

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

**GENERAL OPTICAL COUNCIL**

**F(23)44**

**AND**

**HADIQA ALI (SO-15035)**

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**DETERMINATION OF A SUBSTANTIVE REVIEW  
9 SEPTEMBER 2024**

<b>Committee Members:</b>	Sara Fenoughty (Lay) Ann McKechin (Lay) Victoria Smith (Lay) Sanna Nasrullah (Optometrist) Amit Jinabhai (Optometrist)
<b>Legal adviser:</b>	Kelly Thomas
<b>GOC Presenting Officer:</b>	James Halliday
<b>Registrant:</b>	Present
<b>Registrant representative:</b>	Chris Hamlet (Counsel) Katie Holland (AOP)
<b>Hearings Officer:</b>	Terence Yates
<b>Outcome:</b>	No impairment – suspension will expire on 26 October 2024

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## DETERMINATION

### Allegation (as amended)

*The Council alleges that you, Hadiqa Ali (SO-15035), a Registered Student Optometrist, whilst employed at [redacted] Specsavers Limited:*

- 1) *On or around 2 February 2023 you:*
  - a. *used your colleague's Socrates code and accessed his profile;*
  - b. *completed a record of a contact lens fit in the absence of a patient on behalf of your colleague.*
- 2) *Your actions as set out in 1 were dishonest in that you fabricated a record of a contact lens fit.*

*And by virtue of the facts set out above, your fitness to train is impaired by reason of misconduct.*

### Background

1. The Registrant joined Specsavers as an Optical Assistant in 2021 and later began to undertake pre-registration with them. The Registrant was working at the Specsavers [redacted] store at the time of the incident on 2 February 2023. Mr Azhar Mahmood, also a pre-registration optometrist, was working at the [redacted] store at the same time.
2. Mr Mahmood enrolled on the College of Optometrists Scheme for Registration on 6 August 2021. At the time of the incident he had completed four visits in Stage One and achieved 43 out of the 75 competencies. A 5<sup>th</sup> visit was scheduled imminently.
3. On 2 February 2023, Mr Mahmood contacted the Registrant, via Snapchat, and provided his login details for Socrates (a Specsavers database) and information about a contact lens patient, so that she could input these onto his records. The GOC alleged that Mr Mahmood intended to use this record for his College of Optometrists Stage 1 assessment.
4. The Registrant was observed doing this by [redacted], a registered optometrist and pre-registration supervising optometrist. She subsequently reported both pre-registration optometrists to the Store Director, who later reported the incident to the GOC. It was also reported to the College of Optometrists.
5. The cases were linked in nature, and by events, which resulted in them being formally joined in January 2024.

6. The substantive hearing took place between 17-28 June 2024.

### **Substantive hearing on 17-28 June 2024**

#### **Findings regarding impairment**

7. The Committee considered the Council's overriding objective and gave equal consideration to each of its limbs as set out below:

*"To protect, promote and maintain the health, safety and well-being of the public, the protection of the public by promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct."*

8. The Committee considered this guidance in relation to the Registrant's position on impairment. The Committee first considered the four questions endorsed in the *Grant* case. The Committee concluded firstly that following the findings made against the Registrant, that she had in the past put patients at unwarranted risk of harm. The false details had been entered on to a real patient's record and as such, could have caused safety issues for both that patient and other professional colleagues who accessed the record. In doing so, the Registrant had also in the past brought the profession into disrepute and breached one of the fundamental tenets of the profession, as demonstrated by the breach of professional *Standards for Optical Students* as outlined above. The Committee has already made findings of dishonesty and therefore an answer to the last question has already been provided.
9. The Committee then considered the test outlined in the case of *Cohen*, namely whether the conduct is remediable, whether it has been remedied, and whether it is highly unlikely to be repeated.
10. The Committee accepted that where there is a finding of dishonesty it is difficult but not impossible to fully remediate, details of the Registrants' insight, and the steps taken since the incident may assist. As to whether it has been remedied, the Committee noted that the Registrant continued to work at Specsavers, has continued with her pre-registration optometry course, and is coming to the end of her pre-registration year without further incident. The Registrant has provided evidence of relevant courses completed immediately after the incident. The Committee did not consider the fact that the Registrant had denied the dishonesty allegation in these proceedings to be an aggravating factor to the issue of impairment. Nevertheless, following the Registrant's evidence in relation to impairment, the Committee was not satisfied that the Registrant's insight had yet been fully developed, as she appeared to be unable to properly recognise the impact of her actions on colleagues in the profession, or the impact on the wider public. Therefore, the Committee did not find that the Registrant's misconduct had yet been entirely remedied. Thirdly, whilst the Committee noted that the Registrant has current supervision and has ongoing assessments, her apparent lack of fully

developed insight meant that the Committee could not conclude that the misconduct is highly unlikely to be repeated, albeit that the risk of repetition is low.

11. On the basis that there remained a risk to the health, safety and wellbeing of patients, the Committee concluded that the Registrant's current fitness to train is impaired on a personal level.
12. The Committee then returned to the questions in *Grant* and concluded in light of the conduct not being fully remedied, that there remained some future risk to patients of unwarranted harm, that the profession would be brought into disrepute, that fundamental tenets of the profession are liable to be breached, and that dishonesty may occur again.
13. The Committee then considered the wider public interest in maintaining public confidence in the profession and in promoting and maintaining proper professional standards and conduct. It determined that in circumstances where the registrant acted dishonestly in this manner, public confidence would be undermined if a finding of impairment were not made. The Committee concluded that all three limbs of the overriding objective were engaged.
14. Therefore, the Committee found that the Registrant's fitness to train is currently impaired.

### **Sanction**

15. In reaching its decision on sanction the Committee took into account the submissions on behalf of the parties, the facts found proved and its previous findings on misconduct and impairment.
16. Throughout its deliberations the Committee had regard to the overarching objective, giving equal consideration to each of its limbs. The Committee considered an aggravating factor of the incident for the Registrant to be that she co-operated in allowing records to be changed dishonestly, which carried a potential risk for the patient and undermined the integrity of those records. This was relevant to *Paragraph 17.1(c)* of the *Guidance* and was very serious in that in doing so she breached a number of professional standards as outlined in the Misconduct and Impairment decisions, and this act enabled Mr Mahmood to act dishonestly in preparation for a College assessment.
17. In mitigation, the Committee acknowledged the following factors:
  - a. The Registrant had self-referred to the GOC
  - b. She had made early admissions to the Allegations in 1(a) and 1(b) throughout;
  - c. She had expressed remorse from an early stage
  - d. The Registrant had undertaken some remediation
  - e. Whilst she was still in the pre-registration stage of her career, the Registrant had no adverse previous fitness to train history
  - f. She had reflected on her misconduct

- g. She showed promise of becoming a valued member of the profession, providing a number of very positive and supportive testimonials from professional colleagues who were aware of the incident
  - h. The Registrant does show some insight, although at this stage it is limited.
18. The Committee followed the *Guidance* at 8.3 and went through the possible sanctions, starting with the least severe, that being to take no further action. It determined, having regard to the *Guidance*, that there were no exceptional circumstances to justify it doing so. Taking no action would not protect the public or be in the wider public interest, it would not reflect the seriousness of the misconduct and therefore it would be entirely inappropriate.
19. The Committee decided that the imposition of a financial penalty was not appropriate or proportionate and would not reflect the seriousness of the misconduct or protect the public against the risk of repetition.
20. The Committee next considered a period of conditional registration. It took into account paragraph 21.25 of the *Guidance*.
- a. *No evidence of harmful deep-seated personality or attitudinal problems.*
  - b. *Identifiable areas of registrant's practice in need of assessment or retraining.*
  - c. *Evidence that the registrant has insight into any health problems and is prepared to agree to abide by conditions regarding medical condition, treatment, and supervision.*
  - d. *Potential and willingness to respond positively to retraining.*
  - e. *Patients will not be put in danger either directly or indirectly as a result of conditional registration itself.*
  - f. *The conditions will protect patients during the period they are in force.*
  - g. *It is possible to formulate appropriate and practical conditions to impose on registration and make provision as to how conditions will be monitored.*
21. The Committee noted that Mr Saunders, on behalf of the Registrant, had submitted that a reasonable sanction would be one of conditions, those being 1) supervision and 2) assessment of records. The Committee noted that the Registrant is already being supervised and assessed given that she is in the final stages of her pre-registration year. Whilst the conditions suggested might be workable, and measurable, the imposition of conditions in this case did not sufficiently mark the level of misconduct or directly address the concerns of the Committee.
22. The Committee next considered a suspension order and the relevant sections of the *Guidance* contained within *paragraph 21.29* namely;
- a. *Serious instance of misconduct where a lesser sanction is not sufficient.*
  - b. *No evidence of harmful deep-seated personality or attitudinal problems.*
  - c. *No evidence of repetition of behaviour since the incident.*
  - d. *The Committee is satisfied the registrant has insight and does not pose a significant risk of repeating behaviour.*
  - e. *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.*

23. The Committee considered that *paragraph 21.29* part a) was engaged given the aggravating feature of the dishonesty identified. In considering the limbs at parts b) and c), the Committee agreed that both of these apply. Limb d) is engaged in that the Registrant does show some insight, and the Committee has found in its Impairment determination that the risk of repetition was low. Limb e) does not apply. It concluded that suspension may well be the most appropriate sanction, but went on to test this proposition against the criteria for erasure, the most serious sanction.
24. However, in accordance with *Paragraph 8.3* of the *Guidance*, the Committee next considered the factors in relation to erasure under *Paragraph 21.35*:
- 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 the seriousness of actions or consequences.*
25. The Committee formed the view that limbs a), b) and f) were engaged. There were however, as above, numerous personal mitigating factors that suggested that suspension and not erasure would be appropriate and proportionate in this case. Most crucially, the Registrant's engagement with this Committee, her evidence, and the testimonials and courses she has produced have demonstrated that she is developing insight which is reassuring and has led the Committee to acknowledge a low risk of repetition in this case.
26. The Committee concluded that when taking into account the Registrant's interests and balancing those against the public interest, in order to ensure public confidence and proper professional standards, suspension was the appropriate and proportionate sanction. The Committee recognises that this may delay her training but had not been advised by her representative that there would be any additional adverse impact.
27. The Committee considered the most appropriate term of suspension to mark the public confidence in the profession and to uphold proper standards, but also to allow the Registrant to further develop her insight and to continue to become a valued member of the profession, would be one of three months.

## First Substantive Review – 9 September 2024

### Declaration of Interest

28. Prior to the commencement of this first substantive review hearing there was a declaration made by the Committee member Dr Jinabhai that he had previous dealings with the Registrant's case in that he chaired a meeting approximately one year ago where there was a reference to this Registrant. Dr Jinabhai did not make any decisions in relation to this matter but informed all parties of the circumstances by disclosing an email with further details.
29. Mr Halliday on behalf of the GOC confirmed the GOC had no objections to Dr Jinabhai remaining on the Committee.
30. Mr Hamlet on behalf of the Registrant also confirmed that there were no objections.
31. The Committee agreed that in accordance with *Paragraph 11* of the *Hearings and Indicative Sanctions Guidance* ("The Guidance") and the principles in the case of *Porter v Magill [2002] 2 AC 357*, a fair minded and well-informed observer having considered the facts would not conclude that there was a real possibility that the Committee is or will be biased, and therefore Dr Jinabhai remained on the Committee.

### Impairment

32. Mr Halliday on behalf of the Council remained neutral in relation to impairment. Mr Halliday guided the Committee through the documents provided and the previous Committee's findings, noting that the previous Committee did find dishonesty despite this being disputed by the Registrant. Further, the Committee found impairment in relation to all three limbs of the overarching objective, namely:  
*"To protect, promote and maintain the health, safety and well-being of the public, the protection of the public by promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct."*
33. Mr Halliday reminded the Committee that there is a persuasive burden on the Registrant to prove that her fitness to practise is not currently impaired.
34. The Registrant was called to give evidence and confirmed that she fully accepted the previous Committee's findings. The Registrant confirmed through oral evidence, her reflective piece and her Back to Work Plan that she had spent considerable time dealing with the consequences of her decisions and reflecting on how she would do things differently. The Registrant confirmed that since the substantive hearing she has passed her final examinations as a pre-registration optometrist and has a position waiting for her as a resident optometrist secured to start at the end of her suspension period, if the Committee conclude that she is fit to return to practise. The Registrant had also undertaken additional CPD clinical training during August 2024.

35. The Registrant outlined that she accepted the reasoning behind the Committee's previous decision and confirmed that she completely understood why the regulatory body had acted as they did. The Registrant accepted that her decisions had consequences for the health and safety of the public, for the reputation of her colleagues, and for the public confidence in the profession. The Registrant confirmed that she has discussed her insights with [redacted], a pharmacist, as well as her new employer, and sought advice from them as to how to maintain professional standards in the future.
36. Mr Hamlet for the Registrant submitted that at the end of the previous hearing, the Committee had found that the Registrant had some insight which was not yet fully developed. In the two months since the substantive hearing, the Registrant has done all she can do to demonstrate her insight as being fully developed. Mr Hamlet confirmed that by her oral evidence, her reflective piece and her back to work plan, the Registrant has clearly demonstrated that she is no longer impaired and deserves the chance to resume practise unrestricted.
37. The Legal Adviser advised on the cases of *Abrahaem v GMC EWHC 183 (Admin)* and *Khan v GPhc [2016] UKSC 64* and advised that there is a persuasive burden upon a registrant to demonstrate that they are fit to resume unrestricted practice. Further, the focus of a review hearing is upon the current fitness of the registrant to resume practice, judged in light of what they have, or have not, done since the substantive hearing and whether they remain impaired. The Legal Adviser also outlined the principles referred to in the *Hearings and Indicative Sanctions Guidance ("The Guidance") Paragraphs 16.1-16.7*, as well as the personal and public elements of impairment, pointing to the Council's overarching objective, namely "*To protect, promote and maintain the health, safety and well-being of the public, the protection of the public by promoting and maintaining public confidence in the profession and promoting and maintaining proper professional standards and conduct.*"
38. The Legal Adviser also outlined the public interest considerations and whether an ordinary well-informed person would expect a declaration of current impairment in order to promote and maintain public confidence in the profession. The case of *CHRE v NMC (Grant) [2011] EWHC 927 (Admin)*, para 76 gives four principles to consider as to whether the Registrant has:
- (a) in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm.
  - (b) has in the past brought and/or is liable in the future to bring the profession into disrepute.
  - (c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.
  - (d) has in the past acted dishonestly and/or is liable in the future to act dishonestly.
39. The Committee accepted the advice of the Legal Adviser.



### Findings in relation to impairment

40. The Committee considered the submissions and the documentary evidence that was before it, including information from the previous hearing and the previous substantive determination and reasons. The Committee also considered the initial Registrant bundle, the new reflective piece from the Registrant, the Return to Work Plan, two WOPEC certificates and the Registrant's oral evidence.
41. The Committee was mindful that there was in effect a persuasive burden on the Registrant to demonstrate that she is fit to resume unrestricted practice.
42. The Committee took account of the substantive hearing determination and the findings of the previous Committee, as well as the steps which had been recommended to assist at a Review hearing, as set out above. The Committee was mindful that it was not bound by the views of the earlier Committee, and it had to come to its own independent judgement on whether or not the Registrant was currently impaired.
43. The Committee considered the four principles in the *Grant* case. The Committee considered that the written documents provided by the Registrant, read together with the Registrant's oral evidence gave a full account of her insight, particularly in relation to the public interest and reputation of the profession.
44. The Committee considered that the Registrant was able to demonstrate that she had made a good amount of progress in the short time since the last hearing. In particular, the Committee were assisted by the Registrant's Back to Work Plan, her 9 CPD points earned in August and the fact that she has secured employment in preparation of furthering her career. The Committee noted that the Registrant has communicated with, and taken advice from [redacted], a healthcare professional, as well as her new employer which demonstrated both integrity and maturity, which reduced the risk of repetition and increased the likelihood that her Back to Work Plan would be implemented successfully.
45. The Committee were particularly assisted by the Registrant's oral evidence. The Registrant's evidence in relation to how her actions had an impact on patient safety, the public interest and the reputation of the profession were insightful and showed a good level of reflection.
46. The Committee took into account the Registrant's candid understanding of why the previous Committee came to its conclusions and why her regulatory body would have been expected to take action. The Registrant acknowledged that she had an important responsibility to the profession, her colleagues, the public and her own regulatory body. The Registrant also outlined her intention to complete further professional courses to assist her development, in particular with an intention to complete both clinical and non-clinical courses such as an ethics course, which again demonstrated clear maturity and insight.
47. The Committee considered that the public interest has already been marked with the previous findings in these proceedings, and an ordinary well-informed person would not expect a declaration of current impairment in the current circumstances.

The Committee concluded that the Registrant had persuaded it that she is fit to resume unrestricted practice and had demonstrated she was safe to do so. The Committee found, when considering the four limbs of the test in *Grant*, that the Registrant had fully remediated and there was an extremely low likelihood of repetition.

48. Accordingly, the Committee found that the fitness of the Registrant to practise as a student optometrist is no longer impaired.

49. The current suspension of the Registrant will therefore expire on 26 October 2024.

**Chairman of the Committee: Sara Fenoughty**



**Signature**

**Date: 9 September 2024**

**Registrant: Hadiqa Ali**

**Signature *present and received via email***

**Date: 9 September 2024**

<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>
<b>Effect of orders for suspension or erasure</b>
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.
<b>Contact</b>
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.