

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

**GENERAL OPTICAL COUNCIL**

**F(11)04**

**AND**

**MOHAMMED HAROON KHALID (01-24499)**

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**DETERMINATION OF THE INQUIRY: 13 JULY 2011**

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On 13 July 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Mohammed Khalid.

**ALLEGATION**

The Council alleges that you, Mohammed Khalid, a registered optometrist:-

1. On 1 July 2001 received a reprimand from the Metropolitan Police for possessing a controlled drug (class B – cannabis) on 1 July 2001;
2. On 20 July 2006 received a police caution for possessing a controlled drug (class C – cannabis) on 20 July 2006;
3. On 27 June 2006 at Birmingham Crown Court were convicted of:
  - i) Assault occasioning actual bodily harm,
  - ii) Damaging property,for which offences you were on 25 July 2006 given a community sentence and ordered to carry out unpaid work for 50 hours before 25 July 2007;
4. On 1 October 2009 received an Adult Formal Warning for possessing cannabis on 30 September 2009;
5. Failed to declare, in your application dated 29 August 2005 to the General Optical Council for student registration, that you had received a reprimand on 1 July 2001;

6. Failed to declare, in your application dated 20 August 2006 to the General Optical Council for retention, that:
  - i) *Withdrawn*,
  - ii) you had been convicted on 27 June 2006,
  - iii) you had received a caution on 20 July 2006;
7. Failed to declare, in your application dated 9 July 2007 to the General Optical Council for retention, that:
  - i) *Withdrawn*,
  - ii) you had been convicted on 27 June 2006,
  - iii) you had received a caution on 20 July 2006;
8. Failed to declare, in your application dated 2 July 2008 to the General Optical Council for retention, that:
  - i) *Withdrawn*,
  - ii) you had been convicted on 27 June 2006,
  - iii) you had received a caution on 20 July 2006;
9. Failed to declare, in your application dated 26 January 2009 to the General Optical Council for full registration, that:
  - i) *Withdrawn*,
  - ii) you had been convicted on 27 June 2006,
  - iii) you had received a caution on 20 July 2006;
10. Failed to declare, in your application dated 20 March 2009 to the General Optical Council for retention, that:
  - i) *Withdrawn*,
  - ii) you had been convicted on 27 June 2006,
  - iii) you had received a caution on 20 July 2006;

And by virtue of the matters set out above your fitness to practise is impaired by reason of your:

- (a) Caution;
- (b) Conviction;
- (c) Misconduct

## DETERMINATION

### Findings in relation to the conviction, caution and in relation to misconduct

1. When the hearing was opened the allegation was amended in two respects:
  - a. Firstly in paragraph 6 the date was amended to 20 August 2006;
  - b. Secondly the matters alleged by paragraphs 6(I), 7(I) 8(I) and 9(I) were withdrawn.
2. The Registrant admitted the following facts of the allegation: 1, 2, 3i), 3ii), 4, 5, 6ii), 6iii), 7ii), 7iii), 8ii), 8iii), 9ii), 9iii), 10i), 10ii) and 10iii) and accordingly, the Committee found them proved.
3. In reaching its determination the Committee has accepted and taken into account the advice of the Legal Adviser, and the evidence adduced by the Council. The Registrant made no submissions at this stage. The Committee has borne in mind the fact that the burden of proof lies on the Council. It has also given consideration to the standard of proof when considering the evidence before it.
4. The Committee therefore found Mohammed Khalid guilty of misconduct.
5. The Committee will now hear evidence and submissions from the parties on the issue of whether impairment arises by reason of the convictions and matters of misconduct proven.

### Findings regarding impairment

1. In reaching its determination the Committee has again accepted and taken into account the advice of the Legal Adviser, and has had regard to the facts found in its determination at stage 1 of the proceedings. It has also heard and considered the evidence adduced at this stage and the submissions made on behalf of the Council and on behalf of the Registrant.
2. The matters relating to his conviction and caution and those concerning misconduct took place over a period essentially between 2006 and 2009.
3. The incident in 2001 would not in itself have any relevant impact on his current fitness to practice. He was 16 years of age and the matter was at that time a one off episode.
4. The incidents in January 2006, the summer of 2006, and September 2009 were relevant and also serious. In relation to his conviction for assault and damage he told the Committee that his actions were not excusable but he sought to explain them not only by reference to having drunk alcohol but also because he claimed that the car had been driven in a provocative way. That suggestion had not been advanced in mitigation by his counsel in the Crown Court.
5. In relation to his explanation of the circumstances in which the caution for possession of cannabis arose in 2006 the Committee was satisfied that the Registrant's account, which conflicted with that of the police records, was not complete and frank. In common with other parts of his evidence he claimed that this occasion arose because his friend's actions caused him to become unwittingly

involved in carrying a bag containing cannabis in the boot of his car. However the Committee noted that the police account referred to a strong smell of cannabis in the car and that their search found not only a bag hidden in a compartment in the boot but also a small quantity of cannabis in a cigarette box in the driver's door pocket. The Registrant's comment on this when questioned by the Committee was evasive. It is an important feature that the Registrant was both the driver and owner. It is also an important feature that he had allowed his friends, one of whom was smoking cannabis, to travel with him and that this incident occurred only 5 days before he was due to be sentenced at the Crown Court for the assault matter.

6. The Registrant claims that his cannabis usage was occasional and that it ended in 2006. Yet he was again cautioned in October 2009 for the same behaviour. The Committee was not satisfied that his usage was as occasional as he claimed in evidence.

7. His persistent failure to complete the declarations properly showed a repeated lack of integrity. Although he told the Committee that it was he who eventually made a conscious decision to declare all these matters the fact remains that this occurred at a time when any application to the local PCT to join their NHS Performers' List would have required a CRB check which, as he well knew, would have revealed this history in any event.

8. In short the Committee, having listened with care to his evidence and were not satisfied that his explanations were credible. Nor were the Committee satisfied that he has demonstrated sufficient insight.

9. In the judgment of this Committee the history of offending, in particular the violent behaviour and the lack of integrity shown on repeated occasions in making false declarations to the GOC, and the lack of insight which his evidence has shown, are all factors which satisfy them that his fitness to practice is impaired. Such a finding is in any event necessary in order to declare and uphold proper standards of conduct in the profession and to maintain public confidence.

10. The Committee finds the fitness of Mohammed Khalid to practise as an optometrist is impaired.

### **Sanction**

1. In reaching its determination the Committee has again accepted and taken into account the advice of the Legal Adviser, and has had regard to the facts found in its determinations at stages 1 and 2 of the proceedings. It has also taken into account the submissions made by both parties and has reviewed the testimonials and mitigating factors advanced.

2. It has in particular borne in mind the public interest factors set out in the Indicative Sanctions Guidance and the principles of proportionality.

3. The Committee has considered the successive sanctions open to it.

4. The Committee has considered that a sanction is required. Neither a financial penalty nor conditions would be appropriate.

5. The Committee consider that in this case suspension was the appropriate

sanction. The Committee has paid particular regard to the factors outlined at page 23 to 25 of the Guidance. It considers that the seriousness of these matters, already outlined in the preceding determination stage, warrants this sanction. It has also weighed carefully whether the elements of lack of insight shown by the Registrant are serious and entrenched or whether they do in themselves pose a risk to the public. On the other hand it has taken account of the testimonial evidence, including that emanating from his employers which indicate that there have been no difficulties and no suggestion of any lack of competence. On the contrary he has shown ability. It has also borne in mind the fact that the Registrant's failures to make the required declarations came to light in early 2009 and that since that time, and because of those revelations, he has worked only under supervision and without being able to join any PCT's Performers List .

6. These factors lead the Committee to conclude that a period of suspension of 5 months is the appropriate and proportionate sanction in this case. The same factors also lead the Committee to conclude that in the circumstances of this particular case no review hearing is required.

**Chairman of the Committee: Margaret Hallendorff MBE**

Signed \_\_\_\_\_ Date 13 July 2011

**Registrant: Mohammed Khalid**

Signed \_\_\_\_\_ Date 13 July 2011

<b>FURTHER INFORMATION</b>
<p><b>Transcript</b></p> <p>A full transcript of the hearing will be made available via the GOC website in due course.</p>
<p><b>Appeal</b></p> <p>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).</p>
<p><b>Council for Healthcare Regulatory Excellence</b></p> <p>This decision will be reported to the Council for Healthcare Regulatory Excellence (CHRE) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. CHRE 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 unduly lenient and/or should not have been made, and if they consider that referral is desirable for the protection of the public. CHRE is required to make its decision within 40 days of the hearing (or 40 days from the last day on which a registrant can appeal against the decision, if applicable) and will send written confirmation of a decision to refer to registrants on the first working day following a hearing. CHRE will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless CHRE has been notified by the GOC of a change of address).</p> <p>Further information about the CHRE can be obtained from its website at <a href="http://www.chre.org.uk">www.chre.org.uk</a> or by telephone on 020 7389 8030.</p>
<p><b>Effect of orders for suspension or erasure</b></p> <p>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.</p>
<p><b>Contact</b></p> <p>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.</p>