

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

**R(11)01**

**APPLICATION FOR RESTORATION**

**DARREN REECE BEDFORD**

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**DETERMINATION: 20 APRIL 2011**

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On 20 April 2011, the Registration Appeals Committee of the General Optical Council met to consider an application by Darren Bedford for restoration to the register of dispensing opticians.

**DETERMINATION**

1. The Committee has reached its determination on this application having accepted the advice of the legal adviser and having taken into account the submissions of both parties and the evidence put forward by the applicant.
2. In particular the Committee has borne in mind that it has a discretion whether to allow the application but that this discretion should only be exercised if it is satisfied that the applicant is fit to practice. Furthermore the discretion should only be exercised if restoration to the register is compatible with the public interest.
3. The decision in this case involves a fine balance of judgment. The applicant was erased on grounds which included not only serious misconduct but also a caution for theft. The theft involved was on the face of things a serious and prolonged breach of trust and concerned a substantial sum of about £3,000.
4. Such conduct was a clear and profound breach of the Code of Conduct and incompatible with the standards of honesty and probity expected of members of this profession, standards which must be upheld if public confidence is to be maintained.
5. A number of factors have been advanced on the applicant's behalf some of

which are noted in the Council's helpful written submissions at C3. This Committee has had regard to that document and those factors. It has been told that the dishonesty arose out of a period of extreme stress in the applicant's life connected with a divorce that he has never behaved in that way either before or since, that he views his conduct with shame, and that he has learnt how to seek help and advice if similar circumstances were to recur.

6. It notes that the theft occurred prior to May 2005 when the caution was accepted. It notes that the employer whose stock had been deceitfully sold by the applicant without his knowledge had been repaid prior to the caution. It notes also that at the time of his erasure in October 2006 the applicant had already taken up employment elsewhere and that his new employer had full knowledge of the applicant's past conduct and the GOC proceedings. Mr Marsh, who has been the applicant's employer now for 6 years, has given evidence before the Committee today and it is clear from his evidence that the applicant has been a valued member of his staff and that he is now trusted with management and training responsibilities within the practice. Mr Marsh gave evidence that the applicant was now a changed person.
7. There are two aspects to the applicant's previous conduct. The first arises out of his failure to maintain his registration and the associated supervision of a trainee whilst not registered. Also by not being registered he supplied services when he was not in fact permitted to do so. The Committee has been told that no patients were harmed and that the supervisee whose training qualification was jeopardised did in fact qualify. The Committee has heard and accept that the lapse of registration was an oversight and it notes that no question of the applicant's clinical competence has arisen at any time since. If these aspects of misconduct were to stand alone the Committee would have therefore have concluded without hesitation that this application for restoration, being his second such application, should now be allowed.
8. What causes difficulty is the aspect of dishonesty. In reaching its decision the Committee therefore has had regard to the broad principles outlined by the case of Bolton v the Law Society. In particular the Committee wish to make clear that its decision acknowledges that the collective reputation of the profession is more important than the fortunes of a single member. It has also considered how the public confidence in that reputation would be affected by permitting an applicant with a history of dishonesty to be restored.
9. The balancing factors in this case arise because serious dishonesty is not a matter which would justify an expectation that a member of this profession should be restored to the register or that if restoration were to be permitted it should happen before a very long and constructive period of rehabilitation has elapsed. That said the Committee considers that the individual facts of each case must be viewed and considered and that no blanket approach should be applied. Indeed dishonesty is not within the category of offences listed in the Council's own protocol on the handling of disclosed criminal convictions as offences which create an automatic presumption against registration. It is

therefore necessary to weigh and balance the individual circumstances and to consider whether in this particular case restoration should be permitted and if so whether now is the right time.

10. Considering all the factors in this case the Committee restates that it finds the decision to be a finely balanced one. There is a clear argument for saying that the matters are so serious that, although restoration might be appropriate at some time, it is too early to reach that conclusion. There are also powerful factors in favour of saying that the applicant has now maintained his skills and his commitment to the profession for a period of 6 years since the caution without further misdemeanour. He has also been erased from the register for over 4 ½ years. There are also unusual features in this case. Not only did he repay his employer in full but he was able, successfully, to persuade Mr Marsh to place trust in him and he appears to have honoured that trust.
11. In the end the Committee has decided to exercise its discretion in favour of the application. It does so wishing to make it clear that the evidence of the applicant and the applicant's employer has satisfied us that not only was this dishonest episode out of character but it was committed in circumstances which the applicant will now deal with differently. The risk of repetition in future seems to us to be slight.
12. The Committee therefore determined that Darren Bedford should be restored to the register of dispensing opticians.

**Chairman of the Committee: Francesca Jones**

Signed \_\_\_\_\_

Date 20 April 2011

## FURTHER INFORMATION

### Details of erasure

Darren Reece Bedford was erased from the register of dispensing opticians on 11 October 2006.

This followed a direction made by the Fitness to Practise Committee at a hearing on at which the following allegation was found proven:

1. Between 28 April 2003 and 24 February 2005, Mr Bedford dispensed spectacles to persons under the age of 16 at a time when he was neither registered as a dispensing optician nor appropriately supervised.
2. Between 28 April 2003 and 24 February 2005, Mr Bedford dispensed and fitted contact lenses at a time when he was neither registered as a dispensing optician nor appropriately supervised.
3. Between 28 April 2003 and 31 August 2003, Mr Bedford supervised a trainee dispensing optician dispensing spectacles to persons under the age of 16 despite not being registered as a dispensing optician.
4. For the reasons set out above, Mr Bedford is guilty of misconduct.
5. On 16 May 2005, Mr Bedford received a formal adult caution from the Metropolitan Police for theft.

### Appeal

Where the applicant has made a second or subsequent application for restoration and has been unsuccessful and the Registration Appeals Committee has directed that the right to make any further applications be suspended, the applicant may appeal against that decision through the Courts. The relevant court is shown at section 23G(4)(b)-(c) of the Opticians Act 1989 (as amended).

### Transcript

A full transcript of this hearing will be made available via the GOC website in due course.

### Council for Healthcare Regulatory Excellence

This decision will be reported to the Council for Healthcare Regulatory Excellence.

### Contact

If you require any further information, please contact the Council's Hearings Manager at 41 Harley Street, London, W1G 8DJ or, by telephone, on 020 7580 3898.