BEFORE THE FITNESS TO PRACTISE COMMITTEE
OF THE GENERAL OPTICAL COUNCIL

GENERAL OPTICAL COUNCIL

AND

KIRAN JEERH (01-29952)

DETERMINATION OF A SUBSTANTIVE REVIEW
29 APRIL 2019

Committee Members: Dr P Ormerod (Chair/Lay)
Ms R O'Connell (Lay)
Ms A Robertson – Rickard (Lay)
Ms S Nasrullah (Optometrist)
Ms L Gerson (Optometrist)

Legal adviser: Mr W Hoskins

GOC Presenting Officer: Ms A Ling

Registrant: Available via Skype (if required)

Registrant representative: Ms N Bird (Counsel) and Ms N Wheater (AOP)

Hearings Officer: Mr T Yates

Outcome: Not impaired – suspension order will expire 20/6/19
ALLEGATION

The Council alleges that you, Kiran Jeerh, a registered Optometrist:

1) On or around 16 October 2016, submitted to the GOC your application for registration in which, in Section 6, you:
   a) entered Ms A’s name in the part entitled ‘Name of person certifying’; and/or
   b) Indicated in the part entitled ‘Position of person certifying’ that Ms A was an Optometrist, when at the time of the application this was not correct; and/or
   c) signed Section 6 of the application in the name of Ms A.

2) Your actions at 1 above were done without the prior knowledge or consent of Ms A.

3) Your actions at 1 and/or 2 above were dishonest.

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

DETERMINATION

The Registrant is a registered optometrist who was first registered with the Council on 11 November 2016 and at the time of the allegations was working at Redacted (“the Practice”). The Registrant was employed at the Practice from 5 August 2015 to 13 January 2017.

The Registrant obtained her undergraduate degree in optometry from Redacted in August 2015. She undertook her pre-registration training from October 2015 to October 2016.

In October 2016 the Registrant completed an application form for registration with the GOC, signed by her and dated 16 October 2016. The application is stamped as having been received by the GOC on 27 October 2016.

Section 6 of the application form requires another person to certify that they have known the applicant for at least 2 years and that the photograph attached to the form is a true likeness of the applicant. Section 6 is aimed at certifying the applicant's identity.
In this case, the Registrant filled out Section 6 herself, but in the name of a friend, Ms A. She stated that Ms A’s position was that of an Optometrist. The Registrant signed the bottom of Section 6, in Ms A’s name.

In fact, Ms A was not a qualified optometrist; she was a student optometrist. The GOC checked the Registrant’s application form and discovered the discrepancy. This was drawn to the Registrant’s attention in early November by the GOC and an alternative certification by another person was provided. The GOC wrote to Ms A on 29 November 2016 to inform her that they were opening a fitness to practise investigation into her conduct because she had inaccurately described herself as an optometrist on another registrant’s application form.

On 8 December 2016 the Registrant emailed the GOC and stated:

“I understand that you have opened a Fitness To Practise investigation into the conduct of my friend, Ms A, in relation to an allegation that she held herself out to be a qualified optometrist in signing my Application for Registration (‘the form’). This was submitted to the GOC Registration Team on October 16th, 2016.

I write to inform you that I signed and completed ‘Section 6’ of the form on behalf of Ms A. She was unaware of this until after the form had been submitted and I sincerely apologise for my actions. I have since spoken to the AOP who have assisted me with this declaration. I anticipate that this will require further investigation and I am content to cooperate with this and to provide my representations to the GOC in due course, if required “

On 21-22 November 2018, a substantive Fitness to Practise hearing was held. At that hearing the Registrant admitted the facts set out in particulars 1,2 and 3 of the allegation and that committee found those matters proved.

The substantive committee also found that the Registrant’s conduct was so serious as to amount to misconduct. It said that:

“It was dishonest conduct that directly affected a fellow practitioner, Ms A, in that it caused a GOC investigation to be launched into her conduct. This would have caused great distress and inconvenience to Ms A, and could have had reputational impact on her at work. It was conduct that was deplorable, and in acting dishonestly the Registrant breached the [following] Standards of Practice…”

The Standards referred to by the committee were the following:

(16) be honest and trustworthy
(17) do not damage the reputation of your profession through your conduct
(17.3) be aware of and comply with the law and regulations that affect your practice, and all the requirements of the General Optical Council.”
In relation to impairment, the substantive committee noted “the Registrant’s evidence that the situation which led to her dishonesty was of her own making, as a result of her disorganisation. She told the Committee that she had gone back to Canada for a month to extend her visa so she could continue to work in the United Kingdom. She had taken the registration form with her, but had not read it. The Registrant said that she was due to start the new job when she returned to the United Kingdom in November 2016. However, she did not look at the registration form to fill it in until a few days before her return to the United Kingdom. She said that on the day when she spoke to the Canadian Post Office, she realised that she would have to post the registration form immediately if there was any chance of her being registered by the time she returned to the United Kingdom. She said as a result she panicked, and inserted her friend’s name and forged her signature on the part of the form which required a third party to certify that the photograph attached to the form was indeed the person making the application.”

The substantive committee “was not satisfied that the Registrant had demonstrated sufficient insight into her misconduct. It could not be satisfied that there was no risk of repetition of dishonesty on the part of the Registrant. The Committee was satisfied that the Registrant had demonstrated some insight, in that she had moved from her initial belief that her actions were “technically” a fraudulent act, to her understanding now that they were serious. The Committee took into account the Registrant’s obvious concern and distress that these proceedings had caused for her, and her assurance that she would not act in this way in the future. However, the Committee was not satisfied that the Registrant had shown sufficient insight into what it means to be a professional and all the expectations of honesty and integrity that entails. Her reflection on why honesty mattered to the profession came late in the day, and most of her answers, as to the effect of her dishonest actions, related to the effect upon her and her friend, Ms A. The Committee noted the testimonials submitted on the Registrant’s behalf, which did not address the issue of dishonesty in any detail.

The Committee was also not satisfied that the Registrant had fully remedied the cause of her misconduct. She continued to refer to pressure of time and disorganisation in relation to her dishonesty. She had said that she was now more organised and that there was little chance that she would put herself in a position where she would be as pressured as she was on this occasion. When she was asked how she would cope if she found herself in a time pressured situation again, her response was that, as she was more organised, she would not be in such a situation, but if she did she would be honest with her employers and the GOC.

The Committee was not satisfied that the Registrant fully understood her professional obligations. It noted her Continuing Education and Training (“CET”) record in which all targets were not met, for instance the Registrant had only undertaken limited interactive CET. The Registrant accepted that as she was intending to return to Canada this week, there appeared to be no possibility or intention of her completing her interactive CET requirements for this year. The Committee also noted that none of the CET undertaken was targeted towards the
requirements of probity or candour. The Committee was of the view that her CET record demonstrates a lack of commitment to the requirements of her profession.”

The substantive committee also determined that the matters it was considering were so serious that a finding of impairment was required in order to uphold proper professional standards and confidence in the profession.

In relation to sanction, the substantive committee concluded that a 6 month suspension order was appropriate. It said:

“There is no evidence of harmful deep-seated personality or attitudinal problems, nor has there been any repetition of the misconduct. The Committee has determined that the Registrant has developed insight and does not pose a significant risk of repeating her misconduct. She is at the start of her career as an optometrist, and she has provided positive professional references speaking to her competence as an optometrist. The Committee determined that a period of suspension would be the proportionate and appropriate sanction in this case.”

In determining that 6 months was the appropriate period, the committee determined that such a period “would enable the Registrant to further develop her insight into her misconduct, and was the shortest period sufficient to mark the seriousness of her misconduct.”

The substantive committee directed a review and indicated that the reviewing committee might be assisted by the following:

a) Further reflective piece by the Registrant, setting out her reflection on this Committee’s decision, the importance of honesty in the profession, and the manner she has conducted herself since this incident;

b) Evidence of the Registrant undertaking targeted professional development or learning around probity and candour;

c) Up to date references from person(s) who are aware of these proceedings.

Findings regarding impairment

The Committee heard submissions from Ms Ling on behalf of the Council and from Ms Bird on behalf of the Registrant. Ms Ling indicated that the Council adopted a neutral position in relation to today’s hearing. She acknowledged that the Registrant had engaged constructively with the Council and had submitted a reflective piece and a number of supportive references, albeit that these references were friends or family members.

Ms Bird told the Committee that the Registrant was in Canada but available via Skype for any questions that the Committee might wish to ask. She highlighted various passages from the references in support of her submission that the Registrant now fully understood the seriousness of her misconduct and would not engage in any similar misconduct in future. In relation to specific courses
undertaken, she highlighted that the evidence of a “Candour and Effective Complaints Handling” examination in the Registrant’s bundle related to a past examination paper to which the Registrant had been specifically directed by the AOP. She emphasised that this should be considered alongside the Registrant’s understanding of the relevant guidance provided by the AOP and the GOC in relation to candour and the duties of an optometrist.

The Committee accepted the advice of the Legal Adviser who reminded the Committee that its first task was to decide if the Registrant’s fitness to practise continued to be impaired. If the Registrant’s fitness to practise continued to be impaired, the Committee would need to consider the appropriate and proportionate sanction having regard to the Indicative Sanctions Guidance (ISG).

The Committee considered the question of impairment in the light of the substantive committee’s determination and the material submitted by the Registrant for the purpose of today’s hearing.

It concluded that the public interest was adequately served by the existing suspension order continuing for its prescribed period of 6 months.

It also considered whether the Registrant had now developed sufficient insight into the seriousness of her misconduct so as to ensure there will be no repetition. It had regard to the terms of the reflective statement produced by the Registrant and was satisfied that the Registrant now understood the importance of honest conduct at all times and, importantly, the impact of dishonest conduct upon the public, her colleagues and the profession. It noted in particular, the Registrant’s statement that:

“I understand the example I have to set, not only for myself, but also for others including colleagues, friends and family to gain their respect and trust. My redacted is a pre-registration optometry student and my other redacted is also an optometrist; I understand the responsibility I have to them to be open and honest about my mistakes, and the negative impacts that occurred for me when I didn’t uphold my professional responsibilities. To be a better example for them and show that I understand that the professional standard of an optometrist is very important, and the integrity that goes with being an optometrist must be held high. I want to be recognised as a trustworthy, kind, respectful individual that upholds all professional standards.”

In the light of the Registrant’s reflective statement and the references to which Ms Bird had drawn attention, the Committee was satisfied that the Registrant had now developed sufficient insight into the seriousness of her misconduct. It could therefore be satisfied that such misconduct is very unlikely to reoccur again. Accordingly, the Committee found that the Registrant’s fitness to practise is no longer impaired.

The existing order of suspension will therefore be allowed to lapse on 20 June 2019.
Chairman of the Committee: Dr Pamela Ormerod

Signature ..................................................  Date: 29 April 2019

Registrant: Ms Kiran Jeerh

Signature: Not present to sign  Date: 29 April 2019
FURTHER INFORMATION

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<th>Transcript</th>
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<td>A full transcript of the hearing will be made available for purchase in due course.</td>
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<td>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).</td>
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<th>Professional Standards Authority</th>
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<td>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).</td>
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Further information about the PSA can be obtained from its website at www.professionalstandards.org.uk or by telephone on 020 7389 8030.

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<th>Effect of orders for suspension or erasure</th>
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<td>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.</td>
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<td>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.</td>
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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.