

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

**GENERAL OPTICAL COUNCIL
AND
AVELINE IYAMIDE HORTON (01-12451)**

F(10)12

8-9 June 2011

SUBSTANTIVE HEARING

Held in camera

SUBSTANTIVE HEARING: AVELINE IYAMIDE HORTON (01-12451)

Wednesday, 8 June 2011

FTP Committee: Ms Margaret Hallendorff MBE (Lay) (Chair)
Mrs Geraldine Huka (Lay)
Professor Nizar Hirji (Optometrist)
Mr Mark Lomas (Optometrist)
Mr Alan Baldwin (Lay)

Legal Adviser: Mr Nicholas Levisieur

Clinical Adviser: Dr Nicholas Seivewright

Hearings Manager: Mr David Henley BEM

For the GOC: Mr John Hepworth

For the Registrant: Mr Sandesh Singh

[Proceedings commenced at 13.21]

Ms Hallendorff: Good afternoon. I am Margaret Hallendorff, a lay member of the Hearings Panel, and I have been elected by the Committee to chair today's hearing. The Committee today is made up of two optometrists and three lay members and I will ask the members of the Committee to introduce themselves and the capacity in which they sit. *[Introductions]*

To my left is the Council's Clinical Adviser, Dr Nick Seivewright, who will provide clinical advice to the Committee on any matters of fact which may arise in the course of the hearing. The Clinical Adviser may accompany the Committee should it sit in private to deliberate. To my right is Mr Nick Levisieur, the Committee's Legal Adviser, who will provide legal advice and assistance to the Committee and ensure that the proceedings are conducted in accordance with the Rules of Procedure, so as to arrive at a result which is fair and just. The Legal Adviser may accompany the Committee should it sit in private to deliberate. In the event that any matter arises during the course of the Committee's deliberations, upon which the Committee seeks advice, the parties will be invited to return to hear the matter which the Committee has raised and the advice to the Committee. Where advice on any issue is not

accepted by the Committee, this will be indicated in the course of its decision on that issue.

To your right is Mr David Henley, the Hearings Manager, who will provide administrative support to the Committee. Next to Mr Henley is the transcriber, who will be keeping an official record of all that is said today during the sessions of the hearing at which the parties are present, and I ask that when speaking you speak up so that the hearing can be heard easily. The remaining persons sitting in the hearing room rather than the public and press areas are members of the respective legal teams.

It is the Council's policy for the determination of the Committee and a transcript of the proceedings to be displayed on the Council's website for public viewing but where matters of health have been discussed the determination and the transcript will be redacted accordingly.

Are there any applications?

Mr Singh: Madam, I assume you and your colleagues will probably have discussed it; I may have missed it, you may have mentioned it in your opening remarks but clearly this hearing relates to the Registrant's health and so our application would be for the whole hearing to be held *in camera* because obviously it will not touch on any matters other than health. That is our application. I do not think it is opposed.

Mr Hepworth: Madam, it is not opposed.

Ms Hallendorff: We did discuss it briefly. I think we are agreed that it will be held *in camera*.

Mr Singh: Thank you.

[Hearing continues in private]

DETERMINATION

Findings in relation to the particulars of the allegations 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.**

Redacted.

Redacted.

Mr Singh, at the outset of his final submissions, on behalf of Ms Horton, accepted 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 12 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.

This order will take effect immediately. The Committee's reasons for not suspending the order for 28 days is that an immediate order is necessary for the protection of the public, given that any 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.

Mr Singh: Madam there is a slight issue which is causing my learned friend and me just a little anxiety and it is in relation to when the order which you have made comes into effect. Madam, I wonder if I could just have a moment to find the relevant provision within here.

Mrs Hallendorff: Thank you for bringing that to our notice. The order has been changed slightly, in that:

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

The review hearing will be made approximately four weeks before the expiration of this order.

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.

Mr Hepworth: Thank you; the immediate order in the same terms as the substantive order. I just wanted to make sure that the record was absolutely clear.

Mrs Hallendorff: Thank you very much.

[Hearing concluded at 16.26]