

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

GENERAL OPTICAL COUNCIL

F(24)34

AND

ZARA SHAFIQUE (SO-15144)

**DETERMINATION OF A SUBSTANTIVE HEARING
10-12 FEBRUARY 2025**

Committee Members:	Sara Nathan (Chair/Lay) Mark Richards (Lay) Ubaidul Hoque (Lay) Sanna Nasrullah (Optometrist) Gemma O'Rourke (Optometrist)
Clinical adviser:	N/A
Legal adviser:	Georgina Goring
GOC Presenting Officer:	Vithyah Chelvam
Registrant present/represented:	Yes and represented
Registrant representative:	Sophie Quinton-Carter [Counsel] Nan Mousley [AOP]
Hearings Officer:	Arjeta Shabani
Facts found proved:	All
Facts not found proved:	None
Misconduct:	Found
Impairment:	Impaired
Sanction:	Suspension Order – 2 months (Without Review)
Immediate order:	None

ALLEGATION

The Council alleges that you, Miss Zara Shafique (SO-15144), a registered student optometrist:

1. On 10 September 2023 you knowingly falsified contact lens records for Patient A without them having attended an appointment because you needed a record for competencies for your exam
 - a. Your actions at (1) were dishonest
2. On 10 September 2023 you falsified the following details on Patient A's records:
 - a. Full fitting;
 - b. Order;
 - c. Coc (contact lens check on collection);
 - d. Eot (end of trial)

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

Application to amend Allegation

At the outset of the hearing, the Committee heard an application to amend the allegations on behalf of the Council as follows:

The Council alleges that you, Miss Zara Shafique (SO-15144), a registered student optometrist:

1. Between 26 August 2023 and 10 September 2023 you created records in respect of Patient A for full fitting which had not taken place including the:
 - a. Ordering;
 - b. COC (contact lens check on collection);
 - c. EOT (end of trial)
2. Your conduct as outlined in allegation 1 was dishonest

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

The Registrant did not oppose this application. The Committee heard and accepted the advice of the Legal Adviser, in that pursuant to Rule 46(20) of the

Fitness to Practice Rules 2013, the consideration was whether or not the amendment can be made without injustice.

The Committee decided that the amendment could be made without injustice to either party and made the amendment. The amended allegations therefore are:

The Council alleges that you, Miss Zara Shafique (SO-15144), a registered student optometrist:

1. Between 26 August 2023 and 10 September 2023 you created records in respect of Patient A for full fitting which had not taken place including the:
 - a. Ordering;
 - b. COC (contact lens check on collection);
 - c. EOT (end of trial)
2. Your conduct as outlined in allegation 1 was dishonest

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

DETERMINATION

Admissions in relation to the particulars of the allegation

The Registrant admitted particulars 1 and 2 of the allegation.

Background to the allegations

1. The Registrant registered with the Council on 28 September 2022 as a Student Optometrist. At the material times, the Registrant worked as a student Optometrist at Specsavers Optical Group Ltd, working at the branch at [redacted].
2. On 10 September 2023 Ms A, the General Manager of the branch, became aware that there was a contact lens basket open for a patient that had not been in the store. This was due to a £25 outstanding payment. Ms A spoke with the Registrant as she had seen the records. The Registrant informed Ms A on more than one occasion that she did not know what had happened. Furthermore, the Registrant stated that she did not know how the payment was put on the patient's contact lens records.
3. The patient in question was contacted on the same day. The patient became worried that there had been a breach of her personal data. The patient was told that she could not be told how the visit had been put on her record.

4. The Registrant's supervisor reviewed the clinical notes and found:
 - a) There were three contact lens visits logged for this patient. This included a contact lens fit, a contact lens check on collection and end of trial.
 - b) The check on collection and the end of trial had a supervisor named, and this supervisor stated that she had not supervised multifocal contact lens end of trial for any patient that day.
5. On 11 September 2023, the Registrant spoke with Ms A and admitted to altering the patient records. The Registrant has made full admissions to these allegations during the course of the Council's investigation.

Findings in relation to the facts

6. The Committee heard and accepted the advice of the Legal Adviser in regard to Rule 46 (6) of the Fitness to Practice Rules 2013 and therefore found both particulars 1 and 2 proved by way of the Registrant's admission.

Findings in relation to misconduct

7. The Committee heard oral evidence from the Registrant. She explained the surrounding circumstances of her actions including work and time pressures particularly the requirement to meet the assessment deadline, family issues and financial difficulties.
8. The Committee heard submissions on behalf of the Council and on behalf of the Registrant who accepted that the admitted facts amounted to misconduct. It accepted the advice of the Legal Adviser that any misconduct must be serious to which the Committee must give the ordinary standard dictionary meaning. Furthermore, in relation to the term "misconduct", the Committee should have regard to guidance set out within *Roylance v General medical Council (No.2) [2001] AC 311*:

Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a Registrant in the particular circumstances.

9. The Committee reminded itself that there is no burden or standard of proof at this stage in proceedings. The question of misconduct is a matter for the Committee's judgement.
10. The Committee considered that there were three separate instances of dishonesty by the Registrant in amending the patient's record. The

Committee decided that these instances of dishonesty were premeditated and were motivated, in part, by personal financial gain, or at least the fear of financial loss, and by the desire for personal advancement. This dishonesty persisted over a period of two weeks between 26 August and 10 September 2023. Entering three false entries onto a patient's record fell far short of the standards expected of a Registrant.

11. The Committee further considered that the Registrant was not candid with her employers straight away, but rather confessed, some hours after the matter was put to her. However, the Committee did note that since then, she has been consistently open and honest about this behaviour.
12. The Committee further accepted that there was a degree of panic on the Registrant's part which may have influenced her decisions to act dishonestly, however, this does not wholly diminish the seriousness of this premeditated dishonesty which took place on three distinct occasions.
13. The Committee considered that the Registrant's conduct represented a serious departure of the standards expected of her. In particular, the following paragraphs of the Council's standards for Optical Students are engaged:

Paragraph 7 – Maintain adequate patient records.

Paragraph 13.1 – Keep confidential all information about patients in compliance with the law, including information which is handwritten, digital, visual, audio or retained in your memory.

Paragraph 13.5 – Only use the patient information you collect for the purposes it was given, or where you are required to share it by law.

Paragraph 15.1 – Act with honesty and integrity to maintain public trust and confidence in your profession.

Paragraph 15.3 – Ensure that incentives, targets and similar factors do not affect your professional judgment. Do not allow personal or commercial interests and gains to compromise patient care.

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

Paragraph 18 - Be candid when things have gone wrong.

14. For all of these reasons, the Committee found that the admitted facts amount to misconduct.



Findings regarding impairment

15. The Committee heard submissions from Ms Chelvam on behalf of the Council and from Ms Quinton-Carter for the Registrant who accepted that the Registrant's fitness to train is currently impaired. It accepted the advice of the Legal Adviser, who advised that the Committee must have regard to the overarching objective and the four limb test posed in the case of *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant [2011] EWHC 927 (Admin) [76]*. Furthermore, the Committee must have regard to insight, remediation and whether or not there is a risk of repetition.
16. The Committee reminded itself that there is no burden or standard of proof at this stage in proceedings. The question of impairment is a matter for the Committee's judgement.
17. The Committee was mindful that it had to determine current fitness to train but it also had to consider the Registrant's behaviour in the past to inform that decision.
18. The Committee had regard to the test as set out within *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant [2011] EWHC 927 (Admin) [76]*.
 - a) *Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
 - b) *Has in the past acted and/or is liable in the future to bring the professional into disrepute*
 - c) *Has in the past acted and/or is liable in the future to breach one of the fundamental tenets of the professional*
 - d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.*
19. The Committee decided that limbs b, c and d above are engaged by the Registrant's misconduct. The Committee determined that the Registrant's misconduct had brought the profession into disrepute, the Registrant had breached one of the fundamental tenets of the profession and clearly the Registrant had acted dishonestly.
20. The Committee considered that since the incident the Registrant had displayed good levels of insight. The Committee decided that she had developed insight into the standards expected of her and why those standards matter. The Committee noted that this insight had been present for a significant period of time. Furthermore, the Registrant was able to give evidence regarding the consequences of her actions not only on patients, her colleagues and the profession but on the wider public interest.

21. The Committee noted that the Registrant demonstrated shame and remorse into her actions, both in the documentary evidence, including an extensive reflective piece, and in her oral evidence before the Committee.
22. In relation to remediation, the Committee considered that dishonesty is difficult to remediate, but not impossible. The Committee noted that the regulatory proceedings will have been a salutary lesson to the Registrant who is in the very early stages of her career.
23. In her oral evidence, the Registrant gave assurances that if she were to be presented with a similar situation in the future, this behaviour would not be repeated. The Committee noted that CPD courses that the Registrant had undertaken were targeted and specific to the misconduct.
24. The Committee decided that a finding of impairment was necessary on public interest grounds alone. A finding of impairment is necessary to promote and maintain the proper professional standards and to maintain the public's confidence in the profession and in its' Regulator.
25. The Committee found that the fitness of the Registrant to undertake training as an optometrist is currently impaired.

Sanction

26. Ms Chelvam did not make any submissions on sanction on behalf of the Council but the Committee did hear submissions from Ms Quinton-Carter on behalf of the Registrant. It accepted the advice of the Legal Adviser that any sanction should be imposed with the overarching objective at the forefront of the Committee's minds. The Committee should also start with the least restrictive sanction as set out in the Hearings and Indicative Sanction Guidance, and work their way up through the sanctions, and that any sanction imposed should be appropriate, proportionate and workable.
27. The Committee first considered the aggravating and mitigating features in this case. The Committee decided that the following aggravating features were present:
 - There was repetition of the dishonest behaviour albeit over a short period of time; and
 - There was a degree of premeditation.
28. The committee decided that the following mitigating features were present:
 - The Registrant has displayed insight which has developed over a period of time;

- The Registrant has shown remorse and has apologised;
 - The Registrant has taken significant remedial steps including relevant CPD courses and a lengthy reflective piece;
 - The Registrant has engaged fully in both the disciplinary and regulatory proceedings;
 - The misconduct occurred during the early stages of the Registrant's career;
 - There are a number of positive and supportive references from colleagues and teachers who know her work well, and were aware of these allegations, who all described her as a good and hard-working student optometrist who they would expect to practise honestly.
 - No other incidents either prior or since this misconduct.
29. In relation to personal mitigation, the Committee considered that this misconduct occurred at a time when there was both professional and family stress present in the Registrant's life.
30. The Committee considered the sanctions available to it from the least to the most severe.
31. In relation to taking no action, the Committee noted that this was not an appropriate sanction given that dishonesty is so serious. There are no exceptional circumstances that would warrant the Committee taking no further action.
32. The Committee next considered whether a financial penalty would be an appropriate sanction. The Committee decided that this was not an option for this Registrant nor was it an appropriate sanction in all the circumstances.
33. The Committee went on to consider the sanction of conditions on the Registrant's registration. The Committee decided that there are no workable conditions to address the misconduct in this case, given that it centers upon attitudinal issues rather than any issues with the Registrant's practice. The Committee was also mindful that the Registrant is still within the training programme and it follows that she would be supervised and trained in any event. The Committee decided that the conditions were not appropriate, proportionate or workable.
34. The Committee next considered a sanction of suspension. The Committee decided that the following parts of paragraph 21.29 of the sanction guidance are engaged:

- a) *A serious instance of misconduct where a lesser sanction is not sufficient*
 - b) *No evidence of harmful deep seated personality or attitudinal problems*
 - c) *No evidence of repetition of behavior since incident*
 - d) *The committee is satisfied the registrant has insight and does not pose a significant risk of repeating behaviour.*
35. The Committee noted that dishonest misconduct is treated as particularly serious. However, the committee considered that this dishonesty was at the lower end of the spectrum. The committee also considered the Registrant's age and influencing factors of finances and work stress. The Committee deemed that there was an element of inexperience on the Registrant's part.
36. The Committee considered that a sanction of a two month suspension was proportionate.
37. The Committee went on to consider a sanction of erasure. The Committee decided that this was not appropriate given that the dishonesty in this case is at the lower end of the spectrum, it took place during the early stages of the Registrant's career, and there is now a high degree of insight and cooperation. The Committee therefore decided that anything more than a suspension would be disproportionate.
38. The Committee will not, in this instance, order a review hearing as the Registrant has demonstrated that she has sufficient insight and has undertaken adequate remedial steps. The sanction is to mark the public interest, and to uphold standards and confidence in the profession, which will be served by its completion.

Immediate order

39. The Committee heard submissions from Miss Chelvam on behalf of the Council and from Ms Quinton-Carter for the Registrant. It accepted the advice of the Legal Adviser which was that paragraph 23.3 of the Hearings and Indicative Sanction Guidance was applicable and the key point was whether an immediate order is 'necessary'. It is a relatively rare case that an immediate order will be granted on public interest alone. Further, the Committee must identify the risk to the public interest and that it is sufficiently serious to warrant an immediate order [*Shiekh v General Dental Council [2007] EWHC 2972 (Admin)*].
40. The Committee decided that this case does not meet the threshold for an immediate order as it is not necessary in the public interest as reflected in

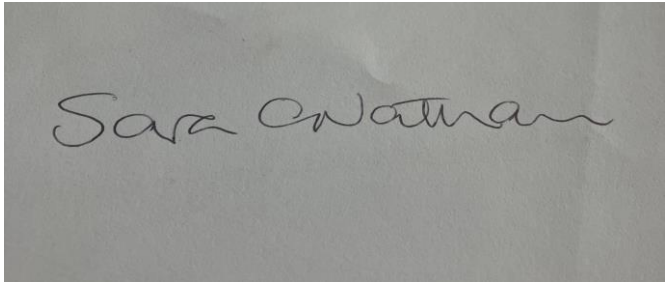


the Committee’s findings at the impairment and sanction stages. Furthermore, the Committee noted that there were no real risks identified including any risk that is sufficiently serious to warrant the imposition of an immediate order.

41. In any case, the Committee decided that an immediate order was not necessary as the Registrant is not currently in training and will be unable to train in the next 28 days as she first needs to secure a new pre-registration placement.

42. The Committee decided that in those circumstances an immediate order is not necessary.

Chair of the Committee: Sara Nathan



Signature

Date: 12/02/2025

Registrant: Zara Shafique

Signaturepresent via video conference.....

Date: 12/02/2025

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

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.

Where a registrant can appeal against a decision, the Authority has 40 days beginning with the day which is the last day in which you can appeal. Where a registrant cannot appeal against the outcome of a hearing, the Authority's appeal period is 56 days beginning with the day in which notification of the decision was served on you. 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).

Further information about the PSA can be obtained from its website at www.professionalstandards.org.uk or by telephone on 020 7389 8030.

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.

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.