

**BEFORE THE FITNESS TO PRACTISE COMMITTEE
OF THE GENERAL OPTICAL COUNCIL****GENERAL OPTICAL COUNCIL****F(24)30****AND****SEAN HUGHES (SO-12809)**

**DETERMINATION OF A SUBSTANTIVE HEARING
7-9 APRIL 2025**

Committee Members:	Julia Wortley (Chair/Lay) Nicola Enston (Lay) Victoria Smith (Lay) Denise Connor (Optometrist) Gemma O'Rourke (Optometrist)
Clinical adviser:	N/A
Legal adviser:	Alice Moller
GOC Presenting Officers:	Catriona Thomson and Neil Smart
Registrant present/represented:	Not present, not represented
Registrant representative:	N/A
Hearings Officer:	Latanya Gordon
Convictions:	Proved by Certificate of Conviction
No factual allegation other than Convictions:	None
Misconduct:	N/A
Impairment:	Impaired by reason of Convictions
Sanction:	Erasure
Immediate order:	Yes

ALLEGATION (AS AMENDED)

1. The Council alleges that you, Mr Seán Hughes (SO-12809), a registered student optometrist:

On 22 October 2021 at Nottingham Crown Court [you] were convicted of:

- a) Engage in controlling/coercive behaviour in an intimate/family relationship between 1 December 2020 to 26 July 2021
- b) Assault a person thereby occasioning them actual bodily harm on 22 May 2021
- c) Possess knife/blade/sharp pointed article in a public place – Criminal Justice Act 1988 – on 25 July 2021

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

PRELIMINARY APPLICATIONS

The Council applied to proceed in absence and to amend the Allegation.

Application to Proceed in Absence

- i. The Registrant was not present and indicated that he would not be attending this hearing. Catriona Thomson, representing the Council, applied to proceed in the absence of the Registrant on the basis that he had been provided with the requisite notice of hearing, made no request to adjourn and indicated, in an email dated 6 April 2025, that he was not intending to do so.

'Hi, I won't be attending but I shall represent myself going forward. I have [redacted]. I have been promoted in my workplace and thus have training this week that is mandatory, I cannot miss it under any circumstances and I am sure you can appreciate, I will be prioritising my career. Hope the hearing goes well.'

Legal Advice

- ii. The Legal Adviser advised that the Committee should take account of Rule 22 of the GOC (Fitness to Practise) Rules 2013 (the Rules). Where the practitioner is neither present nor represented at a hearing, the Committee may nevertheless proceed to consider the case if they are satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Rules.
- iii. The Committee accepted the advice of the Legal Adviser. The Council was required to satisfy the Committee that all reasonable efforts had been made to notify the registrant of the hearing in accordance with the Opticians Act 1989 and the Rules.



Chronology

iv. The Committee was provided with evidence to demonstrate that the Registrant had been correctly notified of this hearing and concluded that the Council had provided all relevant information and documents to the Registrant at least 28 days before the hearing. On 15 May 2023 the Council notified the Registrant, through his legal representative at the time, that the Council was aware of his convictions in the Crown Court and informed him that:

'Section 13D(2)(c) of the Opticians Act 1989 states that a conviction or caution in the British Isles for a criminal offence is a ground upon which the fitness of a registrant to practise or to undertake training may be impaired. The GOC is therefore required to investigate your conviction as an allegation against your fitness to practise.'

v. The Registrant was informed on 1 August 2023 that the Registrar of the General Optical Council had referred the Allegation to the GOC Fitness to Practise Committee under rule 4(5) of the Rules which provides:

'The registrar must refer an allegation falling within section 13D(2)(c) relating to a conviction which has resulted in the imposition of a custodial sentence, whether immediate or suspended, to the Fitness to Practise Committee.'

vi. His referral was based on a certificate of conviction from Nottingham Crown Court which said that on 18 April 2023 Mr Hughes was sentenced to two years imprisonment suspended for two years for the offences committed in 2020-2021, namely:

1) Engaging in controlling/coercive behaviour in an intimate / family relationship.

2) Assault a person thereby occasioning them actual bodily harm.

3) Possess knife blade/sharp pointed article in a public place – Criminal Justice Act 1988.

vii. On 23 August 2024, the Registrant was provided with the Council's disclosure bundle. On 5 March 2025 the Registrant was informed that the substantive hearing would be conducted remotely from Monday 7 April to Wednesday 9 April 2025.

viii. The Committee took account of the Registrant's email as evidence that he was aware of the hearing and had chosen not to attend: *'I won't be attending'*. There was no application to adjourn and no indication that any adjournment would secure the future attendance of the Registrant.

Decision to Proceed in Absence

ix. The Committee was satisfied that all reasonable efforts had been made by the Council to notify the Registrant of the hearing. It had done so over a month before the first day, 7 April 2025.

x. The Committee determined that it was in the public interest for the hearing to proceed and that no injustice would be caused by doing so in the absence of the Registrant, who had chosen not to attend. He could provide testimonials and/or make written submissions if he wanted to do so.

Application to Amend Allegation

- i.. Neil Smart, representing the Council, applied to amend the Allegation, to correct a misleading typographical error and to specify in the Allegation the relevant dates of offences identified in documents from the Crown Court.

Legal Advice

- ii. Rule 46(20) provides that, where it appears to the Committee, at any time during the hearing, that:

*‘(a) the particulars of the allegation or the grounds upon which it is based and which have been notified under rule 28, should be amended, **and***

(b) the amendment can be made without injustice’

the Committee may, after hearing any submissions from the Council and/or Registrant, as well as legal advice, amend the Allegation in appropriate terms.

- iii. Mr Smart addressed the Committee in relation to how the Crown Court had approached the overlap between allegations of violence and coercive, controlling behaviour. The Registrant was charged with more than one assault but only convicted of one offence of assault as other allegations of violence were dealt with by way of the offence of coercive, controlling behaviour.

Decision to Allow Allegation to be Amended

- iv. The Committee took account of the fact that it is generally fair to the Registrant for the Allegation to specify details with precision. It is in the interests of all concerned for the scope of the Allegation to be clear and readily understood, with dates and other details specified precisely.

- v. Taking account of the evidence in the hearing bundle, submissions and legal advice, the Committee concluded that the proposed amendments to the Allegation could be made without injustice. The Committee determined that the amendments should be made to correct a typographical error, as well as to clarify the scope of the Allegation by giving precise dates for each offence. The Committee considered this to be fair to the Registrant and to the Council, representing the public interest.

DETERMINATION

No Admissions to the Allegation

2. The Registrant was not present and made no formal admissions to the Allegation drafted by the Council. However, evidence from the Crown Court indicates that he made admissions to relevant criminal offences.

Background to the Allegation

3. The Registrant was a Student Optometrist at the relevant time.

Section 13D(2)(c) of the Opticians Act 1989 provides that where an allegation is made to the Council against a student registrant that his fitness to undertake training as an optometrist is or may be impaired, the grounds of impairment for the purposes of the 1989 Act include a conviction for a criminal offence in a British Court. This is the sole ground alleged by the Council against the Registrant.

STATUTORY GROUND OF ALLEGED IMPAIRMENT

Acceptance of Certificate of Conviction

4. The Committee took account of Rule 40 (3)(5) and (7) of the Rules in relation to the Certificate of Conviction recording that the Registrant was convicted in 2023 of the following offences, committed in 2020 and 2021.

1) Engaging in controlling/coercive behaviour in an intimate / family relationship.

2) Assault a person thereby occasioning them actual bodily harm.

3) Possess knife blade/sharp pointed article in a public place – Criminal Justice Act 1988.

5. Sentencing remarks by the Crown Court Judge clarified the dates of the Registrant's offences, as reflected in the amended Allegation above. The Committee took account of Rule 40(3) to determine that the Certificate of Conviction is conclusive evidence of matters proved in the Crown Court.
6. There was no extant appeal or challenge to the provenance of the Certificate of Conviction, nor any assertion that it related to a Defendant other than the Registrant. The Committee accepted that the bundle copy was admissible.

IMPAIRMENT

Submissions by the Council

7. Mr Smart submitted that the convictions were for serious offences, reaching the threshold for a custodial sentence, and thus the Registrant's actions had brought the profession into disrepute. If no finding of impairment were made public confidence in optometrists and their regulator would be undermined. Mr Smart also submitted that a finding of impairment was required to uphold professional standards.
8. Mr Smart added that the suspended sentence is still in effect, because it was imposed for two years on 18 April 2023.



Legal Advice

9. The Legal Adviser said that, at the impairment stage, there is no burden or standard of proof. It is a question of judgment for the Committee. Impairment may be based on historical matters or a continuing situation, but the question of impairment must be decided at the time of the hearing. To do this the Committee must look forward, taking account of any reparation, changes in practice, conduct or attitude since the matters found proved occurred.

10. As Mr Smart submitted, the Committee should be guided by principles in *Grant [2011] EWHC 927* citing the *Fifth Shipman report*.

The Committee should determine whether or not the Registrant's convictions indicate that his fitness to (practise or) train as an Optometrist is impaired in the sense that he:

- a. *has 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, and/or*
- b. *has in the past brought and/or is liable in the future to bring the profession into disrepute, and/or*
- c. *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*

11. The Committee may consider the lapse of time (four years) since the dates of offences, as well as any remorse, insight, remediation or other evidence of change, or lack of evidence of development, in assessing future risk. There were no comments on the Legal Advice and the Committee accepted it.

Committee's Decision

12. The Committee considered the offences for which the Registrant was convicted to be serious, as indicated by the sentence imposed by the Crown Court, which included a two-year prison sentence, suspended for two years, 200 hours of unpaid work, a five-year Restraining Order and mandatory attendance on a *Building Better Relationships* accredited programme. The Committee considered that most health professionals and other members of the public would condemn violent or coercive / controlling behaviour, assault occasioning actual bodily harm and possession of a bladed article in public.

13. Although the offences did not take place in a clinical context, any propensity to be violent would cause concern to members of the public, who may need to visit an Optometrist. The Committee was not provided with any evidence that the Registrant has insight into the impact of his violent, coercive and unlawful behaviour on the reputation of the profession or public trust in Optometrists.

14. Although there was no evidence of repetition, the Committee was provided with no testimonials, or other documents to indicate that the Registrant has sought

psychological or other assistance to avoid perpetrating similar crimes in future. The Committee was unable to find that risk of repetition of violent offences had been minimised or that patients, colleagues or others would not be at risk.

15. The Committee also considered the wider public interest: the need to uphold standards and maintain public confidence in Optometrists. Taking account of factors in *Grant*, the Committee concluded that the Registrant had already brought the profession into disrepute by his actions and was liable in the future to bring the profession into disrepute if permitted to train as an Optometrist. In addition, he had breached a fundamental tenet of the profession by not acting in such a way that any patients could trust him and was liable in the future to breach a fundamental tenet of the profession.
16. The Registrant's offences were in breach of Standard 16.1 of the Standards for Student Optometrists.

'Ensure that your conduct, whether or not connected to your professional study does not damage public confidence in you or your profession.'

17. The Committee was particularly concerned at the protracted nature of the Registrant's coercive and controlling behaviour, which continued for at least half a year, as well as repeated offences of violence. His actions included an offence of assault causing actual bodily harm in the context of an intimate relationship. Most people would find this behaviour extremely concerning in a Student Optometrist.
18. The Committee determined that the need to maintain public confidence in the profession of Optometry and to declare professional standards of behaviour requires a finding of impairment to be made in this case. This is because the public would not have confidence in the Regulator or in the profession's standards if the Committee regarded violent offences as leaving fitness unimpaired. A finding of impairment is thus necessary to affirm to health professionals and other members of the public the standards expected of Optometrists.
19. In all the circumstances, the Committee determined that a finding of impairment is required to uphold professional standards, to maintain public confidence in Optometrists and to protect members of the public, including patients.



SANCTION

20. Having determined that the Registrant's fitness to train is impaired by reason of conviction, the Committee now had to decide in accordance with the Rules on the appropriate sanction, if any, to impose.
21. The Committee has taken account of evidence received during the earlier stages of the hearing, where relevant, to reach a decision on sanction.

Submissions on behalf of the Council

22. Mr Smart referred the Committee to principles in *Bolton v Law Society [1994] WLR 512*: the fortunes of an individual professional may be considered less important than the reputation of the profession as a whole. Mr Smart submitted that the Committee should consider the sanctions of suspension or erasure from the Register, to uphold standards and maintain public confidence in the profession.
23. Referring to the *Council for the Regulation of Health Care Professionals v GDC / Fleischmann [2005] EWHC 87*, Mr Smart submitted that, where a practitioner has been convicted of serious criminal offences, they should not be permitted to resume their practice (or training) until they have satisfactorily completed their sentence.
24. Although the Committee must start by considering the least serious option. Mr Smart submitted that No Further Action is not a sufficient response to the offences in this case, adding that neither a Financial Penalty or Conditions would be appropriate to deal with the concerns identified by the Committee.
25. Mr Smart reiterated that the two most realistic sanctions are Suspension or Erasure in view of the seriousness of the offences and limited mitigating factors such as a reference in the Crown Court to the Registrant posing a low risk to members of the public generally and the Registrant's (eventual) guilty pleas.
26. Mr Smart said that convictions for violence amount to a serious departure from the standards expected of a Student Optometrist. The Committee has no evidence that the Registrant's aggressive and harmful behaviour had been adequately addressed. Mr Smart informed the Committee that the Registrant was in his pre-registration year at the time of his offending.



Legal Advice

27. At the Sanction stage of proceedings there is no burden or standard of proof and the decision on sanction is a matter for the Committee's judgment alone.
28. In cases involving convictions, the purpose of a Sanction is not to punish the Registrant a second time, but to consider whether his fitness to (practise or) train is impaired and, if so, whether there is a need to impose a sanction to protect the public, to uphold standards and/or to maintain public confidence in the profession.
29. Although the Committee may not go behind the conviction or sentence it '*is entitled to form its own view of the gravity of the case*' taking account of relevant context: *RCVS v Samuel [2014] UKPC 13*.
30. *O v Nursing and Midwifery Council [2015] EWHC 2949* confirmed that a guilty plea to criminal offences may be considered as a mitigating factor when considering a regulatory sanction.
31. Although a Committee need not adhere to the *Indicative Sanctions Guidance (ISG)*, it should have proper regard to the *ISG*, including paragraphs 21 and 22, and apply its provisions: *Bramhall [2021] EWHC 2109*.
32. Mitigation can affect the type of sanction, as well as the length of a relevant order. In *Wisniewska v NMC [2016] EWHC 2672* it was said that, where there are only two options for sanction such as striking off or suspension, the Committee should take account of any mitigation when evaluating the proportionality of each alternative.

Decision on Sanction

33. The Committee accepted the legal advice: the decision as to the appropriate sanction, if any, is a matter for this Committee exercising its own judgment, taking account of the *ISG* and the statutory overarching objective. The Committee was aware that it should impose the minimum sanction (if any) necessary to protect the public and the public interest.
34. In deciding what sanction, if any, to impose the Committee considered each of the sanctions available, starting with the least restrictive. It also considered and balanced the mitigating and aggravating factors in this case.

35. The Committee identified the following aggravating factors

- The Allegation reflects serious offences of violence in the Registrant's personal life.
- The Registrant assaulted and coercively controlled another person over several months and had a bladed article in a public place. His violent offending was repeated, as opposed to being an isolated incident.

The Registrant has not apologised or acknowledged wrongdoing to this Committee. The Registrant has not provided any evidence of remorse, insight into the impact of his offences or remediation of his violent behaviour.

36. The Committee identified the following mitigating factors.

- Four years have elapsed since the offences committed by the Registrant.
- The Registrant pleaded guilty in the Crown Court.

Having identified aggravating and mitigating factors, the Committee decided to give most weight to the sustained and repeated nature of his criminal offences, as well as the seriousness of his behaviour and its impact on others.

No action

37. The Committee first considered whether to conclude this case by taking no action. The Committee determined that, given the seriousness of these offences and the absence of any exceptional circumstances, it would be inappropriate to conclude this case by taking no action.

Conditions

38. The Committee next considered whether to impose conditions on the Registrant's registration. Conditions are most appropriate in cases involving health or performance issues. If a practitioner lacks insight or potential to respond to remediation, conditions are unlikely to be workable.

39. The Committee decided that conditions would not be workable in view of the Registrant's lack of engagement with these proceedings. In any event, the Committee did not consider that any conditions would be appropriate to deal with the concerns raised by the Registrant's offences in 2020-2021.

40. As the Registrant has not shown insight (in these proceedings) into the seriousness of his offences or their consequences, despite the passage of time, the Committee determined that conditions would not be sufficient to uphold standards of behaviour or maintain public confidence in the profession.

Suspension

41. The Committee then went on to consider whether imposing a Suspension Order on the Registrant would be proportionate and sufficient to satisfy the statutory overarching objective: the need to protect the public, uphold professional standards and maintain public confidence in the profession.
42. Suspension has a deterrent effect and may be used to send out a signal to the health practitioner, the profession and public about what is regarded as behaviour unbefitting a Student Optometrist. Suspension from the register may have a punitive effect, in financial and reputational terms, although this is not its intention.
43. Suspension may be appropriate where there has been acknowledgment of fault and where the Committee is satisfied that there is a low risk of repetition. A practitioner is likely to lack insight if they do not accept mistakes. The Committee considered that the Registrant had not provided evidence of remorse or insight regarding his behaviour, or the impact of his offending on others, or the reputation of the profession.
44. Remediation is where a practitioner addresses concerns about their behaviour or offending. Remediation can take different forms, such as coaching, mentoring, training, and rehabilitation and, where fully successful, will reduce the likelihood of repetition. However, there are offences where a health professional's failings are irremediable. This is because they are so serious or persistent that despite any attempts to remediate (such as attending courses) action is needed to maintain public confidence in the profession. The Committee was unable to infer that insight and remediation were indicated by the lack of further offences.
45. The Committee concluded that suspension would be inappropriate and insufficient to mark the seriousness of the Registrant's convictions, uphold proper standards of conduct and behaviour or maintain public confidence in the profession of Optometry.

Erasure

46. Even where a health professional does not present a risk to patient safety, erasure may be necessary to maintain public confidence in the profession.
47. Although the Registrant indicated, in an email to the Committee dated 6 April 2025 that he has embarked on a new career as a Software Engineer, the Committee was aware that a sanction of erasure may have a financial and reputational impact on any student or Registrant.
48. The Committee identified the following factors as relevant to its consideration of the sanction of erasure in this case:
 - A particularly serious departure from the standards required of Optometrists
 - Commission of violent offences is fundamentally incompatible with being a Student Optometrist
 - Absence of evidence of insight, shown by the Registrant, into the seriousness of his actions or their consequences.
49. The Registrant's violent offences were in breach of fundamental tenets of the profession of Optometry. Students must obey the law and conduct themselves in such a way that public trust in the profession is maintained, not undermined.
50. The Committee concluded that erasure is required to declare and uphold proper standards in the profession and to maintain public confidence in Optometrists, as well as to protect members of the public including patients. The Committee considered that the appropriate, proportionate and necessary sanction is erasure.
51. The Registrant's violence and coercive controlling behaviour occurred between December 2020 and July 2021. His offending was repeated and sustained. The Committee determined that his convictions are fundamentally incompatible with continued registration as a Student Optometrist.
52. In conclusion, the Committee determined, in all the circumstances of this case, that erasure is the appropriate and proportionate Sanction.

Decision on the Application for an Immediate Order

53. Having determined to erase the Registrant's name from the Register of Optometrists, the Committee has considered if his registration should be subject to an immediate order, in accordance with the Opticians Act 1989 and the *ISG*.

Submissions

54. Mr Smart applied for an Immediate Order relying on paragraph 23 of the *ISG*. He said that the Registrant had not provided the Committee with any evidence of insight or remediation, so an Immediate Order is necessary to protect the public, uphold standards and maintain public confidence in the profession.
55. Mr Smart informed the Committee that there is no Interim Order in effect in relation to these proceedings. However, Mr Smart informed the Committee that there is an Interim Order for Suspension currently imposed on the Registrant's registration in relation to a separate matter.

Legal Advice

56. The Committee may impose an Immediate Order if it determines that it is necessary to protect members of the public, or is otherwise in the public interest, or is in the best interests of the Registrant; the standard is necessity. An Immediate Order might be particularly appropriate in cases where the Registrant poses a risk to patient safety.
57. The Committee should take account of the lack of evidence of further convictions since 2021. Also, that the Registrant has a right to appeal the finding of impairment and sanction imposed.
58. Immediate action may be taken to protect public confidence in the profession. In relation to the wider public interest, the bar is high, close to necessity.

Decision of the Committee

59. The Committee considered relevant paragraphs of the *ISG* including paragraph 23:

'23.3 If the Committee has made a direction for (suspension or) erasure, it should consider whether there are reasons for ordering immediate suspension. Before doing so, the Committee must be satisfied that to do so is necessary for

the protection of members of the public, otherwise in the public interest or in the best interests of the Registrant.

23.4 If the Committee thinks there may be grounds for immediate conditions or suspension, it must inform the Registrant of these concerns and invite representations on this issue from both the Presenting Officer and the Registrant's representative. The Committee must then decide whether to impose an Immediate Order and give reasons.

23.5 The Committee must always make clear in its determination that it has considered whether to make an Immediate Order and explain the factors considered, even if it decides that an Immediate Order is not necessary.'

60. The Committee was unable to confirm that the Registrant was aware of the application for an Immediate Order. This is because he had chosen not to attend his hearing and had indicated that he was undertaking mandatory training this week.
61. Having heard and accepted the advice of the Legal Adviser, the Committee decided to impose an Immediate Order of Suspension. Conditions would not be workable or appropriate to deal with concerns raised by the convictions. In view of its findings that there was an ongoing risk to the public, the Committee considered that such an order was necessary to protect the public and otherwise in the wider public interest.
62. The direction to erase the Registrant's name from the Register of Optometrists will take effect 28 days from when notice is deemed to have been served on him, unless he lodges an appeal in the interim. A notice explaining his right of appeal will be sent to him. If the Registrant lodges an appeal, the immediate order of suspension will remain in place until such time as the outcome of any appeal is determined.
63. The Interim Order in relation to the Registrant, is revoked with immediate effect, under Rule 46(19) of the Rules.
64. That concludes this case.

NOTE

The Committee reconvened at 12:50 on Wednesday 9 April 2025 to revoke the Interim Order made in respect of other proceedings brought by the Council.

Rule 46(19)

The Fitness to Practise Committee **must** revoke any interim order which remains in place in respect of the registrant in accordance with section 13L(11) and (12) (revocation of the order with immediate effect after determining the matter in accordance with section 13F).

Chair of the Committee: Julia Wortley

Signature:



Date: 09 April 2025

Registrant: Sean Hughes

Signature: Not Present

Date: 09 April 202

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.