

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

GENERAL OPTICAL COUNCIL

IO(11)05

AND

ROGER ROBINSON (01-18543)

**DETERMINATION OF APPLICATION FOR AN INTERIM ORDER
5 SEPTEMBER 2011**

The Fitness to Practise Committee considered the Council's application for an Interim Order on 5 September 2011.

Notification of hearing

The Committee is satisfied that all reasonable efforts have been made to notify the registrant of the hearing. The Committee further determined that it would be in the public interest for the hearing to proceed in the registrant's absence.

Decision

The Committee has to decide whether to impose an interim order under section 13L of the Opticians Act 1989. The registrant has not attended today's hearing or submitted any material to the Committee. On behalf of the Council Mr Albuery submitted that an order was necessary to protect the public and was otherwise in the public interest. The Committee accepted the advice of the Legal Adviser.

The registrant is facing fitness to practise proceedings which are due to be heard in December 2011. However the basis for the present application is not to be found in those proceedings and the Committee makes it clear that it has had no regard to the allegations which will be heard in December.

The present application is based upon the registrant's failure to apply for retention and consequent failure to satisfy the Council that he has insurance cover or completed the necessary CET or demonstrated that he is a suitable person to remain on the register.

The registrant, having failed to apply for retention, has been invited on two occasions to undertake that he will not carry out relevant activities until his insurance position is clarified. It is a matter of considerable concern to the Committee that the form of the

undertaking which was sent to the registrant on each occasion contained an important error in that the registrant was asked to sign an undertaking appropriate to a dispensing optician rather than an optometrist. However, the Committee accepted Mr Albuery's submission that even if the registrant was perfectly entitled not to sign the undertaking he had been sent, he nonetheless had a responsibility to make contact with the Council so as to clarify his position. The registrant had been on the register for a number of years, was notified in the usual way of the need to renew his registration, and failed to do so.

The present position is that the insurance status, CET and whether the registrant is a fit and proper person to remain on the register is unknown. Any member of the public consulting an optometrist is entitled to expect the optometrist will have insurance cover, appropriate CET and be a fit and proper person. In these circumstances the Committee has concluded that it is necessary for the protection of the public to impose an interim order. The Committee has had in mind the effect which an interim order may have upon the registrant's means of earning a living but the Committee has no information about this due to the registrant's failure to engage with the process. In any event the need to protect the public in this case requires an order to be made.

Mr Albuery also submitted that the failure of the registrant to engage with the process meant that an order was necessary in the public interest. He submitted that it was important that the regulator be seen to be enforcing the relevant legal and professional requirements. The Committee accepted that submission.

Having reached the conclusion that an interim order was appropriate the Committee considered whether any conditions could be framed to meet the requirements of this case. The Committee concluded that no suitable conditions could be framed. The Committee also had in mind that if conditions were to be effective the registrant would need to engage with the process; there had been no such engagement.

The Committee thus ordered that the registrant's registration be suspended for a period of 12 months from today. In coming to this decision the Committee has had in mind the possibility that the substantive hearing scheduled for December 2011 may for some reason be adjourned and that this period of suspension will take the registrant beyond the next retention dateline. If, on the other hand, the hearing in December is effective, this interim order will be revoked. In any event, the registrant can apply for a review after three months from today and the order, if still in force, will be reviewed within 6 months from today.

Chairman of the Committee: Francesca Jones

Signed _____

Date 5 September 2011