022

Registrant: Jane Lai

SignatureNot in attendance.....

Date: 9 November 2022

FURTHER INFORMATION

Transcript

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

Appeal

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

Professional Standards Authority

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.