

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

GENERAL OPTICAL COUNCIL

F(07)06

AND

OLIVER WRIGHT STEVENS (01-7678)

DETERMINATION OF THE THIRD REVIEW: 12 SEPTEMBER 2011

On 12 September 2011, the Fitness to Practise Committee of the General Optical Council met to review the Conditional Registration Order made regarding Oliver Wright Stevens on 28 November 2007, which was reviewed on 21 May 2009 and 1 October 2011.

DETERMINATION

Compliance with conditions

The Committee has taken account of the submissions of Ms Steele on behalf of the Council and those of Mr Hodiala on behalf of the registrant. It has accepted the advice of the Legal Adviser. It noted that the requirement under condition 2 of the determination of 1 October 2010 was that the registrant was to arrange for his supervisor to provide this review hearing with a report for consideration at the hearing today.

For the hearing today, the Committee was provided with extremely brief letters from the registrant's supervisor with no detail of how the failures had been remedied. The Committee believes that these letters failed to address the failures, originally identified and noted in particular by the Committee on 1 October 2010, with regard to the recording of the reason for a visit, notes on patient management, visual acuity, vision and CD ratio. The Committee did not believe that the letters amounted to a report as envisaged by condition 2.

The Committee was able to question the registrant's supervisor as part of the hearing today and was presented with a small selection of record cards, some of which did not bear directly on the registrant's current fitness to practise. However it was concerned by a number of factors. Firstly, it noted that the supervisor was unaware of the failures identified in the 1 October 2010 determination; he neither read the original determination nor had he been briefed in any other way on the

background to the case. Secondly, advice to the registrant was not linked to any national or professional guideline or professional standard, but rather general instruction based on the supervisor's personal experience and practice, which lacked structure, detail and objectives. The supervisor had little recent experience in a mentor's role and no specific training in remedial supervision. The Committee was subsequently unable to attach significant weight to his evidence and to be reassured that the failures in the registrant's record keeping had been addressed and remedied.

The Committee also received a small bundle of copies of 16 patient records of which six fell outside the review period in question. A number of these records had not previously been reviewed by the supervisor nor were many of them explicitly linked to his letters to the GOC.

Consequently, the Committee was unable to agree with the registrant's submission that the records were of an acceptable standard. The Committee noted that Mr HodiVala recognised the possibility of residual concerns that the failings in record keeping had not been remedied. Indeed, many of the criticisms made of the evidence submitted to the Committee on 1 October 2010 and ventilated in their determination apply equally to the evidence heard today.

Accordingly, the Committee was not satisfied that there had been an acceptable and meaningful level of compliance with condition 2.

Findings regarding impairment

The Committee notes that the responsibility to comply with the requirement of any condition was primarily that of the registrant. The task before him was to present robust evidence in the form of a report that would satisfy this Committee that the concerns identified in his practice had been accepted, addressed and remedied. The Committee did not believe that it has been provided with this evidence today. The Committee concluded that the deficiencies in record keeping have not been remedied sufficiently and for these reasons the Committee concluded that the fitness of Oliver Wright Stevens to practise as an optometrist remains impaired.

Further order

The Committee has considered the submissions of Ms Steele on behalf of the Council and those of Mr HodiVala on behalf of the registrant. It has accepted the advice of the Legal Adviser.

Before setting out its findings on sanction, the Committee reminded itself that this matter has now been active for a period of almost 4 years. Mr Stevens has received advice from no less than five previous supervisors and the support he has received have yet to address the Committee's concerns. The Committee hopes that the registrant will seize this renewed opportunity to address the Committee's concerns.

It has determined that the order for conditions should continue for a further period of 13 months. A review hearing will be held in the final month before the expiration of this order.

The conditions are as follows:

1. You shall, within 28 days, provide the details of a registered optometrist who is an experienced mentor and assessor acceptable to the GOC, who has agreed to review your record keeping as set out in condition 2 below.
2. Within six weeks of the appointment of your agreed mentor, and every six weeks thereafter, you are to:
 - a. Send a list of all patients seen by you in the previous six weeks to the agreed mentor;
 - b. Arrange to meet and review 20 records selected by the mentor from that list or all records if less than 20 in the relevant period;
 - c. Meet with the mentor to review and discuss records selected and agree any necessary remedial actions.
3. Within 21 days after a meeting with your mentor, you are to send a detailed mentors report of issues discussed in the meeting and copies of all records reviewed, suitably redacted, to the GOC. The mentor's report should summarise the remedial actions proposed and particularly in respect of the areas of concern in your record keeping identified in the determination of the Committee on 1 October 2010 and earlier determinations.
4. Not less than 28 days before any review of this order, you are to supply a detailed report, together with any appropriate supporting documentation, from your mentor summarising the remedial actions taken in respect of the areas of concern in your record keeping identified in the determination of the Committee on 1 October 2010 and earlier determinations.
5. The GOC will enter these conditions against your name in the register. 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 Register to share this information with other regulatory bodies and the Department of Health.
6. 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.
7. You must inform the Registrar of any criminal convictions, police cautions or formal disciplinary proceedings taken against you from the date of this determination.
8. You must inform the Registrar:
 - a. If you cease working;

FURTHER INFORMATION
<p>Transcript</p> <p>A full transcript of the hearing will be made available via the GOC website in due course.</p>
<p>Appeal</p> <p>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).</p>
<p>Council for Healthcare Regulatory Excellence</p> <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>
<p>Effect of orders for suspension or erasure</p> <p>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.</p>
<p>Contact</p> <p>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.</p>