



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

GENERAL OPTICAL COUNCIL

F(23)45

AND

AZHAR MAHMOOD (SO-16015)

**DETERMINATION OF A SUBSTANTIVE REVIEW
13 DECEMBER 2024**

Committee Members:	Jayne Wheat (Chair) Jackie Alexander (Lay) Audrey McFarlane (Lay) Ann Barrett (Optometrist) Claire Roberts (Optometrist)
Legal adviser:	Paul Moulder
GOC Presenting Officer:	Vida Simpeh
Registrant:	Present and represented
Registrant representative:	Kevin Saunders (Counsel) Katherine Germishuys (AOP)
Hearings Officer:	Terence Yates
Outcome:	Not impaired – order expires 25 Jan 2025

DETERMINATION

Background

1. The Registrant's registration was suspended for 6 months following a substantive hearing held between 17-28 June 2024. The order is due to expire on 25 January 2025.
2. Between 17 to 28 June 2024, the Fitness to Practise Committee considered an Allegation against the Registrant as follows:

The Council alleges that you, Azhar Mahmood (SO-16015), a registered Student Optometrist, whilst employed at [redacted] Specsavers Ltd:

1) On or around 2 February 2023, in preparation for your College of Optometrists Stage 1 assessment, you:

- a. Asked your colleague, a registered student optometrist via Snapchat to access your profile and record a contact lens fit;*
- b. You allowed your Socrates user code to be used and/or were aware that your Socrates user code was used by your colleague to record a contact lens fit on a false clinical record.*

2) Your actions as set out in 1 were dishonest in that you were planning to present a clinical record knowing that it had been fabricated and you were not working on that day;

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

3. The Registrant in June 2024 admitted paragraphs 1(a), 1(b) and 2 of the Allegation, thereby admitting all the facts alleged against him. The Committee found that the Registrant's fitness to practise was impaired and imposed the suspension, with a review of the order before expiry. This Committee was convened to conduct the review.
4. The Committee for the review received a hearing bundle from the Council, including evidence from the substantive hearing in June 2024 and a copy of the determination of the Committee from that hearing, together with a skeleton argument on behalf of the Council. The Registrant provided a hearing bundle which included the Registrant's witness statement, his curriculum vitae, his substantive hearing impairment bundle, references, mentor logs and a confirmation from the Registrant's mentor.

Findings regarding impairment

5. The Committee has heard submissions from Ms Simpeh on behalf of the Council and from Mr Saunders on behalf of the Registrant. It has also heard oral evidence from the Registrant and considered his witness statement dated 12 December 2024. It has accepted the advice of the Legal Adviser.
6. Ms Simpeh set out the background of the case for the Committee. She referred the Committee to the Council's skeleton argument and submitted that the Council had no positive submissions to make on the matter of current

impairment of fitness to train and considered that it was a matter for the judgement of the Committee.

7. Mr Saunders submitted that the Registrant's fitness to train is no longer impaired by misconduct. He reminded the Committee that the Committee at the substantive hearing in June had found that there was a low risk of repetition, but did not find that repetition was 'highly unlikely'. Mr Saunders submitted that the Registrant himself had candidly admitted, at the substantive hearing, that he had 'more to do' and further time was needed.
8. Mr Saunders emphasised the importance of the input and assessment of the Registrant's mentor. He referred the Committee to the reflective diary notes endorsed by the mentor. Mr Saunders submitted that the previous impairment had now been remediated over the passage of time, and repetition is now 'highly unlikely'.
9. On the matter of the wider public interest, Mr Saunders submitted that this had been satisfied by the rigorous assessment of the issues in the two regulatory hearings, in June and at this review. He submitted that an informed member of the public would recognise this and also be satisfied by the remedial steps taken, together with the professional promise that the Registrant displayed.
10. The Legal Adviser advised the Committee that it had to conduct a re-appraisal of the matter of the Registrant's impairment, resuming the substantive hearing process from the impairment stage. He advised that, since it was considering current impairment, the Committee had to assess that question based on all the evidence received to date, together with the submissions of the parties. The Committee should bear in mind the Council's '*Hearings and Indicative Sanctions Guidance*' (November 2021) ("ISG"). In a review hearing there is a 'persuasive burden' on the Registrant to demonstrate that past concerns have been appropriately addressed.
11. The Legal Adviser advised the Committee that impairment may be considered in terms of the risk of repetition, considering whether the past misconduct was remediable, had been remedied and was highly unlikely to be repeated. It may also be considered in terms of the wider public interest, i.e. whether the misconduct had been so grave that a finding of impairment may be justified on grounds of maintaining public confidence in the profession and promoting proper professional standards. He reminded the Committee of the 'test' of impairment set out in *CHRE v NMC & Grant* [2011] EWHC 927 (Admin).
12. The Committee carefully considered the impairment findings of the previous Committee, as set out in its written determination. It noted the previous Committee's reasons as follows:

"The Committee noted that Mr Mahmood has made much progress in seeking assistance in courses and has also been re-employed by Specsavers. However, Mr Mahmood himself acknowledged that there is more to do and that he would still benefit from the 'passage of time'. The Committee agreed with this statement, appreciated Mr Mahmood's realistic approach, and also concluded that the conduct has not yet been fully remediated. Thirdly, the Committee noted that Mr Mahmood had only recently started back as a pre-registration optometrist and therefore is likely to be tested under similarly stressful conditions."
13. On the matter of the wider public interest, the previous Committee stated:

“It determined that in circumstances where the registrant acted dishonestly in this manner, public confidence would be undermined if a finding of impairment was not made.”

14. The Committee took into account the guidance in the ISG on review of substantive orders. The Committee noted that there had been full admissions by the Registrant to the charges at the substantive hearing. The Registrant had also provided details of relevant CPD courses undertaken, into probity and ethics. Further, the Registrant provided a considerable body of positive testimonials in support of him.
15. The Committee, conducting the review, acknowledged that there had been a single instance of dishonest conduct, albeit the Committee at the substantive hearing had found that it had been aggravated by a lack of openness during the internal investigation.
16. The previous Committee had found that the Registrant had some insight, but this had required further time and work, in order to become of a sufficient level to no longer impair the Registrant's fitness to be in training. This Committee has seen and read the Registrant's witness statement and heard him give oral evidence. It has read the Registrant's reflective mentorship log, endorsed by the Registrant's mentor and considered the other remediation work undertaken.
17. The Committee must be satisfied that the Registrant has fully appreciated the gravity of his misconduct and has not repeated it. The Committee on this review is satisfied that the Registrant, as demonstrated by his witness statement, his oral evidence and mentorship log, does now understand the seriousness of the misconduct. The Registrant has shown an understanding of the risks involved with the falsification of patient records, and the effect his dishonest conduct has on his colleagues and the wider profession. The Committee acknowledged that there is no evidence of any repetition.
18. The Committee is satisfied that the Registrant has taken appropriate steps to maintain his knowledge and skills in the intervening period of his suspension. The Registrant has shown a commitment to continuation of his training in optometry by working as an Optical Assistant in practice and as an Optical Technician at an Ophthalmology Clinic. The Committee is satisfied that the Registrant's resumption of training would not pose a risk to patients
19. It is the conclusion of the Committee reviewing the case today that the Registrant has reached a point of sufficient insight where it is confident that the Registrant's fitness to train is no longer impaired. The Committee concluded that it is now 'highly unlikely' that the Registrant will repeat his misconduct. The Committee notes that the Registrant continues to be mentored by the same person and was impressed by the level of guidance provided.
20. The Committee also considered the wider public interest. It concluded that any fully informed member of the public, aware of the circumstances of the case and the Registrant's suspension from training, together with the remediation undertaken, would consider that appropriate regulatory action had been taken in response. The misconduct found had been marked by the serious sanction of suspension. The Registrant has undertaken appropriate remediation.
21. As a result, the Committee decided, the wider public interest had been met and a finding of impairment is no longer necessary in the wider public interest.



22. The Committee found that the fitness of Azhar Mahmood to undertake training as an optometrist is not impaired.

Declaration

The Committee makes a formal declaration that the Registrant's fitness to undertake training is no longer impaired for the reasons above.

Chair of the Committee: Jayne Wheat

Signature

Date: 13 December 2024

Registrant: Azhar Mahmood

Signature *present and received via email*

Date: 13 December 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).
Professional Standards Authority
<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 www.professionalstandards.org.uk or by telephone on 020 7389 8030.</p>
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.