

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

**GENERAL OPTICAL COUNCIL**

**IO(09)03**

**AND**

**JOHN DAVID GILL (D-11251)**

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**DETERMINATION OF REVIEW OF AN INTERIM ORDER  
19 JULY 2010**

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The Fitness to Practise Committee reviewed an Interim Order for an 18 month suspension of the registration of John David Gill made by the Council on 19 August 2009.

**Notification of hearing**

The Committee has heard representations from the GOC and has accepted the legal advice given to it. The registrant, John David Gill, has been served with notice of this hearing. The Council has made an application under Rule 21 for the proceedings to continue in the absence of the registrant. A letter was sent to Mr Gill on 3 June 2010 at his registered address which was returned to the Council. An identical letter was sent to Mr Gill to his address at HMP Leeds which was signed for on his behalf, likely to be by a prison officer. Also on 3 June 2010 the Hearings Manager sent Mr Gill an email telling him of today's hearing. It is highly unlikely that the registrant received that email because he was sentenced to 21 months in prison by the Crown Court at Leeds on 26 January 2010. Rule 21(a) requires the Committee to be satisfied that all reasonable efforts have been made to notify the registrant of the hearing.

Having considered all the matters the Committee is satisfied that all reasonable efforts have been made to notify the registrant of the hearing.

**Public Interest**

The Committee is required by Rule 21(b) to satisfy itself that it is in the public interest to proceed; No reasons for absence have been provided by the registrant.

It bears in mind the need to protect the public as well as the interests of the registrant and the need to uphold public confidence in the profession. Mr Gill made it

clear at the initial interim order hearing that he did not intend to practice and did not intend to take part in that hearing. He is in prison. It is highly unlikely that any adjournment would result in him engaging in the process. The Committee proceeds with great caution but is satisfied that it would be in the public interest for the hearing to proceed in the registrant's absence.

The Committee had regard to R-v-Jones (2003) AC 1 and had regard to, and accepted the advice, of the legal adviser.

### **Determination**

On 11 November 2009 the registrant was convicted of 2 counts of sexual misconduct for which he was sentenced to 21 months imprisonment. On 19 August 2009 an interim order committee suspended the registrant's registration pursuant to section 13L(2) of the Opticians Act 1989. This review is undertaken pursuant to section 13L(3)(a) of the Act.

The Committee has had the benefit of seeing a certificate of conviction, the Judge's sentencing remarks and the Judge's summing up of the facts to the Jury. The Committee notes that the registrant was found guilty of masturbating in the presence of a 14 year old girl who was his patient and did so in his consulting room whilst ostensibly administering a field test.

In coming to its decision the Committee is required by section 13L(1) of the Act to be satisfied that any order made is necessary for the protection of the public, or is otherwise in the public interest. In the light of the circumstances surrounding the conviction the Committee is so satisfied. The Committee considered whether any conditions could meet the need for public protection and concluded that they could not. Accordingly the Committee concluded that the present order for interim suspension of the registrant's registration should continue. The Committee noted that the exact date of release from prison is uncertain.

The order will again be reviewed within 6 months from today unless all matters are resolved within that time, or earlier should new evidence be made available, or if the registrant, at any time after three months from today's date, requests an early review.

**Chairman of the Committee: Sir Alistair Graham**

Signed \_\_\_\_\_

Date 19 July 2010