

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

GENERAL OPTICAL COUNCIL

F(19)03

AND

ARZOO MAQSOOD (SD-8483)

**DETERMINATION OF A SUBSTANTIVE HEARING
27-28 AUGUST 2019**

Committee Members:	Ms A Johnstone (Chair/Lay) Ms J Wortley (Lay) Mr P Curtis (Lay) Ms C Eva (Dispensing Optician) Ms J Stodel (Dispensing Optician)
Legal adviser:	Mr W Hoskins
GOC Presenting Officer:	Mr T Day
Registrant present/represented:	Yes and represented
Registrant representative:	Ms A Smart
Hearings Officer:	Mr T Yates
Facts found proved:	Yes – by way of admission
Facts not found proved:	N/A
Misconduct:	Found
Impairment:	Impaired

Sanction:	Erasure
Immediate order:	No

ALLEGATION (original)

The Council alleges that in relation to you, Miss Arzoo (SD-8483), a student dispensing optician at *Redacted*:

1. On or around 7 December 2016 you submitted an electronic copy of an admissions criteria document (Document A) to Mr C via email and stated that the document had been provided to you by the University *Redacted*;
2. On or around 13 January 2017 you showed a photograph of Document A to Mr M and stated that the document had been provided to you by the University *Redacted*;
3. On or around 27 January 2017 you provided, or allowed to be provided on your behalf, a piece of paper (Document B), which was similar to Document A, to Mr M's office purporting that it was the hard copy original of Document A;
4. On or around 31 January 2017 you stated to Mr M that Document A and/or Document B had been provided by the University *Redacted*;
5. On or around 1 February 2017 you stated to Mr M that you had been provided with Document A by the University *Redacted*;
6. On a date in or around February 2017 you provided a hard copy document (Document C) to Mr M's office and stated that it was the original of Document A;
7. On a date in or around February 2017 you stated that Document C had been provided to you by the University *Redacted*;
8. Your actions in 2 and/or 3 and/or 4 and/or 5 and/or 6 above were dishonest, in that you knew that the information you provided was incorrect, in particular:
 - a. With reference to allegation 2 you knew that Document A had been typed by you or on your behalf rather than provided to you by the University *Redacted*;
 - b. With reference to allegation 3 you knew that the document was not the hard copy original of the Document A;
 - c. With reference to allegation 4 you knew that Documents A and/or B had been typed by you or on your behalf rather than provided to you by the University *Redacted*;
 - d. With reference to allegation 5 you knew that Document A had been typed by you or on your behalf rather than provided to you by the University *Redacted*;

- e. *With reference to allegation 6 you knew that Document C was not the hard copy original of Document A;*
- f. *With reference to allegation 7 you knew that document had been typed by you or on your behalf rather than provided to you by the University **Redacted**;*

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

Application to amend the allegation.

At the outset, Mr Day on behalf of the Council made an application to amend the Allegation in a number of respects. The effect of the proposed amendments was to withdraw an allegation that the Registrant had herself typed a document [Document A] which she presented at the initial meeting relating to her complaint. The Registrant maintained that she had received this document from a friend via WhatsApp and Mr Day told the Committee that the Council was not in a position to prove otherwise. The proposed amendments also corrected two typographical errors.

Mr Day's application was not opposed by Ms Smart on behalf of the Registrant.

The Committee accepted the advice of the Legal Adviser who reminded the Committee of Rule 46(20) and of the Committee's discretion to allow the amendment if it could be made without injustice.

The Committee decided to allow the proposed the amendments as they did not change the essence of the case against the Registrant and did not prejudice the Registrant in any way.

ALLEGATION (as amended)

*The Council alleges that in relation to you, Miss Arzoo Maqsood, a student dispensing optician at **Redacted**:*

1. *On or around 7 December 2016 you submitted an electronic copy of an admissions criteria document (Document A) to Mr C via email and stated that the document had been provided to you by the University **Redacted**;*
2. *On or around 13 January 2017 you showed a photograph of Document A to Mr M and stated that the document had been provided to you by the University **Redacted**.*
3. *On or around 27 January 2017 you provided, or allowed to be provided on your behalf, a piece of paper (Document B), which was similar to document A, to Mr M's office purporting that it was the hard copy original of Document A.*

4. On or around 31 January 2017 you stated to Mr M that ~~Document A and/or Document B~~ had been provided by the University *Redacted*.
5. On or around 1 February 2017 you stated to Mr M that you had been provided with Document A by the University *Redacted*.
6. On a date in or around February 2017 you provided a hard copy document (Document C) to Mr M's office and stated that it was the original of document A.
7. On a date in or around February 2017 you stated that Document C had been provided to you by the University *Redacted*.
8. Your actions in (2) and/or (3) and/or (4) and/or (5) and/or (6) and/or 7 above were dishonest, in that you knew that the information you provided was incorrect, in particular:
 - a. With reference to allegation (2) you knew that document A had not been typed by you or on your behalf rather than provided to you by the University *Redacted*;
 - b. With reference to allegation (3) you knew that the document was not the hard copy original of the document A;
 - c. With reference to allegation (4) you knew that ~~Documents A and/or B~~ had been typed by you or on your behalf rather than provided to you by the University *Redacted*;
 - d. With reference to allegation (5) you knew that document A had not been typed by you or on your behalf rather than provided to you by the University *Redacted*;
 - e. With reference to allegation (6) you knew that document C was not the hard copy original of document A;
 - f. With reference to allegation (7) you knew that document C had been typed by you or on your behalf rather than provided to you by the University *Redacted*.

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

DETERMINATION

Admissions in relation to the particulars of the amended Allegation

The Registrant admitted all particulars of the amended Allegation. The Committee found the amended Allegation proved by way of the Registrant's admissions.

Background to the allegations

In 2016, the Registrant was a first-year student at *Redacted* ("the College"), attending their Ophthalmic Dispensing Programme. In December 2016, she made an application to transfer from that programme to the three-year BSc degree course in Optometry at the *Redacted* ("the University"). Her application was rejected on the basis that she did not meet the entry requirements for the degree course which included a requirement to attain three grade C's at A-Level with at least two of those grade C's being in purely scientific subjects.

The Registrant complained of her rejection on 7 December 2016. The basis of her complaint was that she maintained that the university had earlier given her a document which set out admissions criteria for the BSc degree course which did not include the requirement to obtain three grade C's at A-Level. In an email sent to an admissions tutor at the University, dated 7 December 2016, the Registrant wrote with reference to the information she claimed to have been given by the University:

...

"I came to admissions office early October, don't remember which date and it was a lady with blonde hair. She was about late 30s- mid 40s. She gave me this slip, I don't remember what she actually looked like as it was a while ago.

...

The false hope, to then being told it today it [sic] was an error. Is not acceptable. I understand criterias change every year, but this wasn't in my case. I'm just so astonished and so surprised how a University with a big reputation can do something like this? I hope you understand where I'm coming from. If it means to take this further, I will. Because to me is a duty of care [sic] and I'm very very upset by this.

...

Attached is a picture of the slip I was given. I also have all the evidence of the emails from yesterday."

At the Registrant's request a meeting was arranged with the Head of Optometry and Vision Science at the University, Mr A. At that meeting, which took place on 13 January 2017, the Registrant showed Mr A a document on her phone which she claimed had been that which was given to her by the University, and was the "slip"

referred to in her email. The document showed criteria for admission which were out of date but had been used for admission to the BSc Optometry course in September 2015. Mr A asked to see the original of this document, as it was not a document which would ordinarily be in the possession as an applicant for admission.

The Registrant subsequently delivered a document [document B] to the University. This document aroused further suspicion as it did not appear to match the document on the Registrant's phone and contained a number of spelling errors.

When the discrepancies were drawn to the Registrant's attention by Mr A in a subsequent telephone call, the Registrant eventually admitted that she had typed out the admission criteria on a piece of paper and had lost the document given to her. She said she had been foolish to do so and it had been done in a moment of madness.

At a further meeting on 1 February 2017 the Registrant admitted producing that document herself but continued to maintain that she had received a piece of paper from the university setting out the admissions criteria upon which she was relying.

Later the Registrant contacted the university and claimed that she had found the piece of paper which on her account she had lost. She brought a document into the University but it also did not match the original.

The matter was referred to the Council on the basis that the Registrant had made a fraudulent application to obtain a place on the BSc Optometry degree course and had manufactured documents to support that fraudulent application.

Evidence in relation to misconduct and impairment

At the invitation of the parties, the Committee heard evidence and submissions in relation to misconduct and impairment together.

The Committee was provided with a written witness statement and a reflective piece from the Registrant together with two references.

The Registrant gave oral evidence. She told the Committee that she had made a mistake and had a lapse of judgment and that the whole situation had spiralled out of control. She said that at the time she was under considerable pressure as a result of very difficult domestic circumstances and that she had not fully understood her professional obligations. She said that her domestic circumstances had impaired her judgment and that she had panicked. Since this episode, she had a better understanding of her professional obligations and had completed courses in ethics. She accepted, after some cross-examination, that she had made a decision to try to pressurise the university into giving her a place on the course to which she was not otherwise entitled.

Submissions in relation to misconduct and impairment

The Committee heard submissions from Mr Day on behalf of the Council. Mr Day reminded the Committee of the obligation imposed by the Standards for Optical Students (the “Code”) to be honest and trustworthy and not to damage public confidence in the profession. He submitted that the Registrant had been guilty of repeated dishonesty which crossed the necessary threshold for serious professional misconduct.

In relation to impairment, Mr Day submitted that all four limbs of Dame Janet Smith’s well-known template were engaged. The Registrant had been guilty of dishonest conduct which had breached a fundamental tenet of the profession and which had brought the profession into disrepute. He also submitted that the Registrant had limited insight into her misconduct as evidenced by her referring to her conduct as a “mistake” and “lapse of judgment” and that this limited insight posed a risk to patient safety.

Ms Smart, on behalf the Registrant, accepted that misconduct was established.

In relation to impairment, Ms Smart submitted that the Registrant’s fitness to practise was not currently impaired. She submitted that the Registrant’s written reflection showed a good level of insight. She had done a considerable amount of work since this incident and had completed an ethics course with a redacted. She had sought help with managing her domestic circumstances and she had been working for some years and had a reference from her current manager for whom she had been working since June 2019. Ms Smart emphasised that the Registrant was very young at the time of these events. She pointed out that she had engaged fully with these proceedings.

The Committee accepted the advice of the Legal Adviser. He reminded the Committee that misconduct was a matter for its judgment. In relation to impairment, he advised that in addition to questions of remediation and insight, the Committee would need to consider whether the public interest required a finding of impairment to be made in any event.

Findings in relation to misconduct

The Committee considered that this was a case of very serious dishonesty. The Committee reached that conclusion for a number of reasons. The dishonesty was not an isolated event, perhaps triggered by panic. It involved a deliberate course of conduct sustained over a period of months and through a number of meetings. It was designed to secure a place on a course to which the Registrant was not entitled. The Committee was of the view that the Registrant’s email of 7 December 2016, to which reference has been made, was written with a view to pressurise the university. The terms of the email were consistent with that purpose.

The dishonest conduct began with the composition of the email which contains the false assertion that the Registrant had been supplied with misleading information by the university. It was sustained in a meeting with the Head of Optometry. Further

dishonest activity then occurred in the submission of a fraudulently created document. After the Registrant had admitted the creation of that document, she then created another document which was also false.

The Committee was in no doubt that this sequence of events could only be categorised as misconduct.

Findings regarding impairment

The Committee first considered the question of the Registrant's insight and remediation. The Committee was not satisfied that the Registrant had developed satisfactory insight into the seriousness of her actions. The Committee noted that in her oral evidence the Registrant had repeatedly referred to making a "mistake" and a "lapse of judgment" together with a lack of understanding of her professional obligations. In fact, the question was one of simple honesty and did not depend upon matters of judgment or knowledge of the Standards.

Dishonesty, particularly when sustained over a period of time, is difficult to remediate. In the present case, dishonesty had been repeated on a number of occasions and had involved the creation of false documents and lying about the provenance of those documents in interviews. It was part of a premeditated plan to secure admission to the BSc optometry course at the University. There was a boldness to the Registrant's dishonest conduct which the Committee found disquieting.

In the light of the Registrant's oral evidence and in particular, her repeated attempts to minimise her responsibility for what had occurred, the Committee could not be satisfied that the risk of further dishonest conduct was low. The Committee accepted Mr Day's submission that all four limbs of Dame Janet Smith's formulation were engaged. A willingness to engage in this kind of sustained dishonesty had obvious implications for patient safety.

Further, the Committee was satisfied that the public interest required a finding of impairment to be made irrespective of questions of remediation and of insight. Any member of the public would be surprised and disturbed to learn that conduct of this kind was not marked by a finding of impairment. If such a finding were not made in this case confidence in the profession and in its regulation would be undermined.

The Committee therefore finds that the fitness of Arzoo Maqsood to undertake training as a dispensing optician is impaired.

Sanction

The Committee heard submissions from Mr Day on behalf of the Council and from Ms Smart on behalf the Registrant.

Mr Day indicated that the Council's position was that nothing less than a substantial period of suspension with a review would be proportionate. He also indicated that the Council did not suggest that erasure would be disproportionate.

Ms Smart submitted that erasure would be disproportionate and that a period of suspension would be sufficient to mark the seriousness of the case. She drew attention to the youth of the Registrant and to the fact that there had been no repetition of the behaviour. She emphasised that the Registrant fully understood the risk to her professional future which her conduct had created.

The Committee accepted the advice of the Legal Adviser. He reminded the Committee of the Indicative Sanctions Guidance and of the purpose of sanction which was not to punish but to arrive at a proportionate outcome to the case having regard to the Committee's responsibility to protect the public and to declare and uphold proper standards of conduct. He emphasised the role of proportionality in the Committee's deliberations.

The Committee first considered the aggravating features of the case. The dishonesty was sustained and repetitive. It involved the creation of documents and lying about the provenance of those documents. It was designed to secure admission to a university course when the Registrant did not in fact meet the entry requirements for that course. Even when the Registrant had admitted to the creation of one document, she went on to create a further document in an attempt to serve her purposes. On any view, as the Committee has already found, in this particular context this was a very serious case of dishonesty.

The Committee next considered the mitigating features of the case. The Committee acknowledged that the Registrant's personal circumstances were very difficult but did not consider that those personal circumstances were such as to explain or significantly mitigate this course of conduct.

The Committee acknowledged that the Registrant was a young person, aged 19 and just 20 at the time of these events and that she had made full admissions in these proceedings. The Committee also acknowledged that the Registrant had engaged with the process, had chosen to give oral evidence and there had been no repetition of these or similar events.

While acknowledging the mitigating features set out in the previous paragraph, the Committee was driven to the conclusion that the aggravating features of the case outweighed its mitigating features.

The Committee considered sanction in ascending order. It was inappropriate to take no action or to impose a financial penalty in view of the seriousness of the case and the need to uphold the public interest.

The Committee next considered an order for conditional registration. In the Committee's view no workable conditions could be devised to address the misconduct. This was not a case which involved clinical failings. An order for conditional registration would not in any event be sufficient to satisfy the public interest.

The Committee went on to consider whether a suspension order would be sufficient to satisfy the public interest. It had regard to the guidance contained at paragraph 34.1 of the Indicative Sanctions Guidance and also to the guidance given at paragraph 29.1 in relation to cases of dishonesty. It noted in particular “the requirement to balance all the relevant issues in a proportionate matter whilst putting proper emphasis on the effect a finding of dishonesty has on public confidence in the profession” (paragraph 39.1).

The Committee was faced with a case in which a calculated and sustained attempt had been made to deceive those responsible for administering the admissions process to a degree course in optometry. If this attempt had succeeded, the Registrant would have obtained admission to a course without satisfying the entry requirements. A place on the course would therefore have been wrongly allocated, perhaps at the expense of another applicant. The Committee was of the view that any member of the public would be very disturbed to learn of the Registrant’s behaviour and would not consider that a period of suspension even for 12 months was a proportionate outcome.

The Committee was of the view that the Registrant’s conduct was fundamentally incompatible with ongoing registration. The Committee concluded that public confidence in the profession would be adversely affected if behaviour of this type was not met with the sanction of erasure. In reaching this conclusion, the Committee took into account the Registrant’s age and the fact that she has now pursued her studies and attained a 2.1 in the BSc Ophthalmic Dispensing Degree at her College. The Committee recognised that the sanction it has decided to impose would have a significant adverse effect upon the Registrant. However, the Committee has reached the conclusion that the circumstances of this case are so serious that the public interest can only be protected by the sanction of erasure. Any other outcome would in the Committee’s view undermine confidence in the profession and in its regulation.

Therefore, the Committee directs that Ms Arzoo Maqsood be erased from the register of student dispensing opticians.

Immediate order

Mr Day on behalf of the Council stated that he had taken instructions and made no application for an immediate order in the light of the reason for the sanction for erasure which was made upon the basis of the public interest. Ms Smart had nothing to add.

The Committee noted that no application had been made for an immediate order in the light of its reasons for sanction. In all the circumstances, the Committee endorsed the view that an immediate order was not appropriate.

Chair of the Committee: Ms Anne Johnstone

Signature **Date: 28 August 2019**

Registrant: Ms Arzoo Maqsood

Signature **Date: 28 August 2019**

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. PSA 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. 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.
European Alert
The General Optical Council is required by Regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015 to inform all European competent authorities of any restrictions or prohibitions on a dispensing optician or an optometrist's practice. 'Competent authority' effectively means the relevant regulator for each EU member state.

The GOC is the competent authority for all opticians registered in the United Kingdom (UK).

If you have been made subject to either a suspension or conditions of practice order (whether interim or substantive), or to an erasure order, we hereby notify you of the following:

- Within 3 days of the Fitness to Practise Committee decision taking effect you will be the subject of an alert sent under article 56a(1) of the Directive;
- You have the right to appeal the decision to issue the alert or to apply for rectification of the decision; and
- You have the right to access remedies in respect of any damage caused by false alerts sent to other competent authorities.

The alert is sent securely via the Internal Market Information (IMI) system. The alert will include the following details:

- Your identity (full name and date of birth);
- Your profession;
- Your GOC registration number;
- The fact that the GOC is the national authority which adopted the decision on the restriction or prohibition of your professional activities;
- The scope of the restriction or prohibition;
- The period during which the restriction or the prohibition applies.

If you wish to appeal the decision to issue this alert then please see the information sheet below. Please note that this relates to your right of appeal against the issuing of the alert – see above regarding your right of appeal against a substantive decision.

A copy of the alert may be obtained via the contact details at the end of this document.

Please see the attached information sheet for further information.

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.

European Alert – Information Sheet

Please see the below Frequently Asked Questions (FAQs) which have been developed to assist you with this process and explain your options.

1. Why has the General Optical Council (GOC) sent this alert?

With effect from 18 January 2016 the GOC is legally required to issue alerts concerning all registrants whose practice has been prohibited or restricted – this includes all determinations of suspension, conditions or erasure issued by a Fitness to Practice Committee (FTPC), whether interim or substantive, and any extensions ordered by the High Court.

This legal requirement is placed on us by article 56a of Directive 2005/36/EC on the recognition of professional qualifications ('the Directive'). This article was adopted into UK legislation via Regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015. All other Member States must also comply with the provisions of the Directive and participate in the alert mechanism.

2. What is the purpose of these alerts?

The purpose of these alerts is to ensure public protection across all Member States. The intention is that each member state will be notified of any restrictions or prohibitions placed on UK registrants so that they are able to check this against their own registers and applicants. We will also be notified of any restrictions or prohibitions handed down to European optical professionals. This will assist us with safeguarding the public and maintaining the integrity of our registers.

3. Why was I not consulted before the alert was sent?

The terms of the Regulations are very strict; the alert must be issued within three days of the panel's decision coming into effect. The notification must be issued at the same time the alert itself is sent.

4. Who will see the alert?

The alert is sent securely via the Internal Market Information (IMI) system to the competent authority in each Member State.

In the UK, statutorily regulated health and social care professionals have to be registered with, and show that they meet the standards of, the relevant regulatory body, in order to practise their profession. The regulators control access to regulated professions, professional and vocational titles and professional activities which require specific qualifications, and are subject to national law. The European Commission term these organisations the 'competent authorities' although the exact duties of the competent authorities vary across member states, they are effectively the regulator (in the same way the GOC is) for each member state.

A competent authority has been defined by the European Commission as: *any authority or body empowered by a Member State specifically to issue or receive training diplomas and other documents or information and to receive the application and take the decision, referred to in Directive 2005/36/EC.*

5. If there is a mistake in the alert can I apply for it to be corrected?

If you notice a mistake in the alert (such as a typing error or incorrect information) then please contact the GOC and we will consider your request to amend the alert. Please note the GOC is not able to remove an alert at your request, see next question for further information.

6. What if I disagree with the alert being sent?

If you disagree with the sending of an alert then you have the right of appeal to the County Court. If you merely consider there to be a mistake within the alert then please refer to the above question.

Please note that the GOC is required to send the alert under European Law. With this in mind, and if you still wish to appeal to the County Court, then you may find the following government website useful: <https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/county-court/>

If you attended the hearing and were given the FTPC decision document by hand then the period for submitting an appeal with the County Court is 28 days from the date you were handed the document. If the FTPC decision document has been sent to you by post, the appeal period is 30 days from the date the decision document was posted to you (there is an additional 2 days allowed to cover postage time).

7. Can the GOC assist me with my appeal against the issuing of an alert?

The GOC is unable to help you with your appeal – we strongly advise that you seek independent legal advice.

8. If I appeal an alert being sent, what effect will that have on the substantive decision made in relation to my registration?

There will be no effect on the decision made by the GOC affecting your registration. This would be an appeal against the issuing of the alert and not the substantive decision – they are two separate things and each have different appeal routes. If you require details on how to appeal the substantive decision (i.e. the erasure, conditions or suspension) then please refer to the separate guidance sheet enclosed with the decision letter regarding your substantive GOC case.

9. If I successfully appeal the issuing of an alert, what will happen to the alert itself?

While your appeal is ongoing the alert will remain on the IMI system but with a qualification to say that an appeal has been lodged.

On appeal the County Court may:

- Dismiss your appeal;
- Allow your appeal and direct the alert be withdrawn or amended accordingly.

If the County Court decide to allow the appeal then the GOC has a duty to delete the alert (or amend as appropriate) within three days of this decision.

10. What happens if the order made by the FTPC is revoked?

When an order is revoked by the FTPC (or the High Court) and that order was the subject of a European alert, we will close the alert within 3 days of the decision to revoke the order. When an alert is closed, all personal data is removed from the alert system.