

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

GENERAL OPTICAL COUNCIL

F(19)33

AND

TASEER KAZI (SD-7131)

**DETERMINATION OF A SUBSTANTIVE HEARING
18 FEBRUARY 2020**

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| Committee Members: | Ms A Johnstone (Chair/Lay) Mr M Richards (Lay) Ms A McKechin (Lay) Mr P Cross (Dispensing Optician) Ms S Baylay (Dispensing Optician) |
| Legal adviser: | Mr D Mason |
| GOC Presenting Officer: | Mr R Price |
| Registrant present/represented: | Not represented |
| Registrant representative: | N/A |
| Hearings Officer: | Mr T Yates |
| Facts found proved: | Yes |
| Conviction: | Found |
| Impairment: | Impaired |
| Sanction: | Erasure |
| Immediate order: | Yes – immediate suspension order |

ALLEGATION

The Council alleges that in relation to you, Taseer Kazi (SD-7131), a registered student dispensing optician:

1. On 3 December 2015 at Cambridgeshire Magistrates' Court, you were convicted of:
 - a. Possession of an article which had a blade or was sharply pointed, namely a black hunting knife in a public place contrary to section 139(1) and (6) of the Criminal Justice Act 1998;
 - b. Possession of an offensive weapon in a public place, namely a metal knuckle duster contrary to section 1 of the Prevention of Crime Act 1953; and
 - c. Possession of a controlled Class B drug, namely 29.5g of cannabis contrary to section 5(2) of the Misuse of Drugs Act 1971

2. On 11 February 2019, at Leicester Crown Court, you were convicted of:
 - a. Causing grievous bodily harm with intent, contrary to Section 18 of the Offences Against the Person Act 1861.

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

Proof of service

The Committee heard an application from Mr Ross Price for the Council for the matter to proceed in the Registrant's absence. First, the Council was required to satisfy the Committee that the documents had been served in accordance with Section 23A of the Act and Rule 61 of the Fitness to Practise Rules 2013 (the Rules). The Committee accepted the advice of the Legal Adviser.

The Committee is satisfied that all reasonable efforts have been made to notify the Registrant of the hearing and that there has been proper service. The Notice of Inquiry was sent by special delivery to the Registrant's registered address, [REDACTED], on 15 January 2020, and appears to have been signed for by [REDACTED]. The Committee is satisfied that the Notice of Inquiry was properly served with due notice of the date and venue of the hearing

Proceeding in the absence of the Registrant

The Committee then went on to consider whether it would be in the public interest to proceed in the Registrant's absence in accordance with Rule 22. The Committee accepted the advice of the Legal Adviser.

The Committee determined that it would be in the public interest for the hearing to proceed in the Registrant's absence. There is a public interest in the efficient and timely disposal of allegations. An adjournment would be unlikely to secure the attendance of the Registrant and he has not sought one. The Committee had in mind that it should exercise its discretion to proceed in the absence of the Registrant with great care. The Committee was satisfied that it is appropriate and proportionate to proceed with the case in the absence of the Registrant and that the Registrant can have a fair hearing in his absence

DETERMINATION

Admissions in relation to the particulars of the allegation

The Registrant was not present and made no admissions in relation to the particulars of the allegation.

Background to the allegations

The Registrant is registered with the Council as a student dispensing optician. On 3 December 2015 he was convicted by the magistrates sitting at Cambridge of offences of:

- Possession of a bladed article;
- Possession of an offensive weapon, a knuckle duster;
- Possession of 29.5 grams of cannabis

He was sentenced to eight weeks imprisonment concurrent on each offence, suspended for twelve months. He was also ordered to carry out unpaid work for 150 hours. The Magistrates took in to account his previous good character and his pleas of guilty but found that the offences were so serious that only a prison sentence was appropriate.

On 11 February 2019, the Registrant was convicted by a jury after a trial of causing grievous bodily harm with intent contrary to s18 of the Offences Against the Person Act 1861. He was sentenced to an immediate period of imprisonment of eleven years.

The offence arose initially from an altercation between the Registrant's [REDACTED] and Person A in a night club. As a result of this the Registrant and [REDACTED] confronted Person A in a shopping centre. The phones of the Registrant and [REDACTED] showed a sustained intent to injure Person A.

There was a later confrontation between the Registrant and [REDACTED] with Person B. Although person A was the intended victim, it was Person B who was injured. He suffered a serious injury which has affected his eyesight. The sentencing remarks of HHJ Mooncey record that Person B has a scarred retina, has limited vision in one eye and that 'His life chances have disappeared completely'.

Findings in relation to proof of conviction

The Committee has heard submissions by Mr Price on behalf of the Council. It has accepted the advice of the Legal Adviser.

The Committee noted that pursuant to rule 40 (3) of the Fitness to Practice Rules 2013, production of a certificate of conviction shall be conclusive evidence of the offence committed.

The Committee found that the convictions referred to in the certificates of conviction contained in the bundle refer to the Registrant and record offences of which he was convicted. It therefore found the facts relating to the convictions proved.

The Committee is required to consider whether the Registrant's fitness to practise is impaired by virtue of the criminal convictions.

Impairment

The Committee has heard submissions from Mr Price on behalf of the Council. It has accepted the advice of the Legal Adviser.

The Committee took account of the serious nature of the Registrant's offending. It had in mind throughout that its prime object is to protect the public and the public interest in setting and maintaining proper standards of conduct in the profession and to protect the reputation of the profession and its regulator.

It took account of the cases of *Cohen v General Medical Council [2008] EWHC 581* and *CHRE v (1) NMC and (2) Grant [2011] EWHC 927 (Admin)* in considering whether the fitness to undertake training of the Registrant is currently impaired. It found no evidence of remorse or insight on the part of the Registrant, and therefore no evidence of remediation. The offences committed by the Registrant are extremely serious.

The Committee took account of the Council's Standards for Optical students, in particular the following:

10. Protect and safeguard patients, colleagues and others from harm

...

16. Do not damage the reputation of your profession through your conduct

16.1 Ensure that your conduct, whether or not connected to your professional study does not damage public confidence in you or your profession.

16.2 Be aware of and comply with the law and all the requirements of the General Optical Council.

It found there has been serious breaches of these Standards.

The Committee found that the Registrant has by his actions and convictions brought the profession in to disrepute and has breached fundamental tenets of the profession. In addition, the Committee considers that a finding of impairment is necessary to protect the public and reputation of the profession. Members of the public would expect such a finding where there has been serious offending by the Registrant in the course of which an entirely innocent person received serious injury.

The Committee noted that the Registrant is serving a sentence of eleven years and is of the view that whilst that sentence is current his fitness to undertake training is inevitably impaired.

Sanction

The Committee has heard submissions from Mr Price on behalf of the Council. It has accepted the advice of the Legal Adviser.

The Committee proceeded on the basis that sanctions are not intended to be punitive but are to protect the public and the public interest.

The Committee first considered whether there were mitigating factors in this case. It decided there were none.

The Committee then considered whether there are aggravating factors in this case. It decided there are. The Registrant has not engaged in the proceedings. By not engaging the proceedings the Registrant has failed to show any remorse or insight. He is guilty of offending in 2015 and 2019. The Registrant pleaded not guilty to the offence of grievous bodily harm, requiring Person B to relive the events which led to

his serious injury. It was clear that the offence against Person B was not a spur of the moment act and there was no element of self-defence.

The Committee considered the sanctions available to it from the least severe to the most severe (no sanction, financial penalty, conditional registration, suspension, erasure). It took account of the Council's Indicative Sanctions Guidance (ISG).

The Committee was satisfied that imposing no sanction or a financial penalty would not protect the public or satisfy the public interest in protecting the reputation of the profession and would be wholly inadequate to meet the seriousness of the case.

The Committee considered whether a period of conditional registration would be appropriate and proportionate. Given that the Registrant is serving a lengthy custodial sentence and is clearly not in practice or training, the Committee could not devise workable and appropriate conditions. In any event, an order of conditions would not protect the public or satisfy the public interest and would not be proportionate to the seriousness of the case.

The Committee then considered whether a period of suspension would be appropriate. It took account of the factors at 34.1 of the ISG. It found there was a 'deep seated personality or attitudinal problem' and that there was no evidence of insight. It was satisfied that suspension of the Registrant's registration would not protect the public or satisfy the public interest.

The Committee finally considered whether erasure from the register was appropriate and proportionate. It considered the factors set out at 36.5 of the ISG. It found that the following factors did apply in this case and noted that a single factor may justify erasure:

- Serious departure from the relevant professional standards as set out in the Standards of Practice for Registrants;
- Doing serious harm to individuals (patients or otherwise), either deliberately or through incompetence, and particularly where there is a continuing risk to patients;
- Offences involving violence; and
- Persistent lack of insight into seriousness of actions or consequences.

The Committee was satisfied that the Registrant's conduct is fundamentally incompatible with being a registered professional. He is unable to train in his present circumstances and cannot become a useful member of the profession. The Committee had no doubt that erasure is the proportionate and proper order in this case to protect the public and the public interest.

Immediate Order

The Committee heard submissions from Mr Price on behalf of the Council. It accepted the advice of the Legal Adviser.

The Committee has decided to impose an immediate suspension order for the following reasons. It considers that an immediate order is necessary to protect the public and is required to protect the public interest. It considers that not imposing an immediate order would be entirely inconsistent with its finding that the only course in this case is erasure from the register.

Revocation of interim order

The Committee hereby revokes the interim order for suspension of registration that was imposed on 5 April 2019.

Chair of the Committee: Ms Anne Johnstone

Signature **Date: 18 February 2020**

Registrant: Mr Taseer Kazi

Signature **Date: 18 February 2020**

| FURTHER INFORMATION |
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| 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.