

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

GENERAL OPTICAL COUNCIL

F(06)14/15

AND

**SASHA LOUISE MACKEN (01-15852)
WILFRED HUGH PHILLIPS (01-7245)**

DETERMINATION OF THE INQUIRY: 22-23 MAY 2007

On 22-24 May 2007, the Fitness to Practise Committee of the General Optical Council met to consider the following allegations against Sasha Louise Macken and Wilfred Hugh Phillips:

ALLEGATION

The Council alleges that the fitness to practise of Sasha Louise Macken (a registered optometrist) is impaired in that:

1. At an examination of Patient A, as identified on the schedule, on 21st September 2005 Ms Macken did not:

- i) perform a slit-lamp examination;
- ii) measure her intra ocular pressures;
- iii) undertake ocular investigations to try to identify the cause of her symptoms;
- iv) determine an explanation for her presenting symptoms;
- v) examine the ocular structures of her eyes;
- vi) adequately assess her presenting symptoms;
- vii) complete an adequate record of the examination.

2. In Ms Macken's representation to the Council of 7 March 2006, she inaccurately interpreted Patient A's hospital medical notes with regard to the date of the onset of her symptoms.

3. In Ms Macken's representation, she referred to Patient A's previous records indicating minor corneal changes which is inaccurate.

AND by reason of the facts set out above, Ms Macken is guilty of deficient professional performance.

ALLEGATION

The Council alleges that the fitness to practise of Wilfred Hugh Phillips (a registered optometrist) is impaired in that:

1. At an examination of Patient A, as identified on the schedule, on 10th October 2005, Mr Phillips did not:

- (i) perform a slit-lamp examination;
- (ii) adequately identify an explanation for her presenting symptoms;
- (iii) perform an examination of near visual acuity;
- (iv) complete an adequate record of the examination.

2. In Mr Phillips' representation to the Council of 4 March 2006, he inaccurately interpreted Patient A's hospital records with regard to the date of the onset of her symptoms.

3. In Mr Phillips' representation, he referred to Patient A's previous records indicating minor corneal changes which is inaccurate.

AND by reason of the facts set out above, Mr Phillips is guilty of deficient professional performance.

DETERMINATION

In regard to Ms Macken, the Committee's findings in relation to the particulars of the allegation:

The Committee accepted the advice of the legal adviser and has considered allegation 1(i)-(vii) in terms of culpable failures.

The Committee found particulars 1(ii) of the allegation proven.

The Committee found particulars 1(i), 1(iii), 1(iv), 1(v), 1(vi), 1(vii), 2 & 3 of the allegation not proven.

"The Committee gives the following reasons for its decision. With regard to particulars 1(i), (iii), (iv), (v), (vi) & (vii) the Committee considered Ms Macken treated patient A reasonably on the basis of presenting symptoms. With regard to particular 2 the Committee noted that Dr Harper, the expert witness called on behalf of the Council, made the same error in that he interpreted the symbol 1/7 as designating one week rather than one day and Dr Eperjesi indicated in evidence that he was aware that this mistake was easily made. On the basis of the evidence the Committee was not satisfied that this particular was proved. With regard to particular 3 the Committee did not consider the evidence adduced on this particular issue supported the allegation.

The Committee found particular 1(ii) proven on the basis, not of patient A presenting symptoms but on the fact that the record of the examination on 12 September 2005 did not show that this test had been undertaken, and on this basis the Committee was satisfied that Ms Macken should have carried out this test on 21 September 2005. Because of this finding on particular 1(ii), the Committee finds Ms Macken guilty of deficient professional performance.

The Committee is inclined to the view that the basis upon which it has found Ms Macken guilty of deficient professional performance would not support a finding that her fitness to practise is impaired.”

In regard to Mr Phillips, the Committee’s findings in relation to the particulars of the allegation:

The Committee accepted the advice of the legal adviser and has considered allegation 1(i)-(iv) in terms of culpable failures.

The Committee found particulars 1(iv) of the allegation proven.

The Committee found particulars 1(i), 1(ii), 1(iii), 2 & 3 of the allegation not proven.

“The Committee gives the following reasons for its decision. The Committee found Mr Phillips to be a credible witness and accepted that he did perform a slit lamp examination. In consequence particular 1(i) was found not proven. With regard to particular 1(ii) the Committee considered Mr Phillips treated patient A reasonably on the basis of presenting symptoms. With regard to 1(iii), Mr Phillips said in evidence that he had performed a near visual acuities test and the Committee accepted his evidence. With regard to particular 2 the Committee noted that Dr Harper, the expert witness called on behalf of the Council, made the same error in that he interpreted the symbol 1/7 as designating one week rather than one day and Dr Eperjesi indicated in evidence that he was aware that this mistake was easily made. On the basis of the evidence the Committee was not satisfied that this particular was proved. With regard to particular 3 the Committee did not consider the evidence adduced on this particular issue supported the allegation. With regard to 1(iv) the Committee found that there had been a culpable failure to record the result of the near visual acuities test and further, the Committee found that there was only a partial recording of the slit lamp examination. By reason of this finding on particular 1(iv) the Committee finds Mr Phillips guilty of deficient professional performance.

The Committee is inclined to the view that the basis upon which it has found Mr Phillips guilty of deficient professional performance would not support a finding that his fitness to practise is impaired.”

Findings regarding impairment

Ms Macken

The Committee found that the fitness of Ms Macken to practise as an optometrist is not impaired and announced its reasons as follows:

“The Committee, in finding Ms Macken’s fitness to practise not impaired, took account of the fact that on the one matter on which it found her professional performance to be deficient, this concerned a failure to measure intra-ocular

pressures on a basis not originally put before it in evidence by the Council but on the basis of evidence that emerged during the hearing. The Committee noted that the evidence was that Mr Davies, who carried out the examination on patient A on 12 September 2005 failed to carry out a measurement of her intra-ocular pressures, or if he did carry out such measurement, failed to record the results. When Ms Macken saw patient A on 21 September 2005 she failed to take account of the fact that there was no record of the measurement of intra-ocular pressures on the record card of the examination on 12 September 2005 and consequently, she should have carried out such a measurement.

In reaching its decision the Committee took account of the fact that Mr Alder, on behalf of the Council, did not make any submissions to the effect that Ms Macken's fitness to practise was impaired. Having reached this decision the Committee went on to consider whether it would be appropriate to issue a warning. In reaching its decision on this matter the Committee took account of Mr Stern's submissions and the testimonials and CET records put before it on Ms Macken's behalf.

The Committee has decided that Ms Macken will have learnt a salutary lesson from her appearance before this Committee and that she will have learned lessons which she will carry forward in her practise. Consequently, the Committee does not consider it necessary to issue a warning."

Mr Phillips

The Committee found that the fitness of Mr Phillips to practise as an optometrist is not impaired and announced its reasons as follows:

"The Committee, in considering that Mr Phillips' fitness to practise is not impaired, took account of the fact that with regard to the one matter upon which his professional performance was found to be deficient, this concerned a failure to complete an adequate record of the examination in two respects, namely a failure to record the near visual acuities and a partial recording of the slit lamp examination. It noted that these were not matters specifically alleged by the Council in the presentation of its case. Whilst the Committee considered that this was a falling short of the standards of a reasonably competent optometrist, these failings would not lead to a finding of impairment. The Committee further noted that Mr Alder, on behalf of the Council, did not make any submissions on the issue of impairment.

The Committee considered whether it should issue a warning in Mr Phillips' case but decided that a warning was not appropriate. In reaching its decision, the Committee noted that Mr Phillips has indicated that he has now fully retired."