

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

NAJAF BUTT (01-27758)

A(25)01

AND

GENERAL OPTICAL COUNCIL

**DECISION OF THE REGISTRATION APPEALS COMMITTEE
15 JULY 2025**

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| Committee Members: | Mr Gerry Wareham (Chair/Lay) Ms Ann McKechin (Lay) Ms Jackie Alexander (Lay) Ms Denise Connor (Optometrist) Ms Ann Barrett (Optometrist) |
| Legal adviser: | Ms Aaminah Khan |
| GOC Presenting Officer: | Mr Matthew Cassells |
| Appellant present/represented: | Yes and represented |
| Appellant representative: | Ms Nilofar Firoz Bawla |
| Hearings Officer: | Ms Natasha Bance |
| Outcome: | Appeal dismissed |

Background

1. This is a Registration Appeal by Ms Najaf Butt (the “Appellant”), an Optometrist who was registered with the General Optical Council (the “Respondent”) throughout the period January 2022 to December 2024.
2. The Appellant appeals the decision of the Respondent to remove her from the register due to non-completion of her Continuing Professional Development (“CPD”) requirements for the cycle period January 2022 – December 2024. The Appellant did not complete her CPD requirements by the deadline of 31 December 2024; she was required to obtain 36 points during this three-year CPD cycle and there was a shortfall of 15 general points.
3. The Respondent has a power under section 11A of the Opticians Act 1989 (“the Act”) to make rules in relation to continuing education and training. The requirements for CPD, which registrants must comply with, are set out in the General Optical Council (Continuing Professional Development) Rules Order of Council 2021 (“CPD Rules”). The Respondent may remove a registrant from the register if they fail to satisfy the requirements for CPD (section 11B(1) of the Act and Part 7, rule 25 of the CPD Rules).
4. The Respondent publishes CPD guidance (“the Guidance”) for Registrants, to assist them to understand the requirements that they are required to meet, which is available on the Respondent’s website.
5. The Guidance sets out the specific requirements for CPD, for Optometrists and Dispensing Opticians, which in summary is as follows:
 - (1) *You must obtain 36 CPD points from the domains 1 - 4 during a cycle. (The points requirement is adjusted pro rata for registrants joining part-way through a cycle).*
 - (2) *You must achieve a minimum of 18 points through interactive CPD.*
 - (3) *We expect you to obtain at least six points per year but would encourage you to do more than this in order to spread your learning evenly across the three-year cycle.*
 - (4) *You must cover each of the four core domains (1-4) by obtaining a minimum of one point in each.*
 - (5) *You must participate in at least one peer review event (after which a reflection statement must be completed). A peer review event can either be a peer review delivered by a GOC CPD provider or a registrant-led peer review as part of a registrant’s self-directed CPD.*

- (6) You may participate in self-directed CPD provided that you obtain at least 18 points from GOC CPD providers.*
- (7) You must plan your personal development at the start of a cycle by creating a personal development plan in your MyCPD account.*
- (8) You must complete a reflective exercise with a peer based on your personal development plan by the end of a CPD cycle.*
6. The Guidance sets out that the maximum points, which can be attributed to self-directed learning (i.e. not from GOC accredited providers), other than peer review, is 1 point. The Respondent has published specific guidance called “Self-directed CPD”, which explains that fewer points are available for self-directed learning because the Respondent does not have mechanisms in place to quality assure this type of CPD.
 7. Additionally, the Respondent has an Exceptions Policy, for registrants who have a shortfall of CPD points, where there are relevant exceptional circumstances beyond their control. Under this policy, the Respondent may exercise its discretion to retain the applicant on the register, notwithstanding the shortfall in points. The Exceptions Policy sets out relevant factors that are taken into account, explains when the discretion may be exercised and states that it applies where the applicant’s retention on the register would not risk public protection or undermine the public interest.
 8. The Respondent sends reminders, when the end of the CPD cycle is approaching, to those registrants who have a shortfall in points. The Appellant was sent reminders on 19 September 2024, 18 October 2024, and a Statutory Notice of Possible Shortfall was sent to the Appellant on 4 November 2024. The Appellant was advised that a shortfall could lead to her removal from the register. Further reminders were sent to the Appellant on 5 December 2024 and 13 December 2024. The Appellant was reminded that she could log on to her MyCPD account to check the position.
 9. In December 2024, the Appellant communicated with the Respondent regarding her CPD requirements and asked for an extension of time. She was advised that at the end of the CPD cycle, the exception process would commence. The Appellant asked about the points applicable for her attendance at a medical beauty course and she was advised that it was unlikely to be seen as contributing to her professional development.
 10. On 14 January 2025, the Appellant submitted a dispute form, which related to the decision that the medical beauty course that she attended would only be attributed one point. The dispute was rejected, on the basis that on the evidence provided she had not met her full CPD requirements and the Appellant was informed of this outcome on 27 January 2025. No application was made by the Appellant under the Exceptions Policy, the closing date for which was 2 February 2025. On 27 February 2025, the Appellant was advised by the Registrar that she would be removed from the register on 1 April 2025

on the grounds that she had not met her CPD obligations. The Appellant lodged an appeal against this decision on 5 March 2025.

The hearing

11. The Committee had before it bundles of documentary evidence from both parties, as well as a position statement of the Appellant and a skeleton argument on behalf of the Respondent. Mr Cassells explained that whilst there were two witness statements from two Respondent witnesses, these witnesses were not required to attend to give evidence, as their evidence was not in dispute and he invited the Committee to give their statements full weight.
12. Mr Cassells opened the hearing on behalf of the Respondent, and took the Committee through the background to this matter, as summarised above.
13. Mr Cassells highlighted that the Appellant had been advised of the Exceptions Policy but submitted that she had chosen not to make an application under that policy. Rather, she sought to dispute the accreditation of the medical beauty course. Therefore, there had not been consideration of the Appellant's case, by the Respondent, under that policy.
14. Mr Cassells submitted that the Respondent's decision to remove the Appellant from the Register was a perfectly reasonable one, particularly given the extent of the shortfall in points, which was significant. He submitted that this appeal was an attempt to apply the Exceptions Policy, after the opportunity to do so had passed.
15. In relation to the Appellant's grounds for the appeal, Mr Cassells invited the Committee to find that this was a '*bit of a stretch*', as the Appellant was able to submit a formal dispute about the medical beauty course and was engaging with the issues, therefore he submitted that she chose not to apply under the Exceptions Policy. Furthermore, he submitted that any suggestion that the Respondent had failed in respect of its public sector equality duty was robustly disputed.
16. Mr Cassells took the Committee through the criteria in the Exceptions Policy and explained that the Respondent's position is that the Appellant had not taken all reasonable steps to comply with her CPD requirements. He emphasised that the Appellant had completed no points in 2022 and only one point in 2023, leaving almost all of the points to be completed in 2024. Whilst the Appellant was not practising she remained on the register and accordingly was required to keep her skills and knowledge up to date. Mr Cassells submitted that essentially the Appellant had left her CPD until the last moment then ran out of time. Additionally, she did not familiarise herself with the rules on self-directed learning (regarding the beauty course) and that was her failing.

17. Mr Cassells submitted that in any event, the shortfall of 15 points, was so large that it justified removal from the register in its own right. Mr Cassells submitted that the CPD requirements were in place to protect the public and it would undermine the process and confidence in the profession, to make an exception for the Appellant in these circumstances. He submitted that the appropriate step for the Appellant would be to apply for restoration, as she had been advised by the Respondent to do.
18. Ms Bawla, on behalf of the Appellant, stated that the factual background was not in dispute and it was accepted that there was a CPD shortfall of 15 points. She submitted that the main issue for the Committee was whether the Appellant's [redacted] justify an exception under the Exception Policy.
19. At this stage of the hearing, Ms Bawla applied for the Committee to sit in private session, as she wished to raise matters relating to the Appellant's [redacted]. This was not objected to by Mr Cassells, on behalf of the Respondent. The Legal Adviser referred the Committee to Rule 17 of the Registration Appeals Rules, which states that the Committee shall sit in private where they are considering the [redacted] of the Appellant (unless there are greater countervailing factors as set out in the Rule). The Committee indicated that it would sit in private whenever matters relating to the Appellant's [redacted] needed to be considered.
20. Ms Bawla submitted that the appeal was not simply procedural but was for the Committee to determine whether removal of the Appellant from the register would be the appropriate and proportionate outcome, in light of her [redacted]. Ms Bawla outlined that the Appellant has a [redacted]. She submitted that the decision to remove her was substantially and procedurally unfair due to the failure of the Respondent to account for this [redacted].
21. Furthermore, Ms Bawla submitted that the Appellant had in good faith relied upon the medical beauty course to provide 15 CPD points and her misunderstanding of the position was unfortunate but genuine. She submitted that the Appellant's [redacted] impaired her ability to understand policy and to complete CPD under time pressure. Whilst the guidance encourages that points are spread over the cycle, it does not mandate this and like many others, the Appellant left her CPD towards the end of the cycle. When she realised that the medical beauty course would not be included there was little time left to make up the shortfall.
22. Ms Bawla submitted that the decision to remove the Appellant from the register did not take into account the Appellant's [redacted]. Ms Bawla highlighted that the Appellant had now completed the required CPD points, demonstrating her good faith, capability and commitment to the profession.
23. Ms Bawla highlighted that although the Appellant was provided with a link in January 2025 to the Respondent's website page for the Exceptions Policy, this link did not work and it was inaccessible to her. Ms Bawla submitted that in the circumstances, the Appellant's failure to apply under the Exceptions Policy was not an informed choice and to classify as such failed to recognise

the impact and limitations of [redacted]. Additionally, it was submitted that the Respondent did not have an accessible pathway for [redacted] registrants to request support and that this fails to meet the anticipatory duty under section 20 of the Equality Act 2010 (and the Public Sector Equality Duty under section 149).

24. Ms Bawla submitted that the Appellant's case clearly falls within the meaning of "exceptional circumstances" under Rule 3(4) of the 2021 Rules, given the combination of the Appellant's [redacted] and the broken link to the exceptional circumstances policy. Ms Bawla submitted that these provided a compelling basis for the Registrar to have exercised the discretion differently.
25. In relation to fitness to practise and public protection considerations, Ms Bawla submitted that it was disproportionate to frame this issue as a fitness to practise concern and that it was relevant to consider that the delay was not due to neglect or disregard but [redacted]. Furthermore, the Appellant's clinical competence has never been called into question and she has now fully completed the CPD shortfall.
26. Ms Bawla invited the Committee to allow the appeal and reinstate the Appellant's registration, accepting that exceptional circumstances applied under Rule 3(4) or alternatively to remit the case back to the Registrar for reconsideration under the Exceptions Policy.
27. The Appellant did not give evidence and relied upon the documentary evidence before the Committee and the submissions made by her representative. The Committee asked questions through Ms Bawla to clarify matters relating to the broken link to the Exceptions Policy and the submission of [redacted] to the Respondent.
28. Mr Cassells made closing submissions that set out the questions that the Committee ought to consider, which were as follows:
 - i) whether the Exceptions Policy ought to be considered by the Committee at this stage;
 - ii) if so, whether the Appellant falls within the scope of that policy;
 - iii) if so, would consideration of the factors in paragraph 4 result in exceptional circumstances being granted.
29. In relation to the first point, Mr Cassells submitted that the Respondent's position was that the Committee should not apply the Exceptions Policy, as there was a defined process with timeframes and the Appellant chose to pursue a different route of disputing the points attributed for the beauty course, rather than applying for exceptional circumstances. Additionally, if the Appellant had given evidence, an area of questioning would have been regarding the link to the policy not working and what other steps the Appellant took to pursue this issue. Mr Cassells submitted that in circumstances where the Appellant was only raising this policy on appeal, the Committee would be entitled to say that it was not going to consider it.

30. In relation to issue two, if the policy were to be considered, Mr Cassells submitted that the Committee would need to be satisfied that there were prevailing exceptional circumstances that were outside of the Appellant's control. Ms Cassells acknowledged that the Appellant [redacted] but the question was whether she had taken all reasonable steps to meet her CPD requirements and whether the failure was due to the exceptional circumstances. Mr Cassells submitted that he did not seek to [redacted], but her predicament appears to be down to poor planning rather than her circumstances.
31. In relation to the third issue to consider, of whether to exercise the discretion to apply an exception, Mr Cassells submitted that the Respondent's position was that the shortfall was so large that it would undermine the CPD regime to permit an exception, as 15 points was almost half of the requirement and to do so would undermine public confidence in the profession and the system of CPD.
32. The Committee accepted the advice of the Legal Adviser, which in summary, was that the Committee has the power to receive oral and documentary evidence, which was not before the Registrar, and as such the nature of the appeal is a fresh consideration of the issues, rather than a review of the Registrar's decision per se. The Committee was referred to the relevant sections of the Hearings and Indicative Sanctions Guidance. The Committee was advised that its powers when determining an appeal are that it may:
- a. Dismiss the appeal;
 - b. Allow the appeal and quash the decision appealed against;
 - c. Substitute for the decision appealed against any other decision which could have been made; or
 - d. Remit the case back to the Registrar/Council to dispose of the case in accordance with the Committee's directions.

Determination

33. The Committee considered all of the evidence before it, the oral and written submissions and the legal advice received. The Committee was mindful that it had further evidence before it than the Registrar had and that this was a fresh consideration of the issues.
34. The Committee considered the matter in line with the issues identified by the Respondent in closing submissions, firstly considering whether it ought to apply the Exceptions Policy at this stage, when it had not been invoked by the Appellant earlier.
35. The Committee carefully considered the Appellant's circumstances around the relevant time and noted that she started to engage with the Respondent

regarding her CPD in December 2024 (although earlier warnings about a potential shortfall had been sent to her). The Committee acknowledged that the Appellant had a [redacted]. The Committee also considered that it was significant that the Appellant had three years in order to complete her CPD requirements, and while registered throughout was only working for a small part of the period.

36. The Committee noted that the Appellant, once she started to engage with the Respondent regarding her CPD, focused upon the accreditation dispute with the medical beauty course and appeared in correspondence to be aware of the fact that there was an Exceptions Policy for exceptional circumstances. It was part of the Appellant's case today that she had been sent a link to the policy, which did not work and therefore she was unable to access the policy. The Committee did not consider that this was particularly material to the issues in the case, as the Appellant did appear to be aware of the existence of such a policy, referring in an email to how she had considered applying for additional time in past cycles but had never needed to. Additionally, the Appellant had referred in correspondence to the policy not including [redacted], which suggests that she was familiar with the contents of it. When the broken link was sent to the Appellant on 10 January 2025, whilst this would have caused some difficulty in accessing the policy, there was several weeks before the deadline (in early February) for the Appellant to ask for further help or support, for example for the policy to be sent to her another way.
37. The Committee considered carefully the submissions made on behalf of the Appellant regarding the duties upon the Respondent to make policies and procedures [redacted], however it did not accept that there was any specific failing in the procedures that were followed in the Appellant's case. The Committee noted that the Respondent had been made aware previously in 2021 that the Appellant [redacted]. The Respondent had examined her case with [redacted]. In the period in early 2025 the Appellant was able to engage regarding other processes, such as raising the dispute regarding the medical beauty course.
38. Although the Committee accepts that the Appellant has [redacted], on the evidence before it, the Committee was satisfied that the Appellant was given a reasonable opportunity to invoke the Exceptions Policy at an earlier stage in the process and she chose not to do so, which appeared to the Committee to be a conscious decision. The difficult circumstances relied upon by the Appellant were not specific to this time period and rather appeared to be ongoing. The Committee also noted that the Appellant did complete 15 CPD points in a short time period in early 2025, when required to do so, as she did this to make up the shortfall.
39. In the circumstances, the Committee concluded that it would not be appropriate to apply the Exceptions Policy in this appeal, on the basis that it was of the view that the Appellant already had a reasonable opportunity to make such an application and did not do so. To allow an Appellant to invoke

the policy on appeal, when it had not been applied for earlier, circumventing the usual procedure, would require compelling reasons to do so, which the Committee was not satisfied were present in this case.

40. Having found that the Exceptions Policy should not be applied in this case, the Committee nonetheless went on to consider whether there were exceptional circumstances. The Committee was sympathetic to the Appellant's [redacted]. However, the Committee agreed with the submissions made on behalf of the Respondent, that when considering the wording and scope of the policy, the Appellant's circumstances did not meet the criteria for exceptional circumstances. The burden of proof lies with the Appellant to show that she had taken all reasonable steps to comply with her CPD requirements and that she was not able to complete them because of the exceptional circumstances. The Appellant produced no cogent evidence to link her personal circumstances to the failure to complete her CPD. The Committee took the view that the Appellant left completion of her CPD towards the end of the cycle, relying for a large portion of her points to be attributed to a medical beauty course (not directly related to the Optometry profession) and accordingly the requirement of 'all reasonable steps' was not established.
41. Additionally, the Committee agreed with the Respondent's submission regarding public protection in that the amount of the shortfall of 15 points was so substantial that the Exception Policy criteria would not be applicable. In the Committee's view, to grant an exception would undermine public confidence in the profession and the CPD regime.
42. The Committee had regard to the fact that the Appellant had now completed the CPD shortfall, which was to her credit. This did not however change the Committee's view of the appeal. It may apply as a factor in the Appellant's favour should she apply for restoration to the register.
43. As the Committee concluded that the registrar's decision was reasonable and in accordance with established procedure, it did not see any reason to interfere with it or take any action in respect of it. The Committee therefore determined that the appeal shall be dismissed and the Registrar's decision be upheld.

Chair of the Committee: Gerry Wareham



Signed

Date 15 July 2025

Appellant: Najaf Butt

Signed *Present remotely and received via email*

Date 15 July 2025

| FURTHER INFORMATION | |
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| 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). | |
| 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 Level 29, One Canada Square, London, E14 5AA or by telephone, on 020 7580 3898. | |