

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

MOHAMED SUFI

AND

GENERAL OPTICAL COUNCIL

**DECISION OF THE REGISTRATION APPEALS COMMITTEE
11 January 2024**

Committee Members:	Valerie Paterson (Chair/Lay) Jane Kilgannon (Lay) Jackie Alexander (Lay) Sanna Nasrullah (Optometrist) Ann Barrett (Optometrist)
Legal adviser:	Aaminah Khan
GOC Presenting Officer:	Violet Smart
Appellant present/represented:	Yes and represented
Appellant representative:	Violet Smart
Hearings Officer:	Terence Yates
Outcome:	Appeal allowed

Background

1. The Appellant appealed against the decision of the Registrar, notified to the Appellant by letter dated 10 November 2023 (“the decision letter”), to refuse the Appellant to be entered onto the register of students held by the General Optical Council (“the Council”).
2. In his application to the student register, dated 16 October 2023, the Appellant had declared a [redacted].
3. [Redacted]
4. The decision of the Registrar stated in the decision letter was: “Based upon the recentness of the [redacted], the Registrar is not satisfied that you are fit to undertake training as an optometrist”.
5. In accordance with the terms of paragraph 2 of Schedule 1A of the Opticians Act 1989 (“the Act”) the Appellant exercised his right of appeal and in response, the Council placed the appeal before the Registration Appeals Committee (“the Committee”).

The Hearing

6. The Council was represented by Ms Smart. The Appellant attended and was represented by Ms Mousley.
7. The Committee had before it a hearing bundle provided by the Council, which contained the Appellants application for student registration, including his declaration of a [redacted] and correspondence between the Council and the Appellant regarding the application refusal and subsequent appeal.
8. The Committee also received documents provided on behalf of the Appellant, which included the initial details of the [redacted], a witness statement and reflective piece from the Appellant, and references including from Person A, the [redacted].
9. With the agreement of the parties, the hearing commenced with Ms Smart setting out the background to the case and the Council’s position, which was that the Registrar’s position was maintained. Ms Mousley then presented the appeal on behalf of the Appellant and called the Appellant to give evidence to the Committee under affirmation. The Appellant was cross-examined by Ms Smart and was asked further questions by the Committee.
10. The Appellants evidence, in summary, was that he was fully aware of the seriousness of the offence. [redacted]. He acknowledged that such conduct could have had catastrophic consequences, which fortunately did not occur [redacted]. However, he did not mention this to the [redacted] at the time and ought to have done so.
11. The Appellant acknowledged that the [redacted] and whilst he understood what that meant, he did not fully appreciate at the time the impact that would have upon his studies and future career. [redacted], he reflected upon his position and

changed his lifestyle by stopping smoking and associating with those friends, instead focusing upon improving himself, his studies, and his religion. He had fully admitted the offence at the first opportunity and sincerely regretted his actions. He described that he had learnt from the [redacted] and that this conduct would not be repeated.

12. Submissions were made by both parties. Ms Smart submitted that the offence in this case was a serious offence, which raises questions about the Appellants character. Ms Smart submitted that by virtue of the serious nature of [redacted] to the application for registration, the Appellant does not meet the requisite fitness to register criteria. [redacted].
13. It was submitted by Ms Smart that the Council had correctly applied the registration guidance in refusing the application and the Appellant had breached the standards for students, which state that they should ensure that their conduct does not damage confidence in the profession. The conduct has the capacity to damage public confidence both in the Appellant and in the profession should he be registered so soon after having [redacted]. Ms Smart reminded the Committee that the burden was upon the Appellant to satisfy the Committee that he was a fit person to be registered, despite his [redacted], and if they were not so satisfied, they ought to refuse the appeal.
14. Ms Mousley, on behalf of the Appellant, referred the Committee to the fact that whilst it was a serious offence, which she was not seeking to diminish, he had been assessed by [redacted] as being low risk to the public, his compliance was excellent and had presented well. Ms Mousley submitted that the Committee ought to take into account matters which had happened since the [redacted], and the steps that the Appellant had taken to remediate. It was submitted that the Appellant had demonstrated in his evidence that he had appreciated the impact of the offence and had taken responsibility for his actions, altering his behaviour. There was no evidence of any other concerns, either before or after the offence, and he had bridged the gap to show he was fit to train. Ms Mousley invited the Committee to allow the appeal.
15. The Committee accepted the advice of the Legal Adviser, which is summarised as follows. The Legal Adviser advised the Committee that, since this was an appeal brought by the Appellant against the refusal of the Registrar to allow his registration, the burden in the appeal lay with the Appellant, to demonstrate to the Committee that the Appellant was a 'fit' person within the meaning of s8A of the Act, which states that:

"(3) A person shall be entitled to have his name in the appropriate register if he satisfies the Council that he is fit to undertake training as an optometrist or a dispensing optician,"
16. The Legal Adviser referred the Committee to the cases of *Jideofe v SRA & Ors* [2007] EW Misc 3, in which the Court stated that the same underlying principles applied to conduct both pre-admission and post-admission and the case of *Butt v SRA* [2010] EWHC 138. These cases established the principles that: 1. the test of character and suitability is a necessarily high test; 2. the character and suitability

test is not concerned with punishment, reward or redemption, but with whether there is a risk to the public or a risk that there may be danger to the reputation of the profession; and 3. no-one has the right to be admitted, and it is for the applicant to discharge the burden of satisfying the test of character and suitability.

17. The Legal Adviser also referred the Committee to *CHRE v General Dental Council & Fleischmann* [2005] EWEHC 87 (Admin), in which Newman J stated:

“54. ... I am satisfied that, as a general principle, where a practitioner had been convicted of a serious criminal offence or offences, he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. Such circumstances could arise in connection with a period of disqualification from driving or time allowed by the court for the payment of a fine.”

18. The Legal Adviser advised that it was a matter for the Committee to consider as to whether this principle applied at the time of the hearing, as the Appellants [redacted].
19. The Legal Adviser reminded the Committee to bear in mind the overarching objective of protection of the public throughout their deliberations.

Determination

20. The Committee reminded itself that the appeal was brought by the Appellant and the onus was on him to satisfy the Committee as to his being ‘fit to undertake training’.
21. The Committee noted that there was additional material submitted in respect of the appeal application that was not before the Registrar when the application to be admitted to the register was submitted in October 2023. In particular, the Committee received a bundle of documents on behalf of the Appellant on the morning of the hearing of 84 pages including a self-reflective statement, references from a work colleague and friend as well as a positive reference from [redacted].
22. The Committee bore in mind that the Appellant had always acknowledged responsibility for the [redacted]. The Committee had regard to the positive reference from the [redacted], in support of the appeal, which stated that the Appellants “compliance was excellent” and he had completed what had been required of him, in respect of the [redacted], within a short time frame.
23. The Committee noted that the [redacted]. The Committee was mindful of the general principle arising from the case of *Fleischmann*, summarised above, that where a [redacted] has not been completed, this may prevent a return to practice. However, it was further noted that in that case certain circumstances were envisaged where a different course could be taken, with specific reference to a period of [redacted] which was the case here. The Committee was satisfied that this was one of the cases referred to, particularly where the Appellant had satisfactorily completed the [redacted].

24. The Committee considered that the offence of which the Appellant had been [redacted] was a serious offence, which could have had catastrophic consequences, as accepted by the Appellant in his evidence. However, the relevant events occurred in May 2022, which was now twenty months ago with no repetition or concerns raised since. The Committee considered the Appellants live evidence, which was tested in questioning, where he expanded upon his reflective statement. The Committee was satisfied that the Appellant recognised the seriousness of the [redacted], had shown insight into his actions and the likelihood of repetition was very low.
25. The Committee also had regard to the material before it regarding the Appellants current character. The Committee considered that there was positive testimonial evidence before them, including from work colleagues and Person A his [redacted]. This evidence, as well as the live evidence of the Appellant was additional material that was not before the Registrar when the decision to refuse the application was made. The Committee accepted the Appellants evidence including that he had taken steps since his [redacted] to change his lifestyle.
26. The Committee was mindful of the public interest, however it considered that the confidence of an informed member of the public, cognisant of the facts of this case and of the evidence of the Appellant regarding his reflection and the remediation undertaken, would not be undermined by the Appellant being admitted to the student register.
27. The Committee balanced these matters in order to determine whether the Appellant was now fit for registration. The Committee determined, having heard and accepted the evidence from the Appellant and having taken into account the documentary evidence in support of the Appellant and the submissions made on his behalf, that he has developed insight and taken steps to remediate since the [redacted]. On balance the Committee was satisfied that the Appellant has discharged the burden upon him to show that he is now a 'fit' person to undertake training at the current time and be registered as a student member.
28. Accordingly, the Committee therefore determined that the Registrar's decision be quashed and the Appellants registration appeal is allowed.

Chair of the Committee: Valerie Paterson

V. Paterson

Signed

Date 11 January 2024

Appellant: Mohamed Sufi

Signed

present and received via email

Date 11 January 2024

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).	
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.	