

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

**GENERAL OPTICAL COUNCIL**

**F(20)40**

**AND**

**JEREMY SIMEONS (D-7435)**

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**DETERMINATION OF A SUBSTANTIVE HEARING  
TUESDAY 6 APRIL 2021**

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<b>Committee Members:</b>	Ms Anne Johnstone (Chair/Lay) Mr Kevin Connolly (Lay) Ms Ann McKechin (Lay) Mr Ian Taylor (Dispensing Optician) Mr Philip Cross (Dispensing Optician)
<b>Legal adviser:</b>	Ms Megan Ashworth
<b>GOC Presenting Officer:</b>	Mr Dean Taylor
<b>Registrant present/represented:</b>	Not present and not represented
<b>Hearings Officer:</b>	Ms Abby Strong-Perrin
<b>Facts found proved:</b>	1
<b>Facts not found proved:</b>	None
<b>Conviction:</b>	Yes
<b>Impairment:</b>	Impaired
<b>Sanction:</b>	Erasure
<b>Immediate order:</b>	Immediate order of suspension

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## **Proof of service**

The Committee heard an application from Mr Taylor on behalf of the Council for the matter to proceed in the Registrant's absence. Firstly, the Council was required to satisfy the Committee that the notification and documents had been served in accordance with the Rules, in particular Rule 2A of the Fitness to Practise Rules 2013. Rule 2A had been inserted in light of the pandemic, to allow for service by email, where an electronic email address had previously been provided by the Registrant. The Committee accepted the advice of the Legal Adviser.

The Committee had regard to the screen print of the Registrant's entry in the register which contained the email address he had previously provided to the Council. The Committee had also been provided with a copy of the notification of hearing, dated 23 November 2020, which contained the information required under Rule 28. The Committee noted that the original notification had been supplemented by further copies of the notification being sent to the Registrant's registered address and to the prison where he is serving a custodial sentence. The further copies were both sent by recorded delivery on 10 March 2021. The Committee is satisfied that all reasonable efforts have been made to notify the Registrant of the hearing.

## **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. The Committee accepted the advice of the Legal Adviser, who advised it of the principles from the cases of *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162, and *R v Jones* [2002] UKHL 5.

The Committee was satisfied that the Council had gone beyond the steps required by the Rules for service, in that in addition to the original service by email, it had sent additional copies of the notification by registered post both to the Registrant's registered address and to the prison where he is currently serving a custodial sentence. It was clear to the Committee from his letters to the Council, dated 28 July and 18 September 2020, that he was aware of proceedings against him. Since those letters, there had been no engagement from the Registrant: he had not requested an adjournment, nor had he engaged to facilitate steps for his participation in or representation at the hearing. The Committee had regard to its main statutory objective of the protection, promotion and maintenance of the health and safety of the public, and the general public interest in dealing with matters expeditiously. In all the circumstances, the Committee determined that it would be in the public interest for the hearing to proceed notwithstanding the Registrant's absence.

## **ALLEGATION**

The Council alleges that in relation to you Jeremy Simeons (D-7435), a registered dispensing optician:

1. On 6 March 2020, at REDACTED Crown Court, you were convicted of:
  - a. Sexual assault of a child under the age of 13, contrary to section 7(1) of the Sexual Offences Act 2003.

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

## **DETERMINATION**

### **Background to the allegations**

The Registrant is a registered Dispensing Optician, who first registered on 21 June 1996.

On 18 February 2020, the Council was informed by REDACTED, that the Registrant (previously employed as a contact lens optician in the REDACTED branch), had been charged by the police with the allegation of sexual assault of a minor and was no longer an employee.

On 6 March 2020 at REDACTED Crown Court, the Registrant was convicted, following a guilty plea, in relation to the following offence:

Sexual assault of a child under the age of 13, contrary to section 7(1) of the Sexual Offences Act 2003.

For that offence, the Registrant was sentenced on 20 May 2020 to two years' immediate imprisonment, with a Sexual Harm Prevention Order for 10 years. He was also to be subject to the notification requirements for signing on the Sex Offenders Register for 10 years. The sentencing Judge also ordered that the Registrant may be placed on the barring list by the Disclosure and Barring Service.

### **Findings in relation to the facts**

The Committee heard and accepted the advice of the Legal Adviser. She advised that, pursuant to rule 40(3) of the Fitness to Practice Rules 2013, the production of a certificate of conviction shall be conclusive evidence that the Registrant has committed an offence.

The Committee was provided with a copy of the certificate of conviction, dated 14 August 2020, relating to appearances at REDACTED Crown Court on 6 March 2020 (date of guilty plea) and 20 May 2020 (date of sentence). The Committee was also provided with a copy of the judge's sentencing remarks, in particular:

*“[Person A] was born on the [Redacted] and was aged REDACTED at the time she visited your family home to stay the night for a sleepover on the 11th, the 12th of October 2019. Your [Relationship A], [Person D], was of a similar age and it’s in that setting of childhood friendship that there was that reciprocal arrangement. [Person A1] was put to bed and she ought to have been safe in your home as your young guest, instead of which you crept into her room and molested her in the way that you now admit, the offence contrary to section 7 of the Sexual Offences Act 2003, namely the sexual assault of child under 13.*

...

*The guideline for a section 7 offence has been carefully considered by counsel. I agree with the consensus of the bar that this falls into category 2A of the section 7 guideline, category 2 harm, because of the touching of naked genitalia and the youth of the child, REDACTED and the offence, of course, covers children up to the age of 12, and culpability A, plainly, because of the abuse of trust perpetrated that night.*

*I also bear in mind the imposition of custodial sentences guideline, and I have no hesitation in concluding that this offence does cross the custody threshold. Having regard to the sentencing range set out within a section 7 guideline, and also the conclusions, which I accept, of the probation officer’s risk assessment in the pre-sentence report, that you presently do pose a high risk of serious harm to children unless carefully monitored and supervised.*

*Therefore there are two particular factors within the imposition guideline that lead me to the conclusion it would be not appropriate to suspend any custodial sentence in your case. Firstly, because you present a high risk of harm to a section of the public and, secondly, given the nature of these offenders, and reflecting the intention of parliament and the guidelines council, appropriate punishment here, in my judgment, can only be achieved by immediate custody.*

*The starting point for a category 2A offence is four years. I bear in mind, of course, that is designed to cater, as I say, for children up to the age of 12, as an offence if they’re under 13. The range is three to seven years. I balanced all those matters in mind and I must careful not to double count. I give you credit in mitigation for your previous good character and positive qualities in the way that the testimonials emphasise. There’s also a degree of remorse but it is tempered with limited insight in your case.*

...

*Bearing in mind the mitigating factors, I’ve come to the conclusion that before credit for plea, the appropriate sentence would have been three years imprisonment. Giving you full credit for your plea, as I do, that brings the sentence down to two years imprisonment, and that is a term you must serve.”*

In light of all of the information before it, the Committee was satisfied to the civil standard that the Registrant had been convicted of the offence of sexual assault of a

child under the age of 13, contrary to section 7(1) of the Sexual Offences Act 2003. Accordingly, it found particular 1 proved.

### **Statutory Ground**

Having found the fact of conviction proved, the Committee was satisfied that, by its nature, it amounted to the statutory ground of a conviction under section 13D(2)(c) of the Opticians Act 1989.

### **Findings regarding impairment**

The Committee next went on to consider whether the Registrant's fitness to practise is impaired by virtue of the criminal conviction.

The Committee has heard submissions on behalf of the Council. It has accepted the advice of the Legal Adviser.

The Committee was of the view that the case was extremely serious, and this was reflected in the two year custodial sentence, together with a Sexual Harm Prevention Order for ten years, which the Registrant had received. The Committee had regard to the remarks of the sentencing Judge who had found that the Registrant had acted in abuse of trust of the position in which he had been placed, identifying that the victim was REDACTED who ought to have been safe in his house as a guest. In the Committee's judgement, the Registrant had egregiously acted in breach of his position of trust as an adult looking after a REDACTED overnight in his house by committing the offence.

The Committee noted that the Registrant had denied the offence in his letter to the Council, dated 28 July 2020, asserting that he had only pleaded guilty on the advice of his legal team. In his letter to the Council, dated 18 September, the Registrant asserted that while the judge had considered him 'high risk', the probation board had considered him 'low risk'. The Committee had regard to the judge's sentencing remarks in this respect, in which the judge stated that he accepted the probation officer's risk assessment in the pre-sentence report, that the Registrant at that time, posed a high risk of serious harm to children unless carefully monitored and supervised. The Committee noted that the Registrant in his letters to the Council did not consider himself a risk or danger to the public and maintained that he had no sexual interest in children or young people. In all the circumstances, the Committee concluded that the Registrant had no insight into his offending, or its impact upon public confidence in the profession. In the Committee's judgement, on the information before it, and in the absence of any engagement by the Registrant, the Registrant was at high risk of reoffending. Consequently, the Committee was satisfied that there was a high risk of repetition, placing the public at a high risk of harm.

Given the Committee's view of the serious nature and circumstances of the sexual offence, it concluded that the Registrant had brought the profession into disrepute and would undermine public confidence in the profession. It considered that the public would be appalled to hear of a professional committing a sexual offence upon a REDACTED.

In all the circumstances, the Committee was of the view that not to find current impairment would have a significant detrimental reputational effect on the Regulator, and would severely undermine public confidence in the profession. The Committee considered that a well informed member of the public, would find it profoundly unacceptable if the Regulator did not take action against a registered professional convicted of such a serious offence.

Accordingly, in all the circumstances, the Committee finds that the Registrant's fitness to practise is currently impaired, both on public protection and public interest grounds.

### **Sanction**

The Committee heard submissions from Mr Taylor on behalf of the Council. He submitted that this was an appropriate case for erasure. The Committee has accepted the advice of the Legal Adviser and has exercised its independent judgement. It has had regard to the Indicative Sanctions Guidance (the Guidance) and considered the sanctions in ascending order of severity. The Committee was aware that the purpose of a sanction is not to be punitive but to protect members of the public and to safeguard the wider public interest, which includes upholding standards within the profession, together with maintaining public confidence in the profession and its regulatory process.

The Committee considered that the mitigating factor in this case was:

- the Registrant had no fitness to practise history prior to these proceedings.

The Committee considered the following to be the main aggravating factors in this case:

- the sexual offence was committed in breach of his position of trust against a **REDACTED** child; and
- the Registrant lacks insight and remorse, as demonstrated by the judge's sentencing remarks in May 2020 and the Registrant's subsequent letters to the Council in July and September 2020, to the effect that he had only pleaded guilty on the advice of his legal team and that he did not pose a risk.

The Committee was of the view that the seriousness of the case meant that some form of sanction was required, and so the option of taking no action was inappropriate. The Committee therefore considered the alternative sanctions available, beginning with the least restrictive.

The Committee did not consider that this was a case in which a financial penalty was appropriate. Such an order would not address the seriousness of the case.

In relation to conditional registration, the Committee was of the view that the case was too serious to warrant conditions, even if the Registrant had engaged with the proceedings. In any event, the sexual offence which led to the conviction was such that the Committee considered that there were no workable conditions which could be formulated to satisfactorily protect the public as well as safeguard the wider public interest. The Committee concluded that conditional registration would neither reflect the seriousness of the case nor satisfy the public interest in maintaining public confidence in the profession and declaring and upholding standards.

The Committee next considered suspension. In doing so it had regard to paragraph 34.1 of the Guidance. It took account of its earlier findings, and concluded that it could not be satisfied that the Registrant had insight and did not pose a significant risk of repeating his behaviour. In addition, the Committee considered that the nature of the offending itself, together with the letters to the Council demonstrating an ongoing lack of insight, indicated potential deep-seated personality or attitudinal problems. Further, given the serious nature of the Registrant's offence committed when in a position of trust, the Committee concluded that a suspension order was insufficient to mark the nature and gravity of the behaviour which led to the conviction. In particular, it would not sufficiently address the public interest.

The Committee considered erasure and concluded that this was the only appropriate and proportionate sanction in this case. Whilst the Committee acknowledged that a suspension order would protect the public for the period that it was in place, it concluded that only erasure was sufficient to protect the reputation of the profession; to maintain public confidence in the regulatory process; and to uphold proper standards of conduct and behaviour. The Committee bore in mind the observations about the importance of the reputation of the profession, as set out in the case of *Bolton v The Law Society* [1994] 1 WLR 512, namely "*The reputation of the profession is more important than the fortunes of any individual member. Membership of the profession brings with it many benefits, but that is part of the price*"

In reaching its view that erasure is the only appropriate and proportionate sanction in this case, the Committee had regard to paragraph 36.5 of the Guidance and the factors which may indicate that the behaviour was fundamentally incompatible with ongoing professional registration. The Committee considered that a number of the factors were present as follows:

- the Registrant's offence was a serious departure from the relevant standards (paragraph 36.5.a);
- it involved doing serious harm to a child (paragraph 36.5.b);
- it was committed in breach of trust (paragraph 36.5.c);
- it was an offence of a sexual nature (paragraph 36.5.d);
- there was a persistent lack of insight into the seriousness of his actions or the consequences (paragraph 36.5.g).

In all the circumstances it was the Committee's judgement that the Registrant's behaviour which led to the conviction was fundamentally incompatible with ongoing professional registration.

In terms of the principle of proportionality, the Committee noted that the Registrant would be prevented from working in the profession by the sanction of erasure. However, it was of the view that the public interest in maintaining public confidence in the profession and declaring and upholding standards outweighs his own interests.

Accordingly, the Committee directs that the name of Mr Jeremy Simeons be erased from the appropriate register.

**Immediate order**

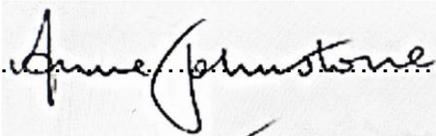
The Committee has heard submissions from Mr Taylor on behalf of the Council. It has accepted the advice of the Legal Adviser.

The Committee has decided to impose an immediate suspension order to cover the appeal period, and if the Registrant appeals, the period until the appeal is heard or otherwise finally disposed of. In light of its conclusions that there is a high risk of repetition, and that the Registrant’s behaviour is fundamentally incompatible with ongoing professional registration, the Committee decided to order immediate suspension, being satisfied that it was necessary for the protection of the public and was required in the public interest. It was of the view that to act otherwise would potentially place the public at risk and would undermine public confidence in the profession and the regulatory process.

**Revocation of interim order**

The Committee hereby revokes the interim order for suspension of registration that has previously been imposed and was last reviewed on 25 February 2021.

**Chair of the Committee: Anne Johnstone**

Signature .....  ..... Date: 06 April 2021

**Registrant: Jeremy Simeons**

Signature ..... Date: 06 April 2021

<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. The 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.

**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.