



F(09)03

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

**GENERAL OPTICAL COUNCIL
AND
GURPREET KAUR CHAGGAR (SO-1112)**

SUBSTANTIVE HEARING: 3 December 2009

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Committee: Sir Alistair Graham (Lay) (Chair)
Mr A Baldwin (Lay)
Mrs G Huka (Lay)
Ms J McCrudden (Optometrist)
Ms C Viner (Optometrist)

Legal Adviser: Mr N Levisieur

Hearings Manager: Mr D Henley BEM

For the GOC: Mr J Hepworth

For the Registrant: Mr J Hodivala
Ms E Power

[Proceedings commenced at 10.15 am]

Sir Alistair Graham: Good morning. My name is Alistair Graham. I am 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 made]* To my right is Mr 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.

At the desk to my left 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. The remaining persons sitting in the hearing room are members of the respective legal teams.

Now, I normally would at this stage ask if there are any applications but I am not going to do that at this stage; I will give an opportunity after the allegation has been read out.

Could I ask the registrant to stand, please? Can I ask the Hearing Manager to read out the allegation?

Mr Henley:

“The Council alleges that the fitness to undertake training as an optometrist of you, Gurpreet Kaur Chaggar, is impaired in that:

1. On 26 March 2008, you received a caution for the following offence:

That on 3 November 2007 at Specsavers store, the Pavilions Shopping Centre, Uxbridge, you stole £20 belonging to Specsavers.

And by virtue of the facts set out above, your fitness to undertake training as an optometrist is impaired by reason of your caution”.

Sir Alistair Graham: Thank you. You may sit down. Now, I understand that there may be matters that either party may wish to raise with the Panel before we proceed any further.

Mr Hepworth: Sir, that is right. And can I check, first of all, sir, that you and your colleagues will have had the opportunity to read the hearing bundle, particularly the report which finds itself between pages 70 and 89, the last document in the bundle?

Sir Alistair Graham: Yes, we have. We have all had an opportunity to read it.

Mr Henley: Can we refer to that bundle as ‘C1’, please?

Mr Hepworth: So that is a report served on the Council relatively recently and, sir, in the light of that report, I raise the power that you have under Rule 8 and will invite you to consider whether or not you wish for a health assessment to be made. So perhaps a starting point then is Rule 8 at page 93 of your Handbook, which is Rule 8 of the Fitness to Practise Rules 2005. Sir, that rule reads:

“Where an allegation against an individual registrant has been referred to the Fitness to Practise Committee under section 13D(6)(b)” – and, sir, that applies in this case – “the Committee may –

(a) appoint one or more person to assess and report to them on –

(i) the registrant’s health”

- and –

“(b) [may] direct the registrant to meet with the person or persons appointed and to submit to any examination required for the purposes of their assessment and report”.

So referring now to the report which you have before you, particularly at page 83 of the bundle, paragraph (6.13) –

Mr Levisaur: Might I interrupt? At this point I simply observe this is now potentially a health matter. Since it is potentially a health matter, may we treat it as a health matter? If it is a health matter, we ought to be *in camera*.

Mr Hepworth: Absolutely, thank you.

Mr Levisaur: Sir, would you direct that for these purposes, we are now *in camera* and have been since the matter began to be raised by the Council?

Sir Alistair Graham: Mr Henley, can you - ?

Mr Henley: That is fine. I believe that there is no there is no press in today, so we are *in camera*.

Hearing proceeds in-camera

Reverts to public hearing

Sir Alistair Graham: Okay, can I ask you, Mr Hodivala, on behalf of the registrant, whether any of the facts set out in the allegation are admitted?

Mr Hodivala: The fact of the caution being administered in March 2008 is admitted but the underlying facts said to be represented by the caution are not admitted. One of the issues that we have been discussing in the lead up to this particular case is the mechanism by which we are going to proceed. Just so that you and your colleagues understand where we are going with all of this, what is said is that Miss Chaggar, by reason of her personality, accepted the caution and made various statements and comments regarding her admissions to theft. But by reason of her personality those particular admissions to theft and signing of the caution are unreliable. And so, although there has been an admission by way of a caution to her, actually it is the underlying facts that you and your colleagues have to look at when determining whether or not Miss Chaggar has her fitness to practise impaired as a result of that caution. I hope I have summarised that succinctly and clearly.

So the admission is made to the extent that it is admitted that there is a caution in existence against this registrant in March 2008, yes.

Mr Levisaur: So that I can understand it, you admit the primary fact, namely that Miss Chaggar signed the caution, that the caution itself is expressed to be an admission of guilt to an ‘underlying offence’ but what you say is that the

reliability of that admission of that signature is in considerable doubt. In essence, Miss Chaggar was not a 'free agent' when she admitted an offence?

Mr Hodivala: Well, for the purposes of these admissions I am looking at Section 13D(2)(c). I take on board your Legal Adviser's observations which will be relevant in due course when you are considering impairment. The allegations in this section – this is page 25 –

Mr Levisaur: Can I just turn that page up, please? 25? Thank you very much.

Mr Hodivala: 13D(2)(c): it is admitted that this registrant has a caution in the British Islands for a criminal offence.

Sir Alistair Graham: So that is 13D – ?

Mr Levisaur: 13D(2)(c):

“conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence”.

So reading in full, 13D:

“The section applies when an allegation is made to the Council against ... a student registrant.

(2) The only grounds upon which the fitness to practise of a registered optometrist or ... optician, or the fitness to undertake training of a student registrant is 'impaired' for the purposes of this Act are –

(c) a ... caution in the British Islands for a criminal offence”.

That is admitted –

Mr Hodivala: The fact of the admission, yes.

Mr Levisaur: But impairment is not admitted.

Mr Hodivala: Impairment is not admitted.

Mr Levisaur: And impairment is not admitted because the nature or character of the admissions made by Miss Chaggar are not, for these purposes, reliable.

Mr Hodivala: Correct.

Mr Levisaur: In short, she did not commit an underlying criminal offence. Even though she 'admitted' she had done.

Mr Hodivala: Correct.

Mr Levisaur: Thank you very much. That is very clear. I am very grateful.

Mr Hodivala: We have spent a little time discussing between ourselves the way forward. I do not wish to take the words out of Mr Hepworth's mouth, so to speak, but it may be that bearing in mind the unusual nature of this case, we would benefit from a little more time with the Legal Adviser. I am in the Legal Adviser's hands as to whether or not he feels comfortable with the discussions that have taken place this morning and does not need that further time but, what we propose, jointly – and it is a matter for you and your colleagues, obviously, as to whether you adopt this proposal – is that we divide the impairment stage into two stages itself. The first stage will involve determinations of facts, and then the second stage will involve a question of impairment based on the determination of facts that you have found.

My learned friend and I were last discussing the burdens of proof and standards of proof.

Sir Alistair Graham: I have captured the first one, the determination of facts. What was the second one?

Mr Hodivala: The second stage is what would traditionally be called the impairment stage. In other words, whether or not impairment is found on the basis of the facts as proved.

Sir Alistair Graham: Mr Hepworth, do you want to comment on what has been said so far?

Mr Hepworth: No, other than to echo my learned friend's request that a little bit more time with the Legal Assessor may prove of benefit.

Sir Alistair Graham: At what stage?

Mr Hepworth: Now, sir.

Sir Alistair Graham: Okay. I am sure the Committee are happy to agree to that. How long do you think you will need?

Mr Levisaur: Double it! Counsel's assessment is always utterly worthless! Double it!

Mr Hepworth: Well, I was going to say ten minutes.

Mr Levisaur: Right. Then it will be at least twenty.

Sir Alistair Graham: Shall we allow half an hour then? Quarter past twelve?

Mr Hepworth: Yes.

Sir Alistair Graham: So can we adjourn for half an hour?

[Proceedings adjourned at 12.48 pm]

[Proceedings resumed at 1.19 pm]

Sir Alistair Graham: Right. Can I check where we are after all this discussion with the Legal Adviser?

Mr Hodivala: I am happy to kick off. I think we are in the position where all the witnesses are here who need to be here and the GOC is in a position to open its case and present its evidence on the first stage of the two stages of impairment we have discussed with you. I think having had the discussions with the Legal Adviser, it is accepted that the burden may well rest on the GOC to prove the admissions relied upon made by Miss Chaggar are reliable. By that, I include the document that was signed by Miss Chaggar indicating that she accepted the caution. That being the case, I understand that there may be further evidence that the GOC wishes formally to present. Can I just set out our position?

This has obviously been hanging over Miss Chaggar's head for a long time now.

Sir Alistair Graham: Before you go on, can I just go back a step? So that the Committee is absolutely clear about the two-stage issue relating to impairment?

Mr Hodivala: Yes. Our suggestion is the most sensible legal way of dealing with the impairment stage, given that there is a dispute as to the underlying facts in this case, is actually to divide impairment into a two-stage process. The first stage of the impairment decision, if you like, will involve both parties calling their evidence in relation to the underlying facts represented by the caution. So in other words, the GOC will present its evidence from a loss adjustment officer who investigated various goings on at Specsavers; they will effectively rely on the bundle that I think you and your colleagues have had the opportunity of reading in presenting their evidence. The registrant would then give evidence and Dr Blandford would give evidence as well.

Now at that stage, the suggestion is that the parties would then retire and there would be a decision from you and your colleagues as to what facts you find proven based on the evidence you have heard, the burdens and standards of proof and so on. The parties are then called back in and having had those facts announced, submissions are then made in the traditional sense of whether or not those facts found amount to impairment.

Then we go back to the traditional sense of impairment being a matter for your judgment, no burden of proof, no standard of proof, etc. And the reason why we are commending this two-stage course for impairment is because there are fundamentally obviously disputes as to whether or not in fact Miss Chaggar is responsible for acting dishonestly in this particular case. Although she signed a caution to that effect, she disputes that she is fundamentally

responsible for dishonesty. It was a matter of convenience that she signed a caution. So the psychological evidence that you will hear in due course goes partly to that issue as well. That is why we are suggesting a two-stage process.

Mr Levisaur: May I ask a question?

Mr Hodivala: Yes.

Mr Levisaur: Do you propose representing to the tribunal that the confession or confessions which were made in this case are not reliable in the sense in which those words are used in Section 76 of the Police and Criminal Evidence Act 1984?

Mr Hodivala: Yes, indeed. And so part of the reasoning –

Mr Levisaur: May I take it that you have made that representation now?

Mr Hodivala: Yes. Certainly if it has not been made before, then it is made now. Again, just to break it down for you and your colleagues, effectively where in criminal proceedings any proposed confession is to be relied upon by the Crown, or proposed to be relied upon by the Crown and it is represented that the confession may be unreliable, as a result of anything said or done in the circumstances, then it is for the Crown in a criminal trial to prove that that confession was reliable and the Crown ordinarily has to prove that beyond reasonable doubt.

Mr Levisaur: Do you represent that ‘confession’ for these purposes includes the signature of the registrant to the caution?

Mr Hodivala: Yes.

Mr Levisaur: Do you submit that it includes the record of interview conducted by the Specsaver employees?

Mr Hodivala: Yes. The various passages relied upon by the GOC as words spoken by Miss Chaggar which – can I say this, that there is no dispute that the record of transcript of interviews do represent what was said by Miss Chaggar. There is no question of it being inaccurate. But what is submitted is that various passages are relied upon by the GOC in these proceedings as amounting to a confession. And so in those circumstances, both the passages relied upon by the GOC as amounting to a confession and the signed document recording the caution against Miss Chaggar fall under the definition of confession in Section 82 of the case. And therefore, because it is represented that the confession has been obtained in circumstances rendering it unreliable, the burden in a criminal prosecution would be on the prosecution to prove the reliability of that confession beyond reasonable doubt.

Mr Levisaur: And finally, do you concede, without conceding the accuracy of your position, that it is possible then to categorise certain statements in the police interviews as potentially amounting to a confession so that they too might be in issue?

Mr Hodivala: I will not take you through them, sir, but there are passages – I have had discussion with my learned friend and I understand where he is coming from – there are passages in two Specsavers' interviews, there are potentially passages in the police interview, that could represent confessions certainly by Miss Chaggar.

Mr Levisaur: So that in respect of all of those – that is to say: the Specsaver interviews, the police interviews and the caution – you maintain that they are confessions and you represent to the tribunal that the circumstances in which they were made render them unreliable and therefore inadmissible?

Mr Hodivala: Yes.

Mr Levisaur: Thank you. So as a matter of law, those representations have been made and have been identified? It follows, if your submissions are right and only if they are right, that the burden would then lie in criminal proceedings upon the prosecution to prove beyond all reasonable doubt that they are in fact admissible because they are reliable.

Mr Hodivala: Correct.

Mr Levisaur: That, for these purposes, places the prosecutor under a potential difficulty because you would need, as I understand it, to call primary evidence to establish what the circumstances were of each of those occasions so that in the light of any evidence that might be given by an expert and Miss Chaggar, you could establish, if you are able to establish, that the confessions in fact are reliable.

Mr Hepworth: That is right. Yes.

Mr Levisaur: Very well. Are you in a position to call the evidence that you need to call to establish those primary facts?

Mr Hepworth: Sir, the answer is 'not at the moment'. I made some enquiries following our discussions. D C Bach, who was the interviewing officer and the officer in the case, is not on duty until 3.00 pm today, appears to be doing a duty 10 till 6 – so 10.00 am till 6.00 pm tomorrow. What that duty is, I do not know. Whether or not he is otherwise engaged, I do not know. I have not been able to speak with him. The officer who administered the caution is a Sergeant Key. I am told that he is working today from 2.00 pm and working tomorrow on a late shift starting at 2.00 pm. What his duties are, I do not know. What his commitments are, I do not know. I have not been able to speak with him. So certainly, at the moment the Council cannot say that it would be ready to proceed to present evidence by both of those officers. D C Bach, I would imagine, is familiar with this case. I think contact has been

made on behalf of the registrant. As far as Sergeant Key is concerned, I do not imagine he has had any contact with this case since he administered the caution so I am not sure that he would necessarily be in a position, in any event, without reminding himself and perhaps looking back through old pocket notebooks, to be able to be in a position to give evidence about this caution at all at the moment.

Sir Alistair Graham: So he may want some time to re-acquaint himself with it?

Mr Hepworth: He may well do, sir. I have not spoken to him, so I am only presuming. But, sir, that is the Council's position as far as the two necessary witnesses are concerned. Sir, the Section 76 PACE point, the confession point, having been raised today, the Council has done what it can in the short time available to try to contact those witnesses. Sir, that is the position.

Mr Levisaur: Well, I am satisfied that there is a real problem insofar as the legal position is concerned under Section 76. I should tell you as well that, even if you were to reach certain conclusions about the effect of Section 76, there is a secondary position that I know the prosecution in this case would adopt. I am not prepared or indeed able to give any advice about the secondary position because until all the evidence has been heard – and when I say 'all the evidence' I mean *all* the evidence, including the evidence from Detective Constable Bach and Sergeant Key – it would not be proper for me to give any advice or indeed any assistance, save to say there is a secondary matter which will arise in the light of your findings on the Section 76 point.

Sir Alistair Graham: The problem is, as I see it, is hearing the evidence possibly in two parts. If in fact people are not available to come and give evidence – Detective Constable Bach and Sergeant Key – is it sensible for the Committee to hear key witness evidence in two parts, given the difficulty that that can be several months apart and going back in your mind to bring back, even with a transcript, the freshness of the evidence. Is it fair to the registrant in these circumstances for the case to be held in such a bitty sort of way? Do you have a view on these matters, Mr Hepworth?

Mr Hepworth: I think, sir, on behalf of the Council, it is the second day that Mr Walls has attended here, and of course, his convenience is not going to be the deciding factor. But it is the second day that he is here. I know that he is keen to give his evidence and the Council would be keen for you to make whatever progress you can make today but, sir, the Council accepts – I think as both parties accept – that overall it is the interests of justice that must trump any other interest. If, sir, you and your colleagues consider that such a break in the evidence would not allow you properly to do justice by the case then, sir, it would be better not to start today.

Mr Levisaur: I am looking, Chairman, straight across the room to the man who knows everything. If this matter were to go part heard, I take it from previous occasions we would not be going part heard next week; we would be going part heard to some time probably in March, or –

Mr Henley: That is most likely. However, it is really down to the availability of all parties.

Mr Levisaur: I understand that. Right. That is clearly a matter which is of some significance.

Mr Henley: I have a list to hear a resumed hearing outside of the normal hearings calendar, depending on the availability of all parties.

Mr Levisaur: But at the moment, of course, we know nothing about Constable Bach or Sergeant Key, nor indeed their long planned holidays in Mauritania or somewhere exciting like that.

Mr Hepworth: That's right.

Mr Levisaur: And Christmas leave is clearly a factor.

Mr Hepworth: Indeed, for everybody in the room as well as for witnesses.

Mr Levisaur: Yes. I can see one expert witness nodding vigorously.

Dr Blandford: I am about to go on holiday on Tuesday.

Sir Alistair Graham: What is your view, Mr Hodivala, on behalf of your client? It is a question of being fair given there is clearly a serious possibility of the part evidence being heard today or even tomorrow, and then a substantial gap before further evidence.

Mr Hodivala: I think we are agreed that the only evidence that could realistically be called would be Mr Walls' evidence, in any event. Then obviously you have the bundle so you could read through any further documentation that would not really take the case much further beyond Mr Walls' evidence. Miss Chaggar, like the GOC, is obviously keen to bring this to as swift a conclusion as possible. But, having said that, obviously we defer to the Committee very much in that respect as to how you feel. It is you and your colleagues who have to make decisions on the facts that you hear, how you feel about the possibility of having a four-month gap between Mr Walls' evidence and then possibly the police officers' evidence followed by Miss Chaggar's evidence, which may impact on Mr Walls' evidence in any event and then, obviously, Dr Blandford.

Sir Alistair Graham: My only more recent experience of a split hearing, at least we had got so far on the first hearing that one was able to come to some preliminary conclusion and then test subsequently -

Mr Levisaur: You could not do that in this case. That would be grossly unfair.

Sir Alistair Graham: I understand that. That is why I am saying I am more uneasy, I have to say, about hearing when key witness evidence is -

Mr Hodivala: I can understand that. I think Mr Walls' evidence is predominantly going to revolve around his viewing of CCTV footage, which he has recalled in his statement that you and your colleagues do not have, because the witness is going to be giving evidence live. He will recount to you what it was that he saw when he viewed the CCTV footage. You do not actually have the CCTV footage yourselves, so in that respect I suppose it does not necessarily fall to be crucial evidence in terms of, for instance, one witness that you will hear today saying X and Miss Chaggar's case being, 'No, no. That is completely wrong. Y is in fact the true position'. But there are aspects of Mr Walls' evidence that need to be examined, particularly, I have to say, with regard to the question of whether there was anything in the interview process that may have rendered any confessions unreliable.

Mr Levisaur: So far as Mr Hepworth is concerned, his evidence about the CCTV may be very interesting but for these purposes, his evidence as to that issue is to no effect. He is concerned about establishing the primary fairness or otherwise, if I may use a shorthand, of the interview process.

Mr Hodivala: That is right, yes.

Mr Levisaur: So, critically linked to the evidence later of the Detective Constable and the cautioning Sergeant Key. Whilst each stand and fall to be considered separately, there is a linkage argument which I know you will make, inevitably, and you are likely to make as well that, although you can look at each interview separately, in fact the cumulative effect, given what, it is said, your client's underlying susceptibilities are, you will say they must be read as a whole.

Mr Hodivala: Absolutely.

Mr Hepworth: And the witness, Mr Walls, will give crucial evidence about the reliability of his interview –

Mr Levisaur: Of that there could be no – I should say, I have seen the interviews. I know exactly what evidence he should or should not give and that submission is, undoubtedly, right.

Mr Hodivala: Can I make it clear, in case there is any doubt, that there is no suggestion that there has been deliberate *mala fides* by any party in this or Mr Walls in this particular case.

Mr Levisaur: Yes. This is not a case where you are alleging beating up or anything of that sort! This is one of those peculiar cases where the circumstance relates peculiarly to your client's condition, which would not have been known to any of the interviewing officers –

Mr Hodivala: Nor Mr Walls, no.

Sir Alistair Graham: I think the Committee need to consider the rules themselves, whether in fact it is right to proceed in these circumstances. Unless there is

any further representation that anybody wants to make, or any further advice that you need to advise the Committee on?

Mr Levisaur: The advice I should give you about this is the matter within your discretion. You must, of course, bear in mind your own experience of matters going part heard. The paramount consideration, as has been very fairly put, is the interests of justice and whilst Counsel may or may not make short term submissions – and submissions with a view to short term advantage - of course what you are concerned with is ensuring fairness in this case to Miss Chaggar. She is the lady, as it were, on trial and the convenience of anybody else is completely secondary.

Sir Alistair Graham: Okay. Mr Henley, if I could ask you to clear the room, please.

[Proceedings adjourned at 1.28 pm]

[Proceedings resumed at 2.00 pm]

Sir Alistair Graham: Our view is that it would be very much better if the Committee heard all the evidence in one continuous hearing. We have explored possible dates for a reconvened hearing. At the moment, it looks like certainly the Committee could be available for – we think it probably needs a three-day hearing – 17, 18 and 19 February next year? Obviously that depends on the availability of witnesses.

Mr Hepworth: Sir, I will be able to get Mr Walls' availability within about a minute, but the officers I cannot speak for at the moment. That may provide a difficulty but, Sir, I am quite content for the matter to be listed provisionally if those dates are acceptable, but perhaps with the Council having the opportunity to make an application if the witnesses are not available.

Mr Hodivala: Would you mind if just made a quick phone call to the powers that be in the clerk's room, just to double check that I am free on those dates? Thank you very much.

Sir Alistair Graham: Yes, indeed. It just means that we can give some degree of indication of reconvening – I always think that is better than leaving it up in the air.

[Pause in proceedings]

Sir Alistair Graham: So, are 17, 18 and 19 February dates agreed?

Mr Hepworth: There is a difficulty as far as the Council is concerned, sir. I am otherwise engaged and the only other lawyer who has knowledge of this file is in the case of the *GOC v Chowdhury*, which I think is listed for 17 and 18 February – I presume in a different room in this building.

Mr Henley: It is not listed at the moment.

Mr Hepworth: Is it not?

Miss Power: Sorry. Chowdhury is listed for 20 January.

Mr Hepworth: I apologise. As a substantive? Sir, the difficulty that I have is that the other lawyer that could deal with the case has in his diary the case of the *Council v Chowdhury*! I was listed for the hearing in February but it may be that that is an error. So he may be able to cover it but I cannot put it any higher than that. Certainly, Mr Walls can attend. The position of the police officers, I do not know.

Sir Alistair Graham: I think all we can do today is make this a preliminary possible set of dates for the hearing and clearly, it would be helpful and clearly helpful to Miss Chaggar, if we can in fact try to work out how we can try to keep to those dates in the interests of justice in this particular case.

Mr Hodivala: The only other direction that I would like you to make today, sir, is clearly there is going to be further evidence relied upon by the GOC. Could we have a direction that any further witness statements are served by 14 days before the hearing, which would be 3 February?

Mr Levisaur: Might I suggest '14 days before any hearing', without putting a date on it, because that avoids the difficulty of the hearing going to a later date.

Mr Hepworth: And perhaps, sir, just for an abundance of caution if that then refers to both parties, then if there is any further evidence on behalf of the registrant – and likewise, if there is any further legal argument to raise, then that can be dealt with in the same timescale.

Mr Levisaur: Well, it would be very helpful if there is to be further separate legal argument, if written submissions can be prepared and at least lodged in draft for the attention of the Legal Adviser. That does not bind anyone of course –

Sir Alistair Graham: As I have made clear, I am strongly in favour of skeleton arguments for these cases, particularly where there are, as in this case, quite complex legal issues to be dealt with. I think it is helpful for the Committee to see skeleton arguments.

Mr Hodivala: I think I can say without tying my hands too much that in all probability I will be doing a skeleton argument, simply, apart from anything, just to set out where I think we have got to today in terms of agreeing the legal procedures and also for the assistance of just putting in writing how we agree as parties the hearing should proceed, so that everybody is clear.

Sir Alistair Graham: So if I can summarise what we have agreed? We are going to try to see if we can work the 17, 18, 19 date for February for a hearing. The Committee is giving a direction that any further witness statement should be available 14 days before the date of the hearing, whether it is the February hearing or any other subsequent dates that are agreed, and that both parties will provide skeleton legal arguments, certainly to the Legal Adviser and if

possible to the Committee. I think there was one further point you wanted to clarify?

Mr Levisaur: Thank you, Chairman. Can I just put to both Counsel, please? The notice of inquiry of substantive hearing contains on the second page an allegation. The allegation is that 'the fitness to undertaking training as an optometrist of Miss Chaggar is impaired in that, (1) on 26 March 2008 you received a caution for the following offence'. That is admitted.

Mr Hodivala: Yes.

Mr Levisaur: What is not admitted is 'and by virtue of the facts set out above your fitness to undertake training as an optometrist is impaired by reason of your caution' – so we have admitted the first three lines, not admitted the last two lines. I have marked my copy of the allegation in those terms. It might be helpful if the members of this Committee mark their paper so that there is just not doubt about this at all.

Sir Alistair Graham: Are you happy with that, Mr Hepworth?

Mr Hepworth: Of course.

Sir Alistair Graham: Okay. Can we take things any further today? Then I think really we shall state we are adjourning this hearing and it can be reconvened so that we can hear the witness evidence in full, without interruption. And we have indicated some possible dates when this could happen but we leave it to the Hearings Manager to finalise these matters.

Mr Henley: Yes, I will get back to everyone.

Sir Alistair Graham: Thank you very much then.

[Proceedings adjourned at 2.15 pm]