

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

GENERAL OPTICAL COUNCIL

F(10)12

AND

AVELINE IYAMIDE HORTON (01-12451)

PRIVATE HEARING

DETERMINATION OF THE INQUIRY: 8-9 JUNE 2011

On 8-9 June 2011, the Fitness to Practise Committee of the General Optical Council met to consider allegations against Aveline Horton.

ALLEGATION

The Council alleges that in relation to you, Aveline Horton (a registered optometrist):-

1. Redacted;
2. Redacted;

And by virtue of the matters set out above your fitness to practise is impaired by reason of your

- (a) Redacted;

DETERMINATION

Findings in relation to the particulars of the allegations, redacted and impairment

Ms Horton faces two allegations which relate to her behaviour at her place of work. redacted.

In September 2009 the registrant was suspended by way of an interim order. In May 2010 at a review hearing the suspension was removed and conditions were imposed. redacted.

Given the issues and the way in which the evidence was presented to the Committee, it has decided to set out its reasons in this form rather than adopting the more usual staged determination.

The allegations were admitted by the registrant. The Committee found the allegations proven. The Committee has heard the evidence of Ms Horton and has been greatly assisted by the expert evidence given by Drs Davidsson and Grewal, instructed on behalf of the

Council, and by Dr Laker instructed on behalf of the registrant. It has had the benefit of clinical advice given to it by the clinical adviser, Dr Seivewright. The Committee has accepted the advice given to it by the legal adviser.

Mr Singh, at the outset of his final submissions, on behalf of Ms Horton, did not challenge that the registrant's fitness to practise was impaired on the basis that the expert evidence redacted and that there was a real risk in these circumstances to her patients.

The Committee having heard Ms Horton give her evidence is clear that she has little insight into her condition. redacted The Committee places little reliance on the evidence of the registrant redacted.

The Committee has received written evidence from the registrant's employer which gives detailed particulars as to the dates on which she worked and which makes it absolutely clear there have been no clinical problems, or behaviour which might be regarded as unprofessional or inappropriate. redacted. Nevertheless, the employer's evidence is clear that whenever she has worked there has been nothing to indicate actual impairment.

Impairment which is a matter of judgement must be considered as at the date of the hearing. The Committee is not however restricted to a scintilla of time. It is entitled to view the matter prospectively so long as it does so without speculation and on the basis of evidence before it. Redacted. This presents a very real risk to the registrant's patients. The Committee is satisfied in these circumstances, as Mr Singh accepted, that the registrant is indeed impaired by reason of the allegations admitted by her and found proven by the Committee.

Sanction

The Committee has heard submissions from Mr Hepworth, for the Council, and Mr Singh, on behalf of the registrant as to sanction. It has accepted the advice given to it by the legal adviser.

The Committee considered the sanctions available to it from the least necessary to the most severe. In the light of the evidence before it, the Committee is satisfied that it is necessary for the protection of the public that conditions are imposed upon the registrant's registration for the reasons set out in its earlier determination.

Redacted. The relevant condition has been framed in such a way as to ensure this. Any committee reviewing this order will wish to be satisfied that the requirements of this condition have been met. Redacted.

The Committee orders that the period of conditional registration is for 11 months.

A review hearing will be held approximately four weeks before the expiration of this order. The review committee will need to be satisfied that the registrant has fully appreciated the gravity of the facts underlying the allegations and those which have prompted the conditions to be imposed and has maintained her skills and knowledge and that the registrant's patients will not be placed at risk by resumption of practice without conditions.

The Committee directs that the order for the registration of the registrant be made conditional forthwith. Such an immediate order is necessary for the protection of the public given that an interim order will expire on revocation today.

A list of conditions is shown below.

Revocation of interim order

The Committee hereby revokes the interim order that was made on 25 September 2009.

List of Conditions

Condition 1 - The GOC will enter these conditions against your name in the register save any conditions which relate to your health. You must allow the Registrar to share any information, including confidential information, with any employer, supervisor, professional colleague or any organisation for which you provide ophthalmic services for the duration of your conditional registration.

You must also allow the Registrar to share this information with other regulatory bodies and the Department of Health.

Condition 2 - You must notify the Registrar within 14 days of commencement of any professional appointment you accept whilst you are subject to these conditions (this includes any teaching posts) and provide contact details of your employer and if providing ophthalmic services under a NHS contract, the PCT on whose ophthalmic practitioners list you will be included (this includes any equivalent employer in the EC).

Condition 3 - You must inform the Registrar:

- a. If you cease working;
- b. If your work takes you out of the UK for a significant period of time; or
- c. Of any employment you apply for outside of the UK (and in which countries)

as conditions of registration only apply to practice undertaken in the UK (you must consider whether your time out of work or out of the UK will allow you to fulfil the conditions during the period of conditional registration). The Registrar may inform the relevant competent authorities in that country of your current conditions of UK registration.

Condition 4 - You must continue to fulfil the CET requirements under the GOC CET scheme to secure appropriate points for continued inclusion on the GOC register.

Condition 5 - You must inform the following parties that your registration is subject to conditional registration:

- a. Any organisation or person employing or contracting with you to undertake ophthalmic services (to include any locum agency);
- b. Any prospective employer (whether within the UK or EC);
- c. Chairman of the Local Optometric Committee;
- d. The PCT in whose ophthalmic practitioners list you are included or seeking inclusion.

Condition 6 - Redacted.

Condition 7 - Redacted.

Condition 8 – Redacted.

Condition 9 – Redacted.

Chairman of the Committee: Margaret Hallendorff

Signed _____ Date 9 June 2011

Registrant: Aveline Horton

Signed _____ Date 9 June 2011

FURTHER INFORMATION
Transcript
A full transcript of the hearing will be made available via the GOC website 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).
Council for Healthcare Regulatory Excellence
<p>This decision will be reported to the Council for Healthcare Regulatory Excellence (CHRE) under the provisions of section 29 of the NHS Reform and Healthcare Professions Act 2002. CHRE 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 unduly lenient and/or should not have been made, and if they consider that referral is desirable for the protection of the public. CHRE 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. CHRE will notify you promptly of a decision to refer. A letter will be sent by recorded delivery to your registered address (unless CHRE has been notified by the GOC of a change of address).</p> <p>Further information about the CHRE can be obtained from its website at www.chre.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.
Contact
If you require any further information, please contact the Council's Hearings Manager at 41 Harley Street, London, W1G 8DJ or, by telephone, on 020 7580 3898.